

SCOMM

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STATE OF ALASKA
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JUNEAU

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April 21, 2000

TO: Representative Joe Green
House Majority Leader
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

FR: Pat Pourcho 
Legislative Director

RE: Senate Revisions to HB 331

I am requesting your consideration and concurrence with Senate revisions to HB 331 relating to compensation of members of the Alaska National Guard and Alaska Naval Militia (renamed by the bill as the National Defense Force). The bill was amended in the Senate Rules Committee to update existing minimum daily basic pay and reset the reference year for calculating basic pay from 1981 to 1999 and to lower the ceiling from 10 to 4% when adjusting the minimum the state will pay when calling the Guard on State Active Duty. This amendment does not increase pay; it simply updates old law and reduces the potential for increases in the future.

We concur with the Senate changes.

Please contact me or Carol Carroll, Legislative Liaison, Military and Veterans Affairs (465-4730) if you have questions.

Thank you.

CAROL (DMVA) WOULD LIKE
YOU TO CARRY THIS ON THE FILE

Department of Military and Veterans Affairs
HB 331(MLV)
Statement of Intent of Bill

HB 331 "An Act relating to compensation of members of the Alaska National Guard and Alaska Naval Militia in active service; changing the name of the Alaska State Militia to the Alaska State Defense Force; relating to compensation and work status for member of the Alaska State Defense Force; and providing for an effective date".

Purpose

The Department of Military and Veterans Affairs is proposing three changes to current law in order to streamline certain functions, clarify the method of paying the Alaska State Defense Force, and change the name of the Alaska State Militia to the Alaska State Defense Force.

Background

The Department of Military and Veterans Affairs is composed of three separate organizations. First, the State portion of the Department made up of the Commissioner's Office, Administration, Emergency Services, Facilities Management, and the Alaska Military Youth Academy; second, the federal portion of the department is made up of the Air and Army National Guard and Naval Militia; and third, the Alaska State Militia (commonly known as the Alaska State Defense Force). The collective name in statute for the second and third elements above is the Organized Militia.

Sectional Analysis

Sections 1-4 and Section 11 simply change in statute the name of the Alaska State Militia to the more commonly used Alaska State Defense Force.

Section 5 changes the method of calculating pay for the members of the National Guard and Naval Militia when they are called to State Active Duty. State Active Duty results from a call by the Governor for assistance during a search and rescue or a disaster. These individuals work for the federal government, Department of Defense either on a full or part-time basis. When on State Active Duty, they are paid in accordance with the Department of Defense pay

scales. This includes a daily base pay amount for each grade based on the number of years in that grade and allowances such as separate rations, housing, cost of living and flight status.

The department employs one individual who is responsible for calculating State Active Duty pay when the Governor calls on the Guard or Naval Militia to respond to a state crisis. The system is manual, complicated and subject to delay and error.

This section would simplify the procedure by eliminating allowances and replacing them with a 200% of minimum daily basic pay calculation. This would significantly reduce the number of calculations required. 200% was determined to reach approximately the same level of pay for the majority of individuals who would be called to State Active Duty. This change has been coordinated with the Officer and Enlisted Associations for the National Guard.

Section 6 is a conforming section to ensure that the changes later in the bill are noted when determining coverage under Workers Compensation.

Section 7 is also a conforming section similar to Section 6.

Section 8 is a conforming section to ensure that Workers Compensation benefits are calculated using the changes in pay calculations for the Guard, Naval Militia and Alaska State Defense Force made in other sections of the bill.

Section 9 replaces the term Organized Militia with the groups that make up the Organized Militia for clarification purposes.

Section 10 clarifies in statute the method of paying the Alaska State Defense Force when called to State Active Duty. This group is made up of individuals who are volunteers until called to active duty to respond to a search and rescue or disaster. Each have other jobs but do not work for the Department of Defense. They are not members of the National Guard or Naval Militia.

In the past the department paid these individuals as if they were members of the Guard or Naval Militia. The Attorney General's Office advised that DMVA was paying the

Alaska State Defense Force incorrectly. This bill would establish a statutory basis for payment for services. It would pay as if the members were state employees, using the state pay schedule but recognize that the members are under a military command and discipline structure. This change will also ensure Alaska State Defense Force members retain AS 26 job protection when on State Active Duty.

Section 11 was mentioned in Section 1 above.

Section 12 is the effective date.

Daily Rate with SBS

Sal. Sched. AA

8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 96.20	\$ 99.00	\$ 102.05	\$ 108.17	\$ 111.65	\$ 115.30	\$ 122.18	\$ 125.83	\$ 130.16

Daily Rate without SBS

Sal. Sched. AA

8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 90.64	\$ 93.28	\$ 96.16	\$ 101.92	\$ 105.20	\$ 108.64	\$ 115.12	\$ 118.56	\$ 122.64
Daily Savings	\$ 5.56	\$ 5.72	\$ 5.89	\$ 6.25	\$ 6.45	\$ 6.66	\$ 7.06	\$ 7.27	\$ 7.52

SAD DUTY PAY AND ALLOWANCE COMPARISON WORKSHEET

<u>RANK AND YEARS OF SERVICE</u>	<u>DAILY PAY AMOUNT CURRENT METHOD*</u>	<u>DAILY PAY AMOUNT PROPOSED FORMULA</u>	<u>DIFFERENCE</u>
<u>Officers</u>			
Colonel - 20	\$277.45	\$270.74	-\$6.71
Lt Colonel - 18	\$251.52	\$216.56	-\$34.96
Major - 14	\$216.64	\$182.52	-\$34.96
Captain - 8	\$182.95	\$169.60	-\$34.12
1st Lt - 4	\$152.93	\$147.92	-\$13.35
2nd Lt - 2	\$114.44	\$128.42	-\$5.01
Warrant Officer 5 - 20	\$214.10	\$294.92	\$80.82
Warrant Officer 4 - 18	\$192.04	\$172.80	-\$19.24
Warrant Officer 3 - 12	\$162.93	\$157.06	-\$5.87
Warrant Officer 2 - 8	\$141.31	\$137.56	-\$3.75
Warrant Officer 1 - 4	\$122.55	\$114.60	-\$7.95
<u>Air Force/Army Enlisted</u>			
CMSgt/Sgt Maj - 20	\$178.05	\$201.02	\$22.97
SMSgt/1st Sgt - 18	\$157.73	\$168.56	\$10.83
MSgt/Sgt First Class - 14	\$139.05	\$117.72	-\$21.33
TSgt/SSgt - 10	\$121.36	\$105.30 (State Minimum)	-\$16.06
SSgt/Sgt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minimum)	\$0.00
SRA/Spec - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minimum)	\$0.00
A1C/Pvt 1st Class - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minimum)	\$0.00
Amn/Pvt 2nd Class - 0-20	\$105.30 (State Minimum)	\$105.30 (State Minimum)	\$0.00
AB/Pvt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minimum)	\$0.00

Note 1: Includes base pay, housing , COLA, Separate rations

Note 2: Calculated at with dependents housing rate and one dependent COLA rate

Note 3: Does not include other additional special pay for pilots and aircrew members

Note 4: If total pay and allowance is less than the State Daily Minimum (\$105.30) the member receives the State Daily Minimum amount.

Lt Colonel - Lieutenant Colonel
Sgt Maj - Sergeant Major
Sgt First Class - Sergeant First Class
SRA - Senior Airman
Amn - Airman

1st Lt - First Lieutenant
SMSgt - Senior Master Sergeant
TSgt - Technical Sergeant
Spec - Specialist
Pvt 2nd Class - Private 2nd Class

2nd Lt - Second Lieutenant
1st Sgt - First Sergeant
SSgt - Staff Sergeant
A1C - Airman First Class
AB - Airman Basic

CMSgt - Chief Master Sergeant
MSgt - Master Sergeant
Sgt - Sergeant
Pvt 1st Class - Private 1st Class
Pvt - Private

TONY KNOWLES
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ALASKA
LEGISLATURE
JANUARY 2000

February 1, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

When members of the Alaska National Guard and Alaska Naval Militia are called to active service for the state, it's important they be adequately compensated for their valuable work in a timely manner. To that end, this bill simplifies the pay scale and system for the Alaska National Guard (ANG) and Alaska Naval Militia (NM).

Currently, when called to state active duty, members of the ANG and NM receive pay and allowances equal to those provided by federal law for members of equivalent grades of the United States armed forces. Daily minimum pay is determined by grade and years of service with a statutory minimum. Allowances include food, housing, cost-of-living increase, and quarters and are determined based on the circumstances of each individual.

Calculating pay and allowances under the current law requires obtaining information from the federal government regarding current pay scales and allowance amounts. This can cause significant delays in payment of ANG and NM members. It is also a labor-intensive system involving numerous manual calculations with an unreasonable chance for errors.

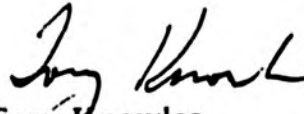
This bill simplifies the pay system for state active duty by retaining statutory minimum pay, disregarding years of service, and eliminating allowances. Members will simply receive 200 percent of the minimum basic pay for a member of an equivalent grade in the active military -- or the statutory minimum, if greater. Simplifying the calculation will save administrative time and will result in members of the ANG and NM receiving their checks in a more timely fashion.

The Honorable Brian Porter
February 1, 2000
Page 2

The bill also provides that this proposed new pay scale will be used to calculate workers' compensation and death benefits for the organized militia, which includes the Alaska State Militia as well as the ANG and NM.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tony Knowles", written in a cursive style.

Tony Knowles
Governor

HB 337

SAD DUTY PAY AND ALLOWANCE COMPARISON WORKSHEET

<u>RANK AND YEARS OF SERVICE</u>	<u>DAILY PAY AMOUNT CURRENT METHOD*</u>	<u>DAILY PAY AMOUNT PROPOSED FORMULA</u>	<u>DIFFERENCE</u>
<u>Officers</u>			
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Sgt Maj - Sergeant Major	SMSgt - Senior Master Sergeant	1st Sgt - First Sergeant	MSgt - Master Sergeant
Sgt First Class - Sergeant First Class	TSgt - Technical Sergeant	SSgt - Staff Sergeant	Sgt - Sergeant
SRA - Senior Airman	Spec - Specialist	A1C - Airman First Class	Pvt 1st Class - Private 1st Class
Amn - Airman	Pvt 2nd Class - Private 2nd Class	AB - Airman Basic	Pvt - Private

Daily Rate with SBS

Sal. Sched. AA
8 Hour Shift

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MEMORANDUM

State of Alaska
Department of Law

TO: BG Phillip E. Oates
Commissioner, DMVA

DATE: July 7, 1999

FILE NO:

TEL. NO: 269-5178

SUBJECT: Alaska State Defense Force Pay
Authorization

FROM: Mary A. Gilson
Assistant Attorney General
Governmental Affairs Section, Anchorage

You have requested a legal opinion concerning whether members of the Alaska State Militia (ASM) also known as "the Alaska State Defense Force"¹ can receive pay equivalent to military active duty pay for their services when called to state active duty. As we understand the facts, for a number of years members of the ASM have received pay for their services while in active duty status.² ASM pay rates are based on the member's ASM military grade. Military grades in the ASM mirror the uniformed service and ASM personnel have received pay equivalent to military active duty pay when called to state active duty. Recently questions have arisen regarding the Department of Military and Veterans Affairs' (DMVA) authority to pay the ASM members at this level when they are called to state active duty.

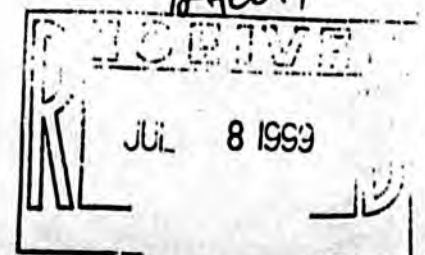
I. Brief Answer

This opinion confirms our previous oral advice that paying ASM members pay equivalent to military active duty pay when called to state active duty is not authorized.

DMVA's longstanding practice of paying ASM members wages equivalent to their military rank within ASM while in active duty status does not in itself provide the authority for such payment. There must be some legal authority. The Alaska statutes provide that the National Guard and Naval militia are to receive pay and allowances equal to those provided for members of equivalent grades of the United States armed forces but there is no similar authorization to pay the ASM at that level. The absence of any statutory language authorizing payment of the ASM for state active duty at a level equivalent to the active military compels the conclusion that, under existing law, such payment is not legally authorized. Legislative action is necessary to provide authorization. Our department can provide assistance in drafting such legislation if desired.

¹ The "Alaska State Militia" is commonly known as the "Alaska State Defense Force". This may be as a result of federal statutory language which provides that states can maintain a "defense force" in addition to the National Guard. See 32 U.S.C. 109(c).

² The ASM does not receive pay for attending training and routine drills.



ASM members who are hired as emergency employees or some other class of state employee would, of course, be paid but the pay would be based on the job classification not on their ASM military grade. Emergency employees can be appointed for up to 30 days if immediate action is needed to carry on work that is required in the public interest. AS 39.25.200(3). Therefore, ASM members could be called out and appointed as emergency employees. Using this mechanism, pay would be authorized. The procedures for appointing emergency employees would have to be followed and, as noted, the pay level would not be tied to active military pay levels but would be related to the work performed.

Any ASM forms, written procedures, manuals, etc. should be reviewed to ensure that any reference to military pay for services is removed. Notice should be sent immediately to all ASM members that there has been a determination that under current law there is no authority for the ASM to be paid military pay for state active duty, and therefore, until there is a change in the law, there will be no payment for future deployments. The notice should state that pay is authorized if a member is hired as an emergency employee or nonpermanent employee, but the amount would depend on the job class not on military rank.

To ensure effective notice, there should be no deployments until such notice is given.

II. Analysis

A. ASM Background and Composition

Federal law provides that in addition to the National Guard, a state may provide and maintain at its own expense a defense force. 32 U.S.C. 109(c); Perpich v. Dept. of Defense, 110 S. Ct. 2418, 2429 (1990). Federal law does not address whether a state defense force is to be paid when called out to active duty.

The Military Code of Alaska, AS 26.05.010 – AS 26.05.350, provides the state statutory scheme governing the operation of the ASM. There are no state regulations. The ASM is established under AS 26.05.010 as part of Alaska's "organized militia." The organized militia in Alaska consists of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia. AS 26.05.010(b)(1). The ASM became part of the organized militia in 1968. Secs. 1-2, ch. 44, SLA 1968. Enlistment in the ASM is voluntary. AS 26.05.100. The composition of the ASM is addressed under AS 26.05.030(d) which provides:

- (d) The Alaska State Militia consists of units authorized by the governor, and manned by volunteer personnel qualifying under state law and regulation. All State Militia personnel shall be (1) appointed, commissioned, or warranted, and assigned by the governor or the adjutant general as the governor's designee;
- (2) subject to serve on state active duty at the call and by order of the governor.

B. Role of the ASM

The role of the ASM is to augment the National Guard or Naval Militia or to act in their stead when those forces are not available. AS 26.05.100. That section provides:

A state militia may be organized through voluntary enlistments under regulations as to discipline and training which may be prescribed by the governor. During the time that the Alaska National Guard or the Alaska Naval Militia, or any part of either of them, is not available to the state by reason of active federal service, or the National Guard or Naval Militia requires augmentation to perform its state mission, the governor may activate the state militia. (Emphasis added.)

AS 26.05.070 outlines the circumstances which may trigger the governor's use of the organized militia – which as noted above, includes the ASM. Under AS 26.05.070, the Governor may order the organized militia into active state service when needed in the case of events such as war, disaster, catastrophe, riots, etc. or when responsible civil authorities fail to preserve law and order or protect life and property, or the governor believes such failure is imminent. See AS 26.05.070.

If called into active service, the ASM, like other parts of the organized militia, functions as an additional police force retaining its separate identity and operating as a military organization under separate command. The ASM cooperates with, but does not supercede civilian law enforcement. They are "to execute the laws and to perform duties in connection with them that the governor considers proper.", and can take action "... for the re-establishment of law and order and for the protection of life and property." AS 26.05.070. For example, ASDF personnel assisted in search and rescue after a recent avalanche.

C. Payment of the ASM

Pay and allowances under the Military Code are specifically addressed in AS 26.05.260(b). AS 26.05.260(b) provides in pertinent part:

(b) Members of the Alaska National Guard and Alaska Naval Militia are entitled to receive, for each day of active service under AS 26.05.070, pay and allowance equal to those provided by federal laws and regulations for members of equivalent grades of the United States armed forces. However, a member may not receive less than ... " (Emphasis added.)

The plain language of AS 26.05.260(b) authorizes pay and allowances only for members of the Alaska National Guard and Alaska Naval Militia. The ASM is not mentioned. Section AS 26.05.260 has been in existence in various forms since statehood and the ASM has never been mentioned in the section providing for pay and allowances. Until 1973 only components of the National Guard were entitled to pay and allowances. In 1973, the Naval Militia was added to the language of AS 26.05.260 which pertained to pay and allowances. Secs. 9-11, ch. 34, SLA 1973. The legislature had the opportunity at

that time to add the ASM and did not. In 1981 AS 26.05.260 was amended again and AS 26.05.260(b) was enacted in its current form. Secs. 1-4, 8, ch. 56, SLA 1981. There is no legislative history indicating an effort to include the ASM in the section providing for pay and allowances when AS 26.05.260(b) was amended in 1981.

The remaining subsections of AS 23.05.260 address workers' compensation and death benefits. As explained below, none of these subsections provide the authority to pay the ASM for active duty. Under current law, AS 26.05.260(d) provides workers' compensation benefits for members of the organized militia. AS 26.05.260(e) provides death benefits.³

Prior to 1989, only the National Guard or Naval Militia were entitled to workers' compensation or death benefits if injured or killed while on active duty. In 1989 the term "organized militia" was inserted into subsections AS 26.05.260(d) and (e) in place of the term "Alaska National Guard or Alaska Naval Militia." Secs. 1-2, ch. 53, SLA 1989. The purpose of the 1989 amendments was to provide the ASM with the same workers' compensation and death benefits that the other components of the organized militia were already receiving. The legislature could have also amended the pay and allowances subsection 260(b) at that time to substitute "organized militia" for "Alaska National Guard or Alaska Naval Militia," as was done in subsections 260(d) and 260(e), but the legislature chose not to do so.

AS 26.05.260(h) was enacted in 1989 in the same piece of legislation as the amendments to 260(d), (e) discussed above. Sec. 4, ch. 53, SLA 1989.⁴ Subsection 260(h) addresses the level of benefits a member of the ASM is entitled to if injured or killed in the line of duty and bases the computation of benefits on the level of earnings a member of the regular armed forces of equivalent rank would receive.

AS 26.05.260(h) states: "For purposes of computation of benefits under AS 23.30, the earnings of a member of the organized militia will be presumed to be no less than the pay and allowances authorized for a member of the regular armed forces of the United States in the same grade or rank as the organized militia member at the time of the injury or death."

³ AS 26.05.260(d) provides:

A member of the 'organized militia' who, while performing duties under AS 26.05.070, including transit to and from the member's home of record, suffers an injury or disability in the line of duty is entitled to all compensation and benefits available under AS 23.30 (Alaska Workers' Compensation Act) for injuries or disabilities suffered in the line of duty. (Emphasis added.)

AS 26.05.260(e) provides:

If a member of the organized militia dies as a result of an injury or disability suffered in the line of duty while performing duties under AS 26.05.070, including transit to and from the member's home of record, death benefits shall be paid to the person in the amounts specified in AS 23.30.215. (Emphasis added.)

⁴ Subsection (h) was enacted as (i) and renumbered in 1989.

Statutory authorization of workers' compensation and death benefits at a certain level is not equivalent to authorizing payment of wages at that level or any other. Nor does providing workers' compensation and death benefits necessarily imply that wages will be also paid. For example, residents of Alaska temporarily volunteering in a civil defense or disaster relief function for the state are considered employees of the state for the purposes of the Workers' Compensation Act and therefore are entitled to workers' compensation and death benefits if injured or killed while providing services. See AS 23.30.244. However, it cannot be said that AS 23.30.244 provides authority to pay these volunteers wages.

Section 3 of the 1989 legislation amending AS 26.05.260 also amended the definition of the word "member" which is used throughout the section. See sec. 3, ch. 53, SLA 1989. As with the amendments to 260(d) and 260(e), the term "organized militia" replaced "Alaska National Guard or Alaska Naval Militia" in the definition of "member". Under AS 26.05.260 "member" means an active commissioned or warrant officer or enlisted man or woman in the organized militia." (Emphasis added). AS 26.05.260(i).⁵ Expanding the definition of "member" to mean an officer or enlisted person in the "organized militia" is consistent with the amendment to subsections 260(d) and 260(e).

An argument could be made that because the word "member" is also used in subsection 260(b), the ASM is by implication included in pay and allowances. However, we do not believe a court would give much credence to this argument. The language of 260(b) predates the 1989 legislation. The word "member" is used three times in 260(b). The pertinent language is quoted above. The first reference is specifically to "members" of the National Guard or Naval Militia. The second reference is to members of the Armed Forces. The third reference, read in context, relates to the National Guard of Naval Militia. To imply that the term is to be read in a broader sense would be a strained reading.

Further, legislative history supports the view that the 1989 amendments were not meant to alter the pay authorization in AS 26.05.260(b) but were intended to provide ASM members with workers' compensation and death benefits. Governor Cowper's transmittal letter to the legislature stated "This bill expressly extends workers' compensation coverage to members of the ASM . . . this ensures adequate compensation for injuries incurred incident to state service and the bill limits the state's liability for injuries to the remedy provided in AS 23.30." 1989 Senate Journal 43.

Finally, viewing the Military Code as a whole, it is evident that when the legislature intended to provide benefits to members of the entire "organized militia" it said so. See AS 26.05.260(d) (workers' compensation benefits); AS 26.05.260(e) (death benefits). When it intended for benefits to only be provided for the National Guard and Naval Militia the statute providing the benefit refers only to the "Alaska National Guard or the Alaska Naval Militia" and the ASM is not mentioned. See AS 26.05.222-26.05.229 (retirement benefits); AS 26.05.265 (reenlistment bonus); AS 26.05.295 (educational assistance); AS 26.05.296 (tuition assistance). Under AS 26.05.260(b), the legislature has not provided for the "organized militia" to receive pay and allowances, but only for the "Alaska National

⁵ Subsection (i) was enacted as (h) and renumbered in 1989.

Guard or Naval Militia". Therefore, we believe 260(b) means what it says and does not provide authorization for the ASM to receive active duty pay.

In addition to AS 26.05.260, there is only one other section in the Military Code which mentions "pay". AS 26.05.270 states that "If the organized militia, or any part of it, is called into active service of the state in case of war, disaster, insurrection, rebellion . . . vouchers for legally allowed pay and expenses for this services or compensation for injuries shall be drawn upon the general fund of the state treasury and paid out of money in that fund not otherwise appropriated." (Emphasis added.) The use of the phrase "legally allowed" in AS 26.05.270 does not in itself authorize pay and expenses but merely provides that those amounts already "legally allowed" shall be drawn from the general fund. Therefore, AS 26.05.270 does not provide authority for payment of the ASM.

An argument was raised that to require members of the ASM to serve without compensation would be a "taking" in violation of the Alaska Constitution.⁶ Alaska's "takings clause" prohibits the taking of private property for a public purpose without just compensation. Alaska Const., art. I, sec 18. The Alaska Supreme Court has held that "personal services" are private property. Delisio v. Alaska Superior Court, 740 P.2d 437 (Alaska 1987). In Delisio, the court determined that the government cannot require an attorney to represent an indigent person without paying just compensation because to do so would be an unconstitutional "taking" of the attorney's services (*i.e.* private property). See Id. at 443.

We do not believe Delisio is applicable. In Delisio, Delisio made his living as an attorney. The trial court ordered him to represent an indigent defendant for free or be sentenced to jail for contempt. In reversing the lower court, the Supreme court held that compelling Delisio to serve without just compensation was a "taking". Id. Here, members of the ASM are volunteers. The government has not ordered them to provide their services for free. ASM members volunteer to be part of the ASM and thus are subject to the call of the Governor on an occasional basis when needed to supplement the National Guard or Naval Militia. See AS 26.05.030; 26.05.100; 26.05.070. If an ASM member did not answer the call to active duty, they may be subject to demotion or discharge from the ASM, but it cannot be said that they are "compelled" to provide the service. Being available for call out to active duty is a condition of their volunteerism. If they do not answer the call out, they cannot be part of the organization, but unlike Delisio there is no government imposed fine or jail time for failure to provide services. Based on Delisio, we do not believe a "takings" argument has merit in this situation.⁷

In sum, there is no authority under current law to pay ASM members pay equivalent to military active duty pay when they are called to active duty. Pay for state active duty is not authorized unless members are hired as emergency employees or some other class of employee. Pay would be based on the job class not on military rank. Notice should go out to the ASM members immediately. If

⁶ See memorandum to Jim Chase from Leroy DeVeaux dated December 10, 1998.

⁷ The DeVeaux memorandum also asserted that it would be a violation of due process to deprive ASM members of pay equivalent to that of the regular military. Due process is inapplicable here. The issue is whether ASM members are entitled to be paid for their volunteer services. The conclusion is that they are not. If there is no entitlement to a benefit there can be no "protected interest" and therefore no entitlement to due process if the benefit is discontinued.

BG Phillips E. Oates
Commissioner, DMVA

July 7, 1999
Page 7

your department needs assistance in drafting legislation to change current law, please do not hesitate to call.

MAG:vb

CALCULATION OF STATE ACTIVE DUTY:

STEP 1 (Determining Daily Base Pay Amount): Whenever the military pay rates change (which occurs at least annually on Jan 1 of each year) the minimum daily base pay amounts for each pay grade must be hand calculated. The following are the steps required to determine this minimum daily base pay rate:

- A. Go to Defense Department Internet site and download current military pay table
- B. Divide the monthly base pay amount for each pay grade (E1 through E9) (O1 through O6) and (W1 through W5) by 30 (days per month). This calculation must be done for each pay grade approximately 15 times since military members receive monthly base pay increases when the member passes 2 years of service, 3 years of service and then every 2 years thereafter through 26 years of service. Total hand calculations required: 345
- C. When a SAD order is received I must determine the individuals rank and years of service to determine what that individuals daily base pay amount is.

STEP 2 DETERMINING ALLOWANCES (SEPARATE RATIONS/HOUSING/COST OF LIVING)

- A. **Separate Rations (BAS):** This rate is a fixed daily amount with officer and enlisted members receiving different amounts. The current daily rates are found on the Defense Departments web site.
- B. **Basic Allowance For Housing (BAH):** There are different housing rates for married and single members. The current rates are determined by going to the Defense Departments web site and inputting the individual's rank and zip code location (Zip code 99577 (Anchorage) is used for this calculation). The web site then provides the monthly housing rate for married and single individuals of that grade living in 99577. That monthly amount must then be manually divided by 30 (days per month) to determine the individual's daily housing rate.
- C. **Cost of Living Allowance (COLA):** These rates are found at on the Department of Defense web site and are updated by DOD every two weeks. The input data to determine the correct rate for a member includes their pay grade, years of service, number of dependents and location code (AK005) for Alaska. The program then provides the daily COLA amount.
- D. **Other Allowances:** Individual on flying status (pilots and aircrew members) received an addition flight pay allowance. When an SAD order is received that indicates that the member is a pilot or aircrew member I must go to the Defense Departments web site to determine what that daily amount is. It is based their status (pilot or aircrew member), rank and years of service.

Step 3: Calculating Individuals SAD Daily Pay Rate:

- A. Once all of the above daily pay and allowance figures are determined they must be added together to determine the daily pay rate for each individual. That amount must then be compared to the State Daily Minimum amount (Hand calculated in July of each year using a formula contained in the statutes). The individual is then entitled to whichever daily amount is greater.
- B. The individuals SAD daily amount is then multiplied by the number of days the member performed SAD during that pay period to determine the total amount of pay the individual is due.
- C. The order is then forward to State payroll personnel for issuance of a State payroll warrant.

Post-It® Fax Note	7571	Date	2/24	# of pages	2
To	Colonel Carroll	From	Rick J.P.		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

CALCULATION OF STATE ACTIVE DUTY (SAD) - PROPOSED PROCEDURES

Step 1: Determining Alaska National Guard Members' SAD Daily Pay Rate: Whenever the active duty military pay rates change (which occurs at least annually on Jan 1 of each year) the minimum daily pay amounts for each pay grade must be re-calculated. The following are the steps required to determine this minimum daily base pay rate:

- A. Go to Defense Department Internet site and download current active duty military pay table.
- B. Divide the minimum monthly base pay rate for each pay grade (E1 through E9) (O1 through O6) and (W1 through W5) by 30 (days per month) to determine the minimum daily base pay rate. Total calculations required: 23
- C. Multiply the minimum daily base pay rate for each pay grade by 200% (proposed percentage) to determine Alaska SAD Daily Pay Rate. Total calculations required: 23

Step 2: Calculating Individuals SAD Daily Pay When Duty is Performed:

- A. Compare the members Alaska SAD daily base pay rate to the current State Active Duty Daily Minimum amount (Calculated in July of each year using a formula contained in the statutes. \$105.30 per day a/o 1 July 1999). The individual is then entitled to whichever daily amount is greater.
- B. Multiply the member's Alaska SAD daily base pay rate or SAD minimum amount (whichever is greater) by the number of days the member performed duty during that pay period to determine the total amount of pay the individual is due.
- C. The SAD order with the pay calculations is then forwarded to DMVA payroll personnel for issuance of a State payroll warrant.

FISCAL NOTE

No: 2

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Bill Version: CSHB 331 (MLV)
Bill (H) Publish Date: 3/3/00

Revision Date: 01-Mar-00
Title: An Act relating to compensation of members
of the Alaska National Guard and Alaska Naval Militia ...
Sponsor: Rules Committee
Requestor: (H) MLV

Dept Affected: Military & Veterans Affairs

BRU: Alaska National Guard

Component: Office of the Commissioner

Component No. #414

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
---------------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

This bill simplifies the method of calculating pay and allowances for members of the National Guard and Naval Militia. There is no fiscal impact but administrative workload will be reduced in the event the National Guard is called onto Active Duty to respond to a state disaster or emergency. In addition, Guard and Naval Militia members will be paid more timely and accurately than in the past with this change.

This bill also clarifies the status of the Alaska State Defense Force when called to State Active duty. The department will pay to ASDF when called to active duty in accordance with state pay scales (level of work performed) but will recognize that the ASDF is subject to the ASDF command structure and discipline.

Prepared by: Carol B. Carroll

Division: Administrative Services

Approved by Commissioner:

Phillip Oates

Agency: Military & Veterans Affairs

Phone: 465-4730

Date: 01-Mar-00

Date: 01-Mar-00

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Bill History/Action Display



BILL: HB 331 SHORT TITLE: ALASKA NATL GUARD/NAVAL & STATE MILITIA
BILL VERSION:
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (H) RLS

STATUS DATE: 4/12/00

TITLE: "An Act relating to payment, allowances, and benefits of members of the Alaska National Guard and Alaska Naval Militia in active service; relating to computation of certain benefits for members of the Alaska State Militia; and providing for an effective date."

[Full Text](#)

[Fiscal Notes](#)

Detailed 2000 fiscal note information currently not available on-line.

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
2/02/00	2067	(H) READ THE FIRST TIME - REFERRALS
2/02/00	2067	(H) MLV, STA, FIN
2/02/00	2067	(H) ZERO FISCAL NOTE (DMVA)
2/02/00	2067	(H) GOVERNOR'S TRANSMITTAL LETTER
3/03/00	2394	(H) MLV RPT CS (MLV) NT 5DP
3/03/00	2394	(H) DP: CROFT, PHILLIPS, JAMES, CISSNA,
3/03/00	2394	(H) MURKOWSKI
3/03/00	2394	(H) ZERO FISCAL NOTE (DMVA)
3/21/00	2631	(H) STA RPT CS (MLV) NT 4DP 1NR
3/21/00	2632	(H) DP: JAMES, SMALLEY, KERTTULA, HUDSON;
3/21/00	2632	(H) NR: GREEN
3/21/00	2632	(H) ZERO FISCAL NOTE (DMVA) 3/3/00
4/12/00	3072	(H) FIN RPT CS (MLV) NT 7DP
4/12/00	3072	(H) DP: BUNDE, PHILLIPS, WILLIAMS, MOSES,
4/12/00	3072	(H) DAVIS, DAVIES, GRUSSENDORF
4/12/00	3073	(H) ZERO FISCAL NOTE (DMVA) 3/3/00
4/12/00	3073	(H) REFERRED TO RULES

Similar Subject Match or Exact Subject Match

MILITARY

SALARIES & ALLOWANCES

WORKERS COMPENSATION

Bill Root:

[Display History/Action](#)

[Clear Bill Root](#)

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HB 331

TONY KNOWLES
GOVERNOR
GOVERNOR of the State of Alaska

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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www.governor.alaska.gov

February 1, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

When members of the Alaska National Guard and Alaska Naval Militia are called to active service for the state, it's important they be adequately compensated for their valuable work in a timely manner. To that end, this bill simplifies the pay scale and system for the Alaska National Guard (ANG) and Alaska Naval Militia (NM).

Currently, when called to state active duty, members of the ANG and NM receive pay and allowances equal to those provided by federal law for members of equivalent grades of the United States armed forces. Daily minimum pay is determined by grade and years of service with a statutory minimum. Allowances include food, housing, cost-of-living increase, and quarters and are determined based on the circumstances of each individual.

Calculating pay and allowances under the current law requires obtaining information from the federal government regarding current pay scales and allowance amounts. This can cause significant delays in payment of ANG and NM members. It is also a labor-intensive system involving numerous manual calculations with an unreasonable chance for errors.

What does it do to the pay? increase/decrease?
This bill simplifies the pay system for state active duty by retaining statutory minimum pay, disregarding years of service, and eliminating allowances. Members will simply receive 200 percent of the minimum basic pay for a member of an equivalent grade in the active military -- or the statutory minimum, if greater. Simplifying the calculation will save administrative time and will result in members of the ANG and NM receiving their checks in a more timely fashion.

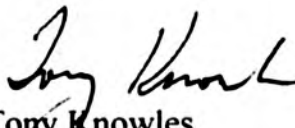
The Honorable Brian Porter
February 1, 2000
Page 2

*how have
we + death
benefits been
calculated in
past*

The bill also provides that this proposed new pay scale will be used to calculate workers' compensation and death benefits for the organized militia, which includes the Alaska State Militia as well as the ANG and NM.

I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

1-GH2010VD
Cramer
2/29/00

CS FOR HOUSE BILL NO. 331(MLV)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to compensation of members of the Alaska National Guard and
2 Alaska Naval Militia in active service; changing the name of the Alaska State
3 Militia to the Alaska State Defense Force; relating to compensation and work
4 status for members of the Alaska State Defense Force; and providing for an
5 effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 02.15.090(a) is amended to read:

8 (a) In operating an airport or air navigation facility owned or controlled by the
9 state, the department may enter into contracts, leases, and other arrangements covering
10 periods not exceeding 55 years with a person, municipality, or the United States,
11 granting the privilege of using or improving an airport or air navigation facility or a
12 portion of it or space in it for commercial, governmental, or other public purposes,
13 including private plane tie down; or conferring the privilege of supplying goods,

1 commodities, services, or facilities at an airport or air navigation facility. The
2 department may establish the terms and conditions and fix the charges, rentals, and
3 fees for the privileges or services that are reasonable and uniform for the same class
4 of privilege or service. Charges, rentals, or fees authorized by this subsection may be
5 fixed for the international airports by order of the commissioner or by negotiated or
6 competitively offered contract. Notwithstanding AS 37.10.050(a), the fixing of
7 charges, rentals, or fees as permitted under this subsection is not subject to the
8 adoption of regulation provisions of AS 44.62 (Administrative Procedure Act). The
9 terms, conditions, charges, rentals, and fees shall be established with due regard to the
10 property and improvements used and the expense of operation to the state. However,
11 use of state land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons
12 shall be permitted without rental charges. If the department permits space in state-
13 owned or state-controlled airports to be used as lounges for members of the United
14 States armed forces, the Alaska National Guard, the Alaska Naval Militia, or the
15 Alaska State Defense Force [MILITIA] and if the lounges are operated by persons
16 exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code), rent may
17 not be charged for the use of the space. The department shall provide for public
18 notice and an opportunity to comment before a charge, rental, or fee is fixed by order
19 of the commissioner as permitted under this subsection. The public may not be
20 deprived of its rightful, equal, and uniform use of the airport, air navigation facility,
21 or a portion of them.

22 * Sec. 2. AS 26.05.010(b) is amended to read:

23 (b) The militia is divided into two classes:

24 (1) the organized militia, consisting of the Alaska National Guard, the
25 Alaska Naval Militia, and the Alaska State Defense Force; [MILITIA,] and

26 (2) the unorganized militia, consisting of all qualified persons available
27 for service but not serving in the organized militia.

28 * Sec. 3. AS 26.05.030(d) is amended to read:

29 (d) The Alaska State Defense Force [MILITIA] consists of units authorized
30 by the governor, and manned by volunteer personnel qualifying under state law and
31 regulation. All defense force [STATE MILITIA] personnel shall be

(1) appointed, commissioned, or warranted, and assigned by the governor or the adjutant general as the governor's designee;

(2) subject to serve on state active duty at the call and by order of the governor.

* Sec. 4. AS 26.05.100 is amended to read:

Sec. 26.05.100. Alaska State Defense Force [MILITIA]. A state militia, **known as the Alaska State Defense Force**, may be organized through voluntary enlistments under regulations as to discipline and training **that** [WHICH] may be prescribed by the governor. During the time that the Alaska National Guard or the Alaska Naval Militia, or any part of either of them, is not available to the state by reason of active federal service, or the National Guard or Naval Militia requires augmentation to perform its state mission, the governor may activate the **Alaska State Defense Force** [STATE MILITIA].

* Sec. 5. AS 26.05.260(b) is amended to read:

(b) Members of the Alaska National Guard and Alaska Naval Militia are entitled to receive, for each day of active service under AS 26.05.070, pay [AND ALLOWANCES] equal to **200 percent of the minimum daily basic pay** [THOSE] provided by federal laws and regulations for members of equivalent grades of the United States armed forces. However, a member may not receive less than \$65 per day for active service performed during the fiscal year ending June 30, 1982. For fiscal years beginning after June 30, 1982, the minimum payment of \$65 shall be increased one percent for each percent increase in the consumer price index **for** [OF] Anchorage, Alaska, as determined by the United States Department of Labor, Bureau of Labor Statistics, not to exceed an annual increase of 10 percent. The increase, if any, takes effect not more than 30 days after the release of the consumer price index. The consumer price index that is published immediately after July 1, 1981, is the reference base index.

* Sec. 6. AS 26.05.260(d) is amended to read:

(d) A member of the organized militia who, while performing duties under AS 26.05.070, including transit to and from the member's home of record, suffers an injury or disability in the line of duty is entitled to all compensation and benefits

1 available under AS 23.30 (Alaska Workers' Compensation Act). For a member of the
2 Alaska State Defense Force, compensation and benefits under this subsection are
3 provided as though the member were a state employee.

4 * Sec. 7. AS 26.05.260(e) is amended to read:

5 (e) If a member of the organized militia dies as a result of an injury or
6 disability suffered in the line of duty while performing duties under AS 26.05.070,
7 including transit to and from the member's home of record, death benefits shall be paid
8 to the persons in the amounts specified in AS 23.30.215. For a member of the
9 Alaska State Defense Force, the death benefits under this subsection are provided
10 as though the member were a state employee.

11 * Sec. 8. AS 26.05.260(h) is repealed and reenacted to read:

12 (h) For purposes of computation of benefits under AS 23.30, the earnings of
13 a member of the

14 (1) Alaska National Guard or Alaska Naval Militia are presumed to be
15 no less than 200 percent of the minimum daily basic pay authorized for a member of
16 the regular armed forces of the United States in the same grade or rank as the Alaska
17 National Guard or Alaska Naval Militia member at the time of the injury or death;

18 (2) Alaska State Defense Force are presumed to be equal to the pay and
19 allowances authorized by (j) of this section for the duties being performed by the
20 member while on active state service at the time of the injury or death; if the member
21 of the Alaska State Defense Force did not receive pay or allowances authorized under
22 (j) of this section, the earnings of the member are presumed to be no less than 200
23 percent of the minimum daily basic pay authorized for a member of the regular armed
24 forces of the United States in the same grade or rank as the Alaska State Defense
25 Force member at the time of the injury or death.

26 * Sec. 9. AS 26.05.260(i) is amended to read:

27 (i) In this section, "member" means an active commissioned or warrant officer
28 or enlisted man or woman in the Alaska National Guard or Alaska Naval Militia,
29 or a volunteer serving in the active service of the Alaska State Defense Force
30 [ORGANIZED MILITIA].

31 * Sec. 10. AS 26.05.260 is amended by adding new subsections to read:

(j) When active state service is authorized by the governor or by the adjutant general as the governor's designee, members of the Alaska State Defense Force are entitled to receive, for each day of active service under AS 26.05.070, pay and allowances as provided in this subsection. Pay is equal to that provided under AS 39.27.011 - 39.27.020 for equivalent assignments of state officials or employees, including adjustments under AS 39.27.025, if applicable. Allowances shall be paid to the same extent, in the same manner, and under the same conditions as provided for state officials and employees under AS 39.20.110 - 39.20.170. However, pay or allowances are not authorized for training or community service activities of members of the Alaska State Defense Force.

(k) Members of the Alaska State Defense Force are entitled to pay and other benefits only as provided in this section. Members of the Alaska State Defense Force are not state employees. However, compensation and benefits under AS 23.30 provided for in (d), (e), and (h) of this section for members of the Alaska State Defense Force are provided as though the member were a state employee. Nothing in this section entitles a member of the Alaska State Defense Force to retirement benefits.

* Sec. 11. AS 26.05.340(a) is amended to read:

(a) In no case may any part of the Alaska National Guard, Alaska Naval Militia, or the Alaska State Defense Force [STATE MILITIA] be used against any labor organization or for the purpose of strike breaking within the state.

* Sec. 12. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

No: 2

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Bill Version: CSHB 331 (MLV)
Bill (H) Publish Date: 3/3/00

Revision Date: 01-Mar-00
Title: An Act relating to compensation of members
of the Alaska National Guard and Alaska Naval Militia ...
Sponsor: Rules Committee
Requestor: (H) MLV

Dept Affected: Military & Veterans Affairs
BRU: Alaska National Guard
Component: Office of the Commissioner
Component No. #414

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
---------------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS:

(Attach a separate page if necessary)

This bill simplifies the method of calculating pay and allowances for members of the National Guard and Naval Militia. There is no fiscal impact but administrative workload will be reduced in the event the National Guard is called onto Active Duty to respond to a state disaster or emergency. In addition, Guard and Naval Militia members will be paid more timely and accurately than in the past with this change.

This bill also clarifies the status of the Alaska State Defense Force when called to State Active duty. The department will pay to ASDF when called to active duty in accordance with state pay scales (level of work performed) but will recognize that the ASDF is subject to the ASDF command structure and discipline.

Prepared by: Carol B. Carroll
Division: Administrative Services
Approved by Commissioner: Phillip Oates
Agency: Military & Veterans Affairs

Phone: 465-4730
Date: 01-Mar-00
Date: 01-Mar-00

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Bill History/Action Display



BILL: HB 331 SHORT TITLE: ALASKA NATL GUARD/NAVAL & STATE MILITIA
BILL VERSION:
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (H) RLS

STATUS DATE: 4/12/00

TITLE: "An Act relating to payment, allowances, and benefits of members of the Alaska National Guard and Alaska Naval Militia in active service; relating to computation of certain benefits for members of the Alaska State Militia; and providing for an effective date."

Full Text

Fiscal Notes

Detailed 2000 fiscal note information currently not available on-line.

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
2/02/00	2067	(H) READ THE FIRST TIME - REFERRALS
2/02/00	2067	(H) MLV, STA, FIN
2/02/00	2067	(H) ZERO FISCAL NOTE (DMVA)
2/02/00	2067	(H) GOVERNOR'S TRANSMITTAL LETTER
3/03/00	2394	(H) MLV RPT CS (MLV) NT 5DP
3/03/00	2394	(H) DP: CROFT, PHILLIPS, JAMES, CISSNA,
3/03/00	2394	(H) MURKOWSKI
3/03/00	2394	(H) ZERO FISCAL NOTE (DMVA)
3/21/00	2631	(H) STA RPT CS (MLV) NT 4DP 1NR
3/21/00	2632	(H) DP: JAMES, SMALLEY, KERTTULA, HUDSON;
3/21/00	2632	(H) NR: GREEN
3/21/00	2632	(H) ZERO FISCAL NOTE (DMVA) 3/3/00
4/12/00	3072	(H) FIN RPT CS (MLV) NT 7DP
4/12/00	3072	(H) DP: BUNDE, PHILLIPS, WILLIAMS, MOSES,
4/12/00	3072	(H) DAVIS, DAVIES, GRUSSENDORF
4/12/00	3073	(H) ZERO FISCAL NOTE (DMVA) 3/3/00
4/12/00	3073	(H) REFERRED TO RULES

Similar Subject Match or Exact Subject Match

MILITARY

SALARIES & ALLOWANCES

WORKERS COMPENSATION

Bill Root:

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TONY KNOWLES

GOVERNOR

JANUARY 2000

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 1, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

When members of the Alaska National Guard and Alaska Naval Militia are called to active service for the state, it's important they be adequately compensated for their valuable work in a timely manner. To that end, this bill simplifies the pay scale and system for the Alaska National Guard (ANG) and Alaska Naval Militia (NM).

Currently, when called to state active duty, members of the ANG and NM receive pay and allowances equal to those provided by federal law for members of equivalent grades of the United States armed forces. Daily minimum pay is determined by grade and years of service with a statutory minimum. Allowances include food, housing, cost-of-living increase, and quarters and are determined based on the circumstances of each individual.

Calculating pay and allowances under the current law requires obtaining information from the federal government regarding current pay scales and allowance amounts. This can cause significant delays in payment of ANG and NM members. It is also a labor-intensive system involving numerous manual calculations with an unreasonable chance for errors.

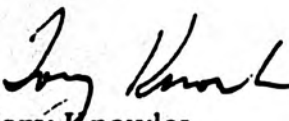
This bill simplifies the pay system for state active duty by retaining statutory minimum pay, disregarding years of service, and eliminating allowances. Members will simply receive 200 percent of the minimum basic pay for a member of an equivalent grade in the active military -- or the statutory minimum, if greater. Simplifying the calculation will save administrative time and will result in members of the ANG and NM receiving their checks in a more timely fashion.

The Honorable Brian Porter
February 1, 2000
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The bill also provides that this proposed new pay scale will be used to calculate workers' compensation and death benefits for the organized militia, which includes the Alaska State Militia as well as the ANG and NM.

I urge your prompt and favorable action on this measure.

Sincerely,



Tony Knowles
Governor

HB 337

SAD DUTY PAY AND ALLOWANCE COMPARISON WORKSHEET

<u>RANK AND YEARS OF SERVICE</u>	<u>DAILY PAY AMOUNT CURRENT METHOD*</u>	<u>DAILY PAY AMOUNT PROPOSED FORMULA</u>	<u>DIFFERENCE</u>
<u>Officers</u>			
Colonel - 20	\$277.45	\$270.74	-\$6.71
Lt Colonel - 18	\$251.52	\$216.56	-\$34.96
Major - 14	\$216.64	\$182.52	-\$34.96
Captain - 8	\$182.95	\$169.60	-\$34.12
1st Lt - 4	\$152.93	\$147.92	-\$13.35
2nd Lt - 2	\$114.44	\$128.42	-\$5.01
Warrant Officer 5 - 20	\$214.10	\$294.92	\$80.82
Warrant Officer 4 - 18	\$192.04	\$172.80	-\$19.24
Warrant Officer 3 - 12	\$162.93	\$157.06	-\$5.87
Warrant Officer 2 - 8	\$141.31	\$137.56	-\$3.75
Warrant Officer 1 - 4	\$122.55	\$114.60	-\$7.95
<u>Air Force/Army Enlisted</u>			
CMSgt/Sgt Maj - 20	\$178.05	\$201.02	\$22.97
SMSgt/1st Sgt - 18	\$157.73	\$168.56	\$10.83
MSgt/Sgt First Class - 14	\$139.05	\$117.72	-\$21.33
TSgt/SSgt - 10	\$121.36	\$105.30 (State Minmum)	-\$16.06
SSgt/Sgt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
SRA/Spec - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
A1C/Pvt 1st Class - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
Amn/Pvt 2nd Class - 0-20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
AB/Pvt - 0 thru 20	\$105.30 (State Minimum)	\$105.30 (State Minmum)	\$0.00
Note 1: Includes base pay, housing , COLA, Separate rations Note 2: Calculated at with dependents housing rate and one dependent COLA rate Note 3: Does not include other additional special pay for pilots and aircrew members Note 4: If total pay and allowance is less than the State Daily Minimum (\$105.30) the member receives the State Daily Minimum amount.			
Lt Colonel - Lieutenant Colonel	1st Lt - First Lieutenant	2nd Lt - Second Lieutenant	CMSgt - Chief Master Sergeant
Sgt Maj - Sergeant Major	SMSgt - Senior Master Sergeant	1st Sgt - First Sergeant	MSgt - Master Sergeant
Sgt First Class - Sergeant First Class	TSgt - Technical Sergeant	SSgt - Staff Sergeant	Sgt - Sergeant
SRA - Senior Airman	Spec - Specialist	A1C - Airman First Class	Pvt 1st Class - Private 1st Class
Amn - Airman	Pvt 2nd Class - Private 2nd Class	AB - Airman Basic	Pvt - Private

Daily Rate with SBS

Sal. Sched. AA
8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 96.20	\$ 99.00	\$ 102.05	\$ 108.17	\$ 111.65	\$ 115.30	\$ 122.18	\$ 125.83	\$ 130.16

Daily Rate without SBS

Sal. Sched. AA
8 Hour Shift

	RANGE 8			RANGE 10			RANGE 12		
	Base Rate	Swing	Grave	Base Rate	Swing	Grave	Base Rate	Swing	Grave
Hourly Rate	\$ 11.33	\$ 11.66	\$ 12.02	\$ 12.74	\$ 13.15	\$ 13.58	\$ 14.39	\$ 14.82	\$ 15.33
Daily Rate	\$ 90.64	\$ 93.28	\$ 96.16	\$ 101.92	\$ 105.20	\$ 108.64	\$ 115.12	\$ 118.56	\$ 122.64
Daily Savings	\$ 5.56	\$ 5.72	\$ 5.89	\$ 6.25	\$ 6.45	\$ 6.66	\$ 7.06	\$ 7.27	\$ 7.52

➤ **HB 331 – TALKING POINTS**

- **FIRST, THIS BILL WOULD STREAMLINE THE PROCESS FOR PAYING MEMBERS OF THE GUARD AND NAVAL MILITIA WHEN CALLED TO ACTIVE DUTY ENSURING TIMELY AND ACCURATE PAY FOR THE SOLDIERS**
- **CURRENTLY, WHEN CALLED TO STATE ACTIVE DUTY, MEMBERS OF THE ANG AND NM RECEIVE PAY AND ALLOWANCES EQUAL TO THOSE PROVIDED BY FEDERAL LAW FOR MEMBERS OF EQUIVALENT GRADES OF THE US ARMED FORCES.**
- **CALCULATING THAT PAY IS LABOR INTENSIVE AND REQUIRES NUMEROUS MANUAL CALCULATIONS – THIS BILL IMPLEMENTS THE USE OF A SIMPLE FORMULA FOR CALCULATING PAY**
- **SIMPLIFYING THE CALCULATION WILL SAVE ADMIN TIME AND WILL RESULT IN MEMBERS OF THE ANG AND NM RECEIVING THEIR CHECKS IN A MORE TIMELY FASHION.**
- **SECONDLY, HB 331 CHANGES THE NAME OF THE “ALASKA STATE MILITIA” TO THE “ALASKA STATE DEFENSE FORCE.” -- THE NAME COMMONLY USED TO REFER TO THIS VOLUNTEER FORCE.**
- **FINALLY, THIS CLARIFIES, IN STATUTE THE METHOD OF PAYING THE ALASKA STATE DEFENSE FORCE WHEN CALLED TO STATE ACTIVE DUTY.**

- **THIS GROUP IS MADE UP OF INDIVIDUALS WHO ARE VOLUNTEERS UNTIL CALLED TO ACTIVE DUTY TO RESPOND TO A SEARCH AND RESCUE OR DISASTER.**
- **IN THE PAST, THE STATE PAID THESE INDIVIDUALS AS IF THEY WERE MEMBERS OF THE NATIONAL GUARD OR NAVAL MILITIA EVEN THOUGH THEY ARE NOT AFFILIATED.**
- **THIS BILL WOULD ESTABLISH A STATUTORY BASIS FOR PAYMENT FOR SERVICES. IT WOULD PAY AS IF THE MEMBERS WERE STATE EMPLOYEES (WITHOUT BENEFITS), WITH SIMILAR PAY SCHEDULES, BUT RECOGNIZING THAT THE MEMBERS ARE UNDER MILITARY COMMAND.**
- **THE CHANGE WILL ALSO ENSURE ALASKA STATE DEFENSE FORCE MEMBERS RETAIN AS 26 JOB PROTECTION (WORKMAN'S COMP AND DEATH BENEFITS) WHEN ON ACTIVE DUTY**
- **I ASK MEMBERS FOR THEIR SUPPORT.**