

SB

114

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/14/99

FURTHER:

2/11/00

DATE TURNED IN TO OFFICE: 2/11/00

Finance Committee considered

SENATE BILL NO. 114

"An Act relating to impersonating a public servant."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM.
		<i>REVISIT</i>	✓		
		<i>Vote Kelly</i>	✓		
		<i>Ad Adams</i>	X		
		<i>Spew D. Leman</i>	✓		
		<i>Long</i>	✓		
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Law	3/24/99		

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

2/11/00

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 114(JUD)

Revision Date 2/7/2000 Dept. Affected Public Safety
 Title IMPERSONATE POLICE/EMERGENCY VEHICLE BRU AST
 Component: AST
 Sponsor Senator Taylor
 Requester S. Finance Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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: 0.0

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 would not impact our budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time 2/7/2000
 Approved by: *Ronald L. Otte* Date 2-7-00
 Agency Commissioner Ronald L. Otte, Dept. of Public Safety

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2/11/00

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 114 (JUD)

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to public officials and to impersonating a public servant."	BRU	Civil Division
Sponsor Senator Taylor	Component	Governmental Affairs
Requester Senate Finance Committee	Component Serial No.	2207;2213

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 114 (JUD) adds operating a vehicle that is altered to look like a police or emergency vehicle, but is not such a vehicle, to the crime of impersonating a public servant. The bill further adds to the crime of official misconduct a public servant using their title, uniform, badge, or other identifying accoutrements of office or public funds, facilities, equipment, services or other government asset or resource for partisan political purposes. These provisions are not anticipated to have a fiscal impact on the Department of Law.

Section 6 of CSSB 114 (JUD), however, adds a new private cause of action which will increase the department's costs. The Department of Law is charged with enforcement of the Ethics Act, and deals with ethics issues and complaints on an on-going basis. Current law has not created a private damages cause of action for people to sue state employees over ethics violations.

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Attorney General's Office
 Approved by Commissioner: Bruce M. Botwin *Bruce M. Botwin*
 Agency: Department of Law

Phone: 465-5370
 Date/Time: 2/7/00, 2:54 PM
 Date: 2/7/00

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ANALYSIS CONTINUATION

If the Senate Judiciary Committee Substitute were adopted, it is likely that one or more of the ethics matters the department handles each year will invite such litigation. Our experience is that if a private cause of action is available, someone will use it. Defending public officials in this litigation would be a new cost to the state.

If the department believes an ethics violations has occurred, we may be able to avoid defending the public official, assuming the acts complained about are outside the course and scope of the official's employment, or amount to gross negligence or intentional misconduct. However, given the state's contractual obligation to defend and indemnify most state employees for things done in the course and scope of their employment, it is certainly foreseeable that the Department of Law would be asked to defend and indemnify this new type of litigation in some cases.

If the department does not believe that there was an ethics violation, there would be no conflict for it to defend the public official. In cases where the department does have a conflict (a situation which could arise if the ethics case is in preliminary stages or where the employee and the state have inconsistent defenses), we may have to hire more expensive outside counsel to defend the employee. What the fiscal impact to the Department of Law might be will depend on how many cases a year are filed, and who defends the public official. We have no way of estimating these variables, and cannot quantify the fiscal impact at this time.

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL NO. CSSB 114 (JUD)

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>"An Act relating to public officials and to impersonating a public servant."</u>	BRU <u>Civil Division</u>
Sponsor <u>Senator Taylor</u>	Component <u>Governmental Affairs</u>
Requester <u>Senate Finance Committee</u>	Component Serial No. <u>2207;2213</u>
	<u>Special Litigation</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
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TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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Division <u>Attorney General's Office</u>	Date/Time <u>2/11/00, 1:55 PM</u>
Approved by <u>Commissioner Bruce W. Boehlke</u> <i>Bruce W. Boehlke</i>	Date <u>2/11/00</u>
Agency <u>Department of Law</u>	

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STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSB 114 (JUD)

ANALYSIS CONTINUATION

damages cause of action for people to sue state employees over ethics violations.

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Alaska State Legislature

Chairman,
Judiciary Committee
Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



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Senator Robin L. Taylor

Sponsor Statement

CS for Senate Bill no. 114 (JUD)

Senate Bill 114 was introduced last session to deal with a situation that surfaced in Juneau. It was brought to my attention because it could actually expand across the State. On a regular basis, police departments dispose of their vehicles through the public auction process. Those vehicles have the identifying markings removed prior to the sale.

In the Juneau situation the vehicle was restored to give the appearance of being a patrol car. The owners stopped by the Juneau Police Station to find out if it presented a legal problem. There is no law on the books that prevents anyone from marking their vehicles appear to be a police or other emergency vehicle.

While this case involved an honest individual, the chance of someone doing the same thing and committing a crime is extremely high. Section 1 of this legislation will make it illegal to operate such a vehicle.

This legislation also deals with the current growing concern over political activity ethics. For us in the legislature it is clearly spelled out what we can and can not do. For state public officials it is not so clear. The amendments proposed in this bill would clearly define the use of a state title, equipment including badges or uniform for partisan political purposes.

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