

SB

42

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 23, 1999

SUBJECT: Sectional Summary of the 1999 Revisor's Bill, CSSB 42(STA)
(Work Order No. 21-LS0106\G)

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee

FROM: James P. Crawford 
Assistant Revisor

The following is a sectional analysis of CSSB 42(STA), the 1999 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that correct, delete, or repeal, obsolete provisions: Sections 2, 3, 10, 11, 14, 15, and 16 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct deficiencies (errors, oversights, etc.): Sections 1, 5, 6, 7, 12, and 19 correct errors or oversights that cannot be corrected editorially.

Sections that improve the form or substance of the statute law: Sections 4, 8, 9, 13, 17, and 18 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. AS 08.54.605(a) contains a deficiency that is the product of an apparent error. The phrase "a violation of" was not inserted at the beginning of sub-paragraph (a)(1)(A) when the section was added by sec. 3, ch. 33, SLA 1996, while other sections added by sec. 3 containing similar concepts did include the phrase. See, e.g., AS 08.54.710(a)(1), 08.54.720(a)(1), and 08.54.740(a) and (b). Section 1 adds the phrase.

Sections 2 and 3. AS 09.55.040 and 09.55.069 contain language that subsequent legislative action has made obsolete. Specifically, these sections contain a reference to "the 'Relief Fund' created by the laws dealing with lost persons." This is an apparent reference to AS 18.60.110, "Fund for the rescue and relief of lost persons," which at one time stated:

There is created a fund out of money in the state treasury, not otherwise appropriated, for the rescue and relief of any person who becomes lost. The fund shall be known as the Relief Fund.

However, this fund was repealed over thirty years ago by sec. 1, ch. 15, SLA 1968, and no replacement fund was created or designated in the repealing legislation. Consequently, sections 2 and 3 remove the references to this repealed fund.

Section 4. AS 10.50.995 is in need of improvement as to form. The chapter that it references was entitled "Chapter 50. Limited Liability Company Act" when enacted in ch. 99, SLA 1994 (Emphasis added). The sections in Chapter 50 relate to limited liability companies. Section 4 changes the reference in AS 10.50.995 to clarify that the concept of limited liability in Chapter 50 is related to companies.

Section 5. AS 11.61.123(e) contains a deficiency that is the product of an apparent oversight. Paragraph (e)(2) refers to AS 47.10.990 for the meaning of the phrase "juvenile detention facility." However, sections 45 and 46, ch. 59, SLA 1996 moved the definition of "juvenile detention facility" from AS 47.10.990 to AS 47.12.990 in 1996. Section 5 corrects the reference.

Section 6. AS 13.05.060 suffers from a deficiency that is the product of an apparent oversight. This section, which is part of Alaska's version of the Uniform Probate Code ("UPC"), was redrafted in 1996 in ch. 75, SLA 1996. However, the UPC definition of "person" was not added to the redraft. According to Arthur H. Peterson, Uniform Law Commissioner for the State of Alaska who was involved in the redrafting effort, it was thought at the time that the general definition of "person" in AS 01.10.060 was considered adequate. The UPC definition was consequently omitted.

Subsequent discussions between Mr. Peterson and Legislative Counsel Terry Bannister have pointed out the fact that the UPC definition of "person" includes an "organization," which itself is defined to include "government or governmental subdivision or agency." These entities are not specifically listed in AS 01.10.060's definition of "person". Section 6 changes the definition so that AS 13.05.060 matches the UPC in this respect.

Section 7. AS 13.26.344(a)(9) contains a deficiency that is the product of an apparent error. In various paragraphs in the section, the phrase "other instrument that the agent considers useful" appears. (Emphasis added). These paragraphs include (b)(7), (c)(9), (e)(7), (f)(9), (g)(7), and (j)(11). However, in paragraph (a)(9), the language is ungrammatically

phrased as "other instrument the agent useful." The word "considers" appears to have been omitted unintentionally. Section 7 adds it.

Section 8. AS 15.45.250 is in need of improvement as to form; specifically, section 13 adds "an" before "appropriation".

Section 9. AS 18.26.030(b) is in need of improvement as to form. By letter dated November 26, 1997, Ms. Karen Boorman, Executive Director of the Alaska Public Offices Commission, requested that the title to AS 39.50 be changed from "Conflict of Interest" to "Public Official Financial Disclosure" for the following reason:

The Commission believes that the existing title of the statute is a misnomer and creates the impression that the law enables APOC to determine when a conflict of interest exists. The law does not specify what constitutes a conflict, or how a conflict may be resolved or sanctioned. Instead, the law requires the disclosure of income sources, business interests, real property interests and loans or debts so that the public may know of the financial and business interests of persons seeking or holding office.

Although changes to titles of chapters can usually be accomplished in letter instructions to the publisher, in this case, the old title reference is found mentioned in the text of AS 18.26.030(b). The reference also appears in AS 24.60.130(m), amended by sec. 13, and AS 44.85.030, amended by sec. 17. Sections 9, 13, and 17 make the necessary changes. The revisor will instruct the publisher to make necessary title changes if these sections remain in the revisor's bill and if the bill becomes law.

Section 10. AS 19.10.300(f) contains an obsolete reference. Specifically, subparagraph (f)(1)(C)(iii) contains a spanned reference, 49 U.S.C. 1801-1813 (Hazardous Materials Transportation Act), which no longer exists. The obsolete reference is also found in AS 19.10.399(1), amended by sec. 11; AS 28.33.140(d), amended by sec. 14; AS 28.33.190(8), amended by sec. 15; and AS 28.40.100(2), amended by sec. 16. The Table of Dispositions for the United States Code Service volume for Title 49 of the federal statutes indicates that the provisions encompassed by the obsolete spanned reference were recodified without substantive change and are now found in 49 U.S.C. 5101-5127. The Department of Transportation and Public Facilities has suggested this spanned reference as the appropriate correction. Sections 10, 11, 14, 15, and 16 make this change.

Section 11. See the explanation for sec. 10.

Section 12. AS 24.60.050(d) contains a deficiency that is the product of an apparent oversight. Last year, sec. 36, ch. 74, SLA 1998 added a new section to AS 24.60 -- AS 24.60.105 -- which relates to deadlines for filing certain disclosures. A default deadline in the section is March 15. In light of this new date, AS 24.60.050(c) was given a conforming amendment in sec. 24 of the same 1998 bill. As amended, subsection (c) reads "the date required under AS 24.60.105" instead of the former date reference, "February 15". However,

at the time subsection (c) was changed, subsection (d), which had heretofore contained the same date reference as subsection (c), was not similarly changed. Section 12 corrects this.

Section 13. See the explanation for sec. 9.

Section 14. See the explanation for sec. 10.

Section 15. See the explanation for sec. 10.

Section 16. See the explanation for sec. 10.

Section 17. See the explanation for sec. 9.

Sections 18. AS 47.10.080(c)(3) is in need of improvement as to form. It now reads, in pertinent part, "the court shall ... by order ... the termination." It logically should read "the court shall ... order ... the termination." Section 19 makes this change, which has the additional effect conforming its sentence structure to that of paragraphs (c)(1) and (c)(2) of this section.

Section 19. Section 54, ch. 123, SLA 1996 (HCS 2d CSSB 136(FIN) am H(brf sup maj fld H)(efd fld S)("SB 136")) contains a deficiency that is the product of an apparat error. The section contains a reference to sec. 102, but review of ch. 123 reveals that sec. 102 does not exist. The last section in ch. 123 is sec. 101.

In light of the bill's history, the reference is corrected to read "sec. 100". SB 136 passed the House of Representatives on reconsideration. 1996 House Jour. 4579 (May 7, 1996). This version -- version "D" -- did have a sec. 102 (103 sections total), and sec. 54's reference to sec. 102 was correct at the time. It also had two alternate effective date sections, which were secs. 100 and 101. However, when SB 136 version "D" came before the Senate to determine whether the Senate would concur in House amendments, the Senate failed to adopt the effective date clauses. 1996 Senate Jour. 4178 (May 7, 1996). When the new version -- version "H" -- was reprinted as HCS 2d CSSB 136(FIN) am H (brf sup maj fld H)(efd fld S), the effective date clause sections that failed were removed, and the provision previously designated as sec. 102 became sec. 100, as can be seen by comparing the two versions. Unfortunately, sec. 54's reference to sec. 102 remained unchanged. Section 24 makes the change now.

Section 20. Section 20 makes the correction to sec. 54, ch. 123, SLA 1996 retroactive to July 1, 1996, the effective date of sec. 54, ch. 123, SLA 1996, in order to protect any reliance interest of those expending money under sec. 54, ch. 123, SLA 1996.

Section 21. Effective date.

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
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 22, 1999

SUBJECT: Proposed Amendment to the Revisor's Bill (CSSB 42 (STA))

TO: Senator Robin Taylor, Chair
Senate Judiciary Committee
Attn: Mel Krogsend

FROM: James P. Crawford 
Assistant Revisor of Statutes

Attached is a recommendation for the revisor's bill in the form of a proposed amendment.

The amendment addresses a problem brought to our attention by APOC after the bill was reported out of the Senate State Affairs Committee. Last year, AS 15.13.116(a), which relates to disbursements of campaign assets after elections, was amended by sec. 8, ch. 74, SLA 1998. In ch. 74, the substance of AS 15.13.116(a)(2) was deleted, and the remaining paragraphs were renumbered. What had previously been designated as (a)(3) -- permissible distributions of unused campaign funds to make donations to a political party -- and (a)(5) -- permissible distributions of unused campaign funds to repay loans from a candidate to the candidate's own campaign -- became AS 15.13.116(a)(2) and (a)(4), respectively. However, cross-references in AS 15.13.074(h), which relates to prohibited contributions, and AS 15.13.078(b), which relates to contributions and loans from a candidate, were not altered at the time to reflect this numbering change. This amendment corrects the cross-references now.

If you have any questions about the amendment, don't hesitate to call.

JPC:jdr
99-143.jdr

Attachment

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED
MAR 22 1999

Ans'd.....

March 22, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
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JUNEAU, ALASKA 99811-0300
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Hon. Robin Taylor
Chair
Senate Judiciary Committee
State Capitol, Rm 30
Juneau, AK 99801

Re: CSSB 42(STA) - Comprehensive Revisor's Bill

Dear Senator Taylor:

The Department of Law has had the opportunity to review CSSB 42(STA), the 1999 comprehensive revisor's bill.

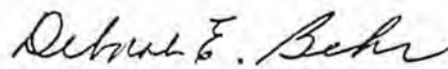
We believe that the bill overall makes important technical improvements to Alaska law. We find no legal problems with the bill.

If you need more information, please let me know.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General

DEB:jf

cc: James Crawford
Assistant Revisor of Statutes

SENATE COMMITTEE REPORT

DATE: 2/19/99

FURTHER: Finance

DATE TURNED IN TO OFFICE: 3/25/99

Judiciary Committee considered

SENATE BILL NO. 42

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

and recommends:

- be replaced with CS SB 42 (JUD)
- 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 DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
John S. Egan		Kirk Halberd	✓		
		Al Johnson	✓		
		John S. Egan	✓		
CHAIR:		CHAIR: <i>John S. Egan</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

NO. _____
BILL VERSION: CSSB 42(JUD)
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."
Sponsor: Senate Rules Committee
Requestor: Senate Judiciary

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact to the Legislative Affairs Agency.

Prepared By: Karla Schofield, Deputy Director
Division: Administrative Services

Phone: 465-3852
Date: 3/25/99

Approved By: Pamela A. Varni, Executive Director
Agency: Legislative Affairs Agency

Date: 3/25/99

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

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JPC:jdr
09-143.jdr

Attachment

AMENDMENT #1 passes

OFFERED IN THE SENATE

TO: CSSB 42(STA)

1 Page 10, following line 31:

2 Insert new bill sections to read:

3 ** Sec. 8. AS 15.13.074(h) is amended to read:

4 (h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant
5 governor and a group that is not a political party and that, under the definition of the
6 term "group," is presumed to be controlled by a candidate for governor or lieutenant
7 governor, may not make a contribution to a candidate for another office, to a person
8 who conducts a write-in campaign as a candidate for other office, or to another group
9 of amounts received by that candidate or controlled group as contributions between
10 January 1 and the date of the general election of the year of a general election for an
11 election for governor and lieutenant governor. This subsection does not prohibit

12 (1) the group described in this subsection from making contributions
13 to the candidates for governor and lieutenant governor whom the group supports; or

14 (2) the governor or lieutenant governor, or the group described in this
15 subsection, from making contributions under AS 15.13.116(a)(2)(A)
16 [AS 15.13.116(a)(3)(A)].

17 * Sec. 9. AS 15.13.078(b) is amended to read:

18 (b) The provisions of this chapter do not prohibit the individual who is a
19 candidate from lending any amount to the campaign of the candidate. Loans made
20 by the candidate shall be reported as contributions in accordance with AS 15.13.040
21 and 15.13.110. However, the candidate may not

22 (1) recover, under this section and AS 15.13.116(a)(4)
23 [AS 15.13.116(a)(5)], the amount of a loan made by the candidate to the candidate's
24 own campaign that exceeds

25 (A) \$25,000, if the candidate ran for governor or lieutenant

1 governor;
2 (B) \$10,000, if the candidate ran for
3 (i) the legislature; or
4 (ii) delegate to a constitutional convention;
5 (C) \$10,000, if the candidate was a judge seeking retention;
6 (D) \$5,000, if the candidate ran in a municipal election; or
7 (2) repay a loan that the candidate has made to the candidate's own
8 campaign unless, within five days of making the loan, the candidate notifies the
9 commission, on a form provided by the commission, of the candidate's intention to
10 repay the loan under AS 15.13.116(a)(4) [AS 15.13.116(a)(5)]."

11 Renumber the following bill sections accordingly.

12 Page 17, line 5:

13 Delete "Section 19"

14 Insert "Section 21"

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED
MAR 22 1999

Ans'd.....

March 22, 1999

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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☐ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Hon. Robin Taylor
Chair
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State Capitol, Rm 30
Juneau, AK 99801

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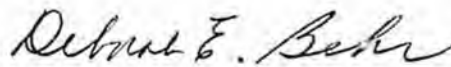
We believe that the bill overall makes important technical improvements to Alaska law. We find no legal problems with the bill.

If you need more information, please let me know.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Deborah E. Behr
Assistant Attorney General

DEB:jf

cc: James Crawford
Assistant Revisor of Statutes

Senate STATE AFFAIRS Minutes



SB 42-1999 REVISOR'S BILL

JAMES CRAWFORD, Assistant Revisor of Statutes, Division of Legal Services, gave the following description of SB 42. Section 20 repeals certain sections of statute that add a tract of land known as "Cape Suckling" to the Yakataga State Game Refuge. The sections of statute were placed in Section 20 because, based on initial information from the Department of Natural Resources (DNR), it appeared a litigation settlement agreement had made the sections obsolete. However, since SB 42 was introduced, updated information about the settlement agreement has revealed that those sections are dormant, not obsolete. The Division of Legal Services no longer recommends that those sections be repealed, but rather that Section 20 be removed from the bill.

MR. CRAWFORD stated the following corrections are not substantive. Section 6 amends the definitional sections of Alaska's probate code to correct an omission. During the 1996 revision of the probate code, the Uniform Probate Code (UPC) definition of "person" was omitted from the bill because it was assumed the Alaska Title 1 definition of "person" was identical. The UPC version specifically mentions government and governmental subunits and agencies. Uniform Law Commissioner Art Peterson asked that Title 1 be updated to include that phrase.

Number 080

SENATOR WARD asked Mr. Crawford if he agrees with Mr. Peterson's recommendation.

MR. CRAWFORD replied he thinks the existing definition in Title 1 is broad enough to include government and governmental subunits and agencies, but he recommends the change to allow the Alaska definition to track the UPC definition.

MR. CRAWFORD discussed Section 12, which amends AS 24.60.050, related to state programs and loans. The amendment will reflect the 1998 enactment of AS 24.60.105, which pertains to deadlines for filing disclosures. AS 24.60.050 relates to certain state programs and loans that a legislator or legislative employee may participate in without disclosure to the Select Committee on Legislative Ethics. Subsection (d), the section proposed for amendment, relates to disclosure deadlines for programs and loans that do not meet the standard today. Last year, when the new section, AS 24.60.105, was enacted, the bill contained a subsection (c) which is identical to the amendment suggested today. Both subsections (c) and (d) had the same date reference. The fact that subsection (d) was not amended was an oversight.

Number 127

SENATOR GREEN asked if SB 42 has a Judiciary referral.

CHAIRMAN WARD said it does not, but the committee can request one.

MR. CRAWFORD added when the overall revisor's bill was initially

presented to the Legislative Council, the Council decided to split it into two bills. The second bill was referred to the Judiciary Committee.

SENATOR GREEN moved to delete Section 20 from SB 42. There being no objection, the motion carried.

SENATOR PHILLIPS moved CSSB 42(STA) out of committee with individual recommendations. There being no objection, the motion carried.

CHAIRMAN WARD noted CSSB 42(STA) will move from committee with an accompanying request for a Senate Judiciary Committee referral.

Bill Root:

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