

**HB**

**375**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 1, 2002

FURTHER REFERRALS:

Date of Committee Action: 2.13.02

The JUDICIARY Committee considered:

HB 375

HOUSE BILL NO. 375

REVISOR'S BILL

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

Recommends it be replaced with CS ( ) [ ] Same Title [ ] New Title  
 For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR \_\_\_\_\_

- [ ] attach amendments
- [ ] add new referral to \_\_\_\_\_ Committee
- [ ] Letter of Intent \_\_\_\_\_ Committee

List of  
Abbrev.  
for  
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
LAA				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	ROCKOWITZ			✓	
<i>[Signature]</i>	MEYER			✓	
<i>[Signature]</i>	COGHILL			✓	
<i>[Signature]</i>	OGAN				✓
<i>[Signature]</i>	JAMES				✓
Chair: <i>[Signature]</i>	ROCKOWITZ	✓			
Chair:					

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## MEMORANDUM

February 4, 2002

**SUBJECT:** HB 375 (2002 Revisor's Bill)

**TO:** Representative Norman Rokeberg, Chair  
House Judiciary Committee

**FROM:** Pamela Finley *mf*  
Revisor of Statutes

The following is a sectional analysis of HB 375 (the 2002 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 any portion 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 delete, repeal, or update obsolete provisions:** Sections 10, 12, 13, 15, 16, 17, and 18 amend or repeal provisions that have become obsolete through time or other legislative action.

**Sections that correct errors or oversights:** Sections 2-8 and 14 correct errors or oversights.

**Sections that improve the form or substance of the law:** Sections 1, 9, and 11 propose amendments to improve the form or substance of the statutory law of Alaska.

## SECTIONAL ANALYSIS

Bill section 1 amends AS 01.10.070(d) to set out the effective date of an Act having a definite effective date specified in the bill, when the governor signs the bill (or it otherwise becomes law) after the specified effective date. The added language would indicate that the bill becomes law on the day after it is signed by the governor (or otherwise becomes law). For example, if a bill had a July 1 effective date, but was not signed until July 3, the actual effective date of the bill would be July 4. The reasoning is that a bill cannot be effective until all the required constitutional steps have occurred and that using the next day after signature in such cases comes as close as possible to the effective date intended by the legislature. This has been the practice while I have been

revisor, and my predecessor informed me that this was the way he interpreted such effective dates. See sec. 132, ch. 103, SLA 1995; sec. 98(c), ch. 61, SLA 2001; and sec. 21, ch. 63, SLA 2001. (As a matter of practice, I also have not indicated that such sections are retroactive to the specified effective date because AS 01.10.090 states that no statute is retrospective unless expressly declared therein. Also, retroactivity may, in some circumstances, be unconstitutional. However, the amendment proposed in bill section 1 would not necessarily prevent a court from finding implied retroactivity in a given case because the proposed amendment addresses only the effective date, which is conceptually different from retroactivity.) I have been informed that litigation has been filed concerning the effective date of secs. 10-13 of ch. 63, SLA 2001 (where the governor signed the bill after the specified effective date), with the defendant claiming that those sections were effective 90 days after the governor signed the bill rather than one day after the signing. That case will be decided on the law in effect at the time, but this bill section attempts to clarify the rule for future situations.

Bill section 2 attempts to resolve problems created by a floor amendment to AS 09.10.060(c) last session in ch. 86, SLA 2001. Before the amendment of AS 09.10.060(c), that subsection set a three year statute of limitations for civil actions for injuries suffered as a result of sexual abuse. Sexual abuse was defined by reference to certain sections of the criminal code, *i.e.*, felony and misdemeanor sexual assault and sexual abuse of a minor, incest, unlawful exploitation of a minor and first degree indecent exposure. If the victim was under 18 at the time of the crime, under AS 09.10.140(a) the limitations period would not begin running until the victim turned 18. Moreover, if the victim was under the age of 16 at the time of the crime, under AS 09.55.650 and AS 09.10.140(b), the victim could bring an action for injuries caused by the specified crimes even more than three years after the victim turned 18 under certain circumstances.

The floor amendment repealed and reenacted AS 09.10.060(c) so that there is no longer any statute of limitations for civil actions arising out of felony sexual abuse of a minor or felony sexual assault. The floor amendment did not define "sexual abuse" or "sexual assault" by reference to any criminal code sections, nor did the floor amendment change AS 09.10.140(b), which was predicated on a three year statute of limitations. Whatever else may now be covered by AS 09.10.060(c), it is clear that it would not cover misdemeanor sexual abuse or assault. (AS 11.41.427 and 11.41.440.) Since there is no longer a specific statute of limitations for those misdemeanors, the result of the floor amendment was to make civil actions based on those misdemeanors subject to the two year statute of limitations for torts, AS 09.10.070.

Bill section 2 amends AS 09.10.140(b) in two ways. First, it indicates that AS 09.10.140(b) does not apply to claims that are allowed under AS 09.10.060(c). This avoids any suggestion that AS 09.10.140(b) provides a statute of limitations for claims that AS 09.10.060(c) indicates have no statute of limitations. Secondly, it changes the references from "three years" to "two years", since two years will now be the statute of limitations for those crimes listed in AS 09.55.650 that are not covered by AS 09.10.060(c). Bill section 2 does not attempt to further define what crimes are

covered by "felony sexual abuse of a minor" or "felony sexual assault" in AS 09.10.060(c). That could involve policy choices that are not appropriate for a revisor's bill.

Bill section 3 amends AS 14.48.190 to change "commissioner" to "commission". AS 14.48.150 requires certain records to be deposited with the commission (on postsecondary education), not with a commissioner.

Bill section 4 amends AS 15.20.207(g) to require a certificate for the questioned ballot counting board to be returned to the director by the 16th, rather than the 11th, day following the election. In sec. 53, ch. 82, SLA 2000, the time by which the district questioned ballot counting board was required to certify the questioned ballot totals was changed from the 10th day after the election to the 15th day after the election. The equivalent change should have been made in AS 15.20.207(g), but was not. This bill section corrects that oversight.

Bill section 5 corrects an error in ch. 103, SLA 2001. This law amended AS 15.25.190 to provide that people nominated by petition would be put on the general election ballot, not, as was formerly the case, on the primary ballot. Unfortunately, ch. 103 did not make the same change in AS 15.25.180(a)(10). This section corrects that error.

Bill section 6 amends AS 16.43.160(f) to correct an inaccurate U.S. Code reference to the federal food stamp program.

Bill section 7 amends AS 18.56.300(b) by substituting "registered under AS 08.48" for "licensed under AS 08.48". AS 08.48 authorizes registration, not licensing, of architects, engineers, land surveyors, and landscape architects.

Bill section 8 amends AS 23.30.017(c) by substituting "registered under AS 08.48" for "licensed under AS 08.48". AS 08.48 authorizes registration, not licensing, of architects, engineers, land surveyors, and landscape architects.

Bill section 9 amends AS 33.32.017(d) to delete the phrase "the sum of". The phrase is inaccurate because the subsection requires the multiplication of two numbers.

Bill section 10 deletes from AS 35.15.080(f), a reference to AS 36.10.010, which was repealed in 1986. (I am planning on also deleting the references to schools in this subsection in next year's revisor's bill. This error, which appears in numerous sections in AS 35, was discovered too late to be included in this year's bill.)

Bill section 11 substitutes "James Dalton Highway" for "highway" in AS 35.40.010. Originally, AS 35.40.010 was in AS 19.40, a chapter in which "highway" refers to the James Dalton Highway. The section was renumbered in 1982. The amendment in this bill section clarifies the highway to which the section refers.

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Bill sections 12 and 13 change the U.S. Code citations to the Older Americans Act in statutes that authorize the Alaska Commission on Aging to administer and set policy for the administration of the federal programs as provided under the Older Americans Act. The amendment would expand the citation to include the Older American Community Service Employment Program, Grants for Native Americans, Allotments for Vulnerable Elder Rights Protection activities, and Native American Organization provisions, all of which are now part of the federal Program for Older Americans. This amendment is based on the assumption that the legislature intended the Commission on Aging to have authority over the federal program in general, not just specific subsets of it. If this is not the case, these sections should be deleted from the bill.

Bill section 14 substitutes "AS 45.29" for "AS 45.09.101 - 45.09.507" in AS 45.02.401. This corrects an oversight in ch. 113, SLA 2000, which repealed AS 45.09 and enacted AS 45.29 in its stead.

Bill section 15 substitutes "AS 46.03.250 - 46.03.313" for "AS 46.03.250 - 46.03.314" in AS 46.03.760(a). AS 46.03.314 was repealed in 1991.

Bill section 16 amends AS 47.05.012, concerning incorporation by reference by the Department of Health and Social Services, to change "HCIA, Inc." to "Solucient". Due to a merger, Solucient has replaced HCIA, Inc. Also, the "Agency for Health Care Policy and Research" is changed to the "Agency for Healthcare Research and Quality" due to a name change of that organization.

Bill section 17 repeals AS 36.10.006 and AS 18.55.934(b). AS 36.10.006 states the legislative purpose in adopting AS 36.10.010. Because AS 36.10.010 was repealed in 1986, AS 36.10.006 is superfluous. AS 18.55.934(b) refers to a special fund for the 1964 earthquake. The Legislative Finance Division confirms that the fund no longer exists, except in the reference in AS 18.55.934(b).

Bill section 18 repeals temporary law provisions in three different Acts.

Sections 1-18, ch. 99, SLA 1985 contain provisions for the longevity bonus (section 1) and a permanent fund dividend annuity (sections 2-18). Under sections 25 and 26, ch. 99, SLA 1985, section 1 would take effect when sections 2-18 were repealed, and sections 2-18 would take effect when section 1 was repealed. Since the legislature has not chosen to "activate" either alternative in the last 16 years and has in the meantime amended both the longevity bonus program and the permanent fund dividend program so substantially that sections 1-18 of ch. 99, SLA 1985 would have to be rewritten even if the legislature did decide to adopt the policy in section 1 or sections 2-18, all the relevant sections are proposed for repeal.

Chapter 148, SLA 1990 authorized a land exchange between the University of Alaska and the Department of Natural Resources of certain land in the Kenai River Special Management Area (Slikok Creek area). Several years ago, an employee at the Dept. of

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Natural Resources informed me that the land exchange did not happen and that the DNR is no longer pursuing the land exchange. After several more years of inaction, I am proposing that this Act be repealed.

Section 19 gives the bill an immediate effective date.

Attached hereto is the text of AS 36.10.006 and AS 18.55.934(b), which are proposed for repeal.

PF:med  
02-096.med

TEXT OF PROVISIONS PROPOSED FOR REPEAL

AS 36.10.006:

Sec. 36.10.006. Statement of purpose.

The legislature adopted AS 36.10.010 in response to problems and concerns identified by the findings of facts in AS 36.10.005 to

(1) ensure that qualified resident workers do not remain unemployed while nonresident workers are employed on construction projects funded by the state or a political subdivision of the state if the purpose of the project includes reducing the unemployment of residents;

(2) ensure that qualified resident workers do not remain unemployed while nonresident workers are employed on construction projects funded by the state or a political subdivision of the state;

(3) reduce the level of unemployment among residents of the state.

AS 18.55.934(b)

(b) The governor may expend money from the natural disaster recovery fund of 1964 for state grants-in-aid provided for in (a) of this section.

PF:med  
02-096.med

# STATE OF ALASKA

DEPARTMENT OF LAW  
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February 8, 2002

**FEB 08 2002**

The Honorable Norman Rokeburg, Chair  
House Judiciary Committee  
State Capitol, Room 118  
Juneau, AK 99801-1182

Re: HB 375 - 2002 Revisor's Bill

Dear Representative Rokeburg:


The Department of Law has had the opportunity to review HB 375, the 2002 revisor's bill.

We find that the bill makes important technical improvements to the Alaska statutes.

We find no legal difficulties with HB 375.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Deborah E. Behr  
Assistant Attorney General

DEB:jf

cc: Pam Finley, Revisor of Statutes  
Chrystal Smith, Legislative Contact, Dept. of Law  
Shari Kochman, Deputy Legislative Director, Office of the Governor