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CS FOR SENATE BILL NO. 238(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 4/30/02

Referred: Today's Calendar

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act exempting from the category of public records certain records and information**
2 **relating to state safety plans, programs, and procedures, and to systems, facilities, and**
3 **infrastructure in the state; and providing for an effective date."**

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

5 *** Section 1.** AS 40.25.120(a) is amended by adding a new paragraph to read:

6 (10) records or information pertaining to a plan, program, or
7 procedures for establishing, maintaining, or restoring security in the state, or to a
8 detailed description or evaluation of systems, facilities, or infrastructure in the state,
9 but only to the extent that the production of the records or information

10 (A) could reasonably be expected to interfere with the
11 implementation or enforcement of the security plan, program, or procedures;

12 (B) would disclose confidential guidelines for investigations or
13 enforcement and the disclosure could reasonably be expected to risk
14 circumvention of the law; or

1 (C) could reasonably be expected to endanger the life or
2 physical safety of an individual or to present a real and substantial risk to the
3 public health and welfare.

4 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF MILITARY & VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER

P.O. BOX 5800

FT. RICHARDSON, AK 99505-5800

PH: (907) 428-6003

May 1, 2002

The Honorable Norman Rokeberg, Chair
House Judiciary Committee
Alaska State Capitol
Juneau, AK 99801

Dear Representative Rokeberg:

The Department of Military and Veterans' Affairs respectfully requests a hearing on CSSB 238 (RLS) "An Act exempting from the category of public records certain records and information relating to state safety plans, programs, and procedures, and to systems facilities, and infrastructure in the state; and providing for an effective date."

CSSB238(RLS) provides state agencies the ability to deny requests for public records that describe security plans or detail security systems. The bill creates standards that protect the public's interest prior to denial of access to documents that detail security plans or procedures.

The intent of the bill is to provide protection to the state's residents and visitors by careful consideration of the security of state and municipal facilities. However, the ability to deny public records is limited to circumstances where harm to the public can be shown if the document is released.

CShB326(STA) is the companion bill to CSSB238(RLS) and is also in your committee.

I look forward to discussing this bill with you and your committee. If I can provide further information please call Carol Carroll at 465-4730.

Sincerely,



MG Phillip Oates

Commissioner
Military and Veterans Affairs

STATE OF ALASKA

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SPONSOR STATEMENT CSSB238(RLS)

An Act exempting from the category of public records certain records and information relating to state safety plans, program and procedures

This bill is a result of the Disaster Policy Cabinet analysis of state security after September 11th. The bill addresses one area that would enhance security of state plans, procedures and systems and thereby the safety of the citizens of the state.

The bill will exempt from the public records law documents pertaining to a plan, program or procedures for establishing, maintaining or restoring security in the state. The exemption could be implemented only if three standards are met: release would reasonably be expected to interfere with implementation or enforcement of a security plan, program or procedure; the document would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or whether disclosure of the document could endanger the safety of individuals or public health and welfare.

Appeals would still be available to ensure that that the public has recourse to a decision of an agency.

STATE OF ALASKA

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SECTIONAL ANALYSIS CSSB238 (RLS)

Section 1 amends the exceptions to the public records statute (AS 40.25.120) to provide that records or information pertaining to a security plan, program, or procedures or to a detailed description or evaluation of systems, facilities, or infrastructure in the state are not publicly accessible, to the extent one of the following factors exists. These records or information will be excluded from disclosure to the extent that dissemination: (A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures; (B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or (C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

CS FOR HOUSE BILL NO. 326(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/30/02

Referred: Judiciary

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the security of certain state airports; exempting certain records and
2 information from the category of public records; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 02.15 is amended by adding a new section to read:

5 Sec. 02.15.245. Administrative penalties for security violations. (a) In
6 addition to applicable criminal and other penalties imposed by the court under
7 AS 02.15.240, a person or an entity that violates or causes or permits to be violated, or
8 that is legally or contractually responsible for the conduct of a person who violates or
9 causes or permits to be violated, a state or federal law or a plan, program, or procedure
10 established under state or federal law pertaining to security of a state airport
11 established under AS 02.15.060 is subject to an administrative penalty of not more
12 than \$1,100 for each incident. The department may assess the penalty by order after
13 following procedures established in regulations adopted under (b) of this section. A
14 person or an entity is subject to assessment of a penalty under this section only if the

1 person or entity had, at the time of the violation, actual or constructive knowledge of
2 the violated law or program adopted under law.

3 (b) The department shall adopt regulations under AS 44.62 (Administrative
4 Procedure Act) to carry out the purposes of this section.

5 * **Sec. 2.** AS 40.25.120(a) is amended by adding a new paragraph to read:

6 (10) records or information pertaining to a plan, program, or
7 procedures for establishing, maintaining, or restoring security in the state, or to a
8 detailed description or evaluation of systems, facilities, or infrastructure in the state,
9 but only to the extent that the production of the records or information

10 (A) could reasonably be expected to interfere with the
11 implementation or enforcement of the security plan, program, or procedures;

12 (B) would disclose confidential guidelines for investigations or
13 enforcement and the disclosure could reasonably be expected to risk
14 circumvention of the law; or

15 (C) could reasonably be expected to endanger the life or
16 physical safety of an individual or to present a real and substantial risk to the
17 public health and welfare.

18 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 238
 (S) Publish Date: 1/16/02

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title An act relating to plans and programs BRU _____
for the safety and security of facilities... Componer ' _____
 Sponsor Rules by Request of Governor _____
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
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CHANGE IN REVENUES ()						
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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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill allows the department to issue civil fines to airport tenants who violate FAA security policies. These funds will be passed through to the FAA to cover airport fines.

Prepared by: Dennis R. Poshard, Assistant to Commissioner Phone 465-3904
 Division Commissioner's Office Date/Time 1/11/02 10:07 AM
 Approved by: Joseph L. Perkins, Commissioner Date 01/11/2002
 Agency AK DOT&PF