

SB

376

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FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 376(HES)
 (S) Publish Date: 4/19/04
 Dept. Affected: Health & Social Services
 RDU Public Assistance
 Component Public Assistance Admin

Revision Date/Time (Note if correction):
 Title PUBLIC ASSISTANCE AND SUBPOENA POWERS

Sponsor SENATE (HES)
 Requester SENATE (HES)

Component No. 233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	5.5	5.5	5.5	5.5	5.5	5.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.5	5.5	5.5	5.5	5.5	5.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other 1156 Receipt Services Funds	5.5	5.5	5.5	5.5	5.5	5.5
Other(Specify Type-do not abbreviate)						
TOTAL	5.5	5.5	5.5	5.5	5.5	5.5

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The addition of subpoena power will strengthen the Department's efforts to combat recipient welfare fraud in those cases that are not currently cost-effective to pursue due to associated costs of going to court to obtain a subpoena. Subpoena power will equip the Department to conduct more thorough investigations of questionable welfare applications and efficiently collect information needed to prosecute individuals receiving benefits fraudulently. Subpoena power will allow the Department to pursue approximately 16 additional Food Stamp fraud cases per year. The average amount recovered in each Food Stamp case is approximately \$977. Food Stamps are 100% federally funded, but recovery rules allow the state to retain 35% of fraudulently obtained benefits.

$\$977 \times 16 = \$15,632 / .35 = \$5,471$

Prepared by: Angela Salerno
 Division: Public Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3200
 Date/Time 03/31/2004
 Date 04/01/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 376(HES)
 (S) Publish Date: 4/19/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title PUBLIC ASSISTANCE AND SUBPOENA POWERS

RDU Public Assistance

Component ATAP

Sponsor SENATE (HES)

Requester SENATE (HES)

Component No. 220

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)
Miscellaneous						
TOTAL OPERATING	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)	(25.1)

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The addition of subpoena power will strengthen the Department's efforts to combat recipient welfare fraud in those cases that are not currently cost-effective to pursue due to associated costs of going to court to obtain a subpoena. Subpoena power will equip the Department to conduct more thorough investigations of questionable welfare applications and efficiently collect information needed to prosecute individuals receiving benefits fraudulently. Subpoena power will allow the Department to pursue approximately 12 additional ATAP fraud cases per year. The average amount recovered in each ATAP case is approximately \$2,090.

$\$2,090 \times 12 = \$25,080$

Prepared by: Angela Salerno
 Division: Public Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3200
 Date/Time 03/31/2004
 Date 04/01/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSSB 376(HES)
 (S) Publish Date: 5/1/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Public Assistance and Subpoena RDU Revenue Programs & Services
Power Component Permanent Fund Dividend
 Sponsor Senate HES Committee
 Requester Senate Finance Committee Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
Permanent Fund Dividend Fund						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides specific subpoena power to compel the production of information necessary as evidence in an investigation of possible permanent fund dividend application fraud. Subpoena power is expected to facilitate more efficient and effective investigations.

Regrettably, the dividend program has its share of applicants who fraudulently seek dividends. These applicants include people who apply on behalf of deceased spouses and children, parents applying for children who are not in their custody, and those who steal the identity of others. The division has responsibility to assure that fraud is identified, prosecuted, and deterred to the extent possible.

Prepared by: Sharon Barton Phone 465-4785
 Division Permaner: Fund Dividend Date/Time 4/21/04 11:53 AM
 Approved by: Steve Porter, Deputy Commissioner Date 4/21/2004
 Agency Department of Revenue

FISCAL NOTE #3

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSSB 376(HES)

ANALYSIS CONTINUATION

A year ago, the division hired a new investigator, and we are in the process of developing an aggressive fraud program. In less than nine months, our single new investigator worked over 950 fraud tips received from the public and from other governmental agencies and as a result denied or assessed 420 applicants for a total of \$590.6. The division also conducted selective audits of categories of applicants that we had reason to think may include a high incidence of fraud. Last year, we audited all applicants who had refused jury duty, stating that they were no longer residents of the state and all applications mailed in from out of state. We denied or assessed another 450 applicants for a total of \$505.0 as a result of these audits. This year, we continue to follow up on all fraud tips, will repeat the two audits mentioned above, and we have planned a new audit of applicants using private mail box addresses.

To maximize our staff of one, we have established cooperative working relationships with federal, state, and local law enforcement agencies, and other state fraud units. We have recently received eager commitments from the US Office of the Inspector General to take any of our identity theft cases involving the use of a social security number, from the US Department of Justice to take any cases of identity theft involving stolen passports, and from the US Postal Inspector to press a class action suit of the cases that result from our private mailbox audit.

To be even more effective, we need specific subpoena power. Individuals are not always forthcoming with the information about themselves that we need to prove fraud; and sometimes public and private entities need a subpoena to be able to provide needed information about their clients. For example, we will need to subpoena the records of the private mail box entities to get the information we need to investigate possible fraud among that applicant group. Without specific authority, we would have to go to the court system on a case by case basis. This is a cumbersome process for both the PFD and for the court.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB376-DHSS-HCS-05-06-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title PUBLIC ASSISTANCE AND SUBPOENA POWERS

Dept. Affected: Health & Social Services
RDU Health Care Services
Component Medicaid Services

Sponsor SENATE (HES)
Requester SENATE (HES)

Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)
Miscellaneous						
TOTAL OPERATING	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(3.4)	(3.4)	(3.4)	(3.4)	(3.4)	(3.4)
1003 GF Match	(2.3)	(2.3)	(2.3)	(2.3)	(2.3)	(2.3)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)	(5.7)

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The addition of subpoena power will strengthen the Department's efforts to combat recipient welfare fraud in those cases that are not currently cost-effective to pursue due to associated costs of going to court to obtain a subpoena. Subpoena power will equip the Department to conduct more thorough investigations of questionable welfare applications and efficiently collect information needed to prosecute individuals receiving benefits fraudulently. Subpoena power will allow the Department to pursue approximately 2 additional Medicaid fraud cases per year. The average amount recovered in each Medicaid case is approximately \$2,869.

$\$2,869 \times 2 = \$5,738$

Prepared by: Dwayne Peoples, Director
Division: Health Care Services
Approved by: Joel S. Gilbertson, Commissioner
Agency: Department of Health and Social Services

Phone 465-5830
Date/Time 03/03/2004
Date 05/06/2004



Health, Education, and Social Services Committee Alaska State Senate

SPONSOR STATEMENT

SB 376—*"An Act relating to public assistance and subpoena powers; and relating to the permanent fund dividend and subpoena powers"*

This bill authorizes the Commissioners of the Department of (1) Health and Social Services and (2) Revenue to issue subpoenas to compel the production of records needed to investigate cases of suspected fraud. The Alaska Department of Labor currently has this type of subpoena power, as do many agencies in other states.

The Division of Public Assistance Fraud Control Unit reports that records such as rental agreements, utility billings or health care information are often used to verify information provided by public assistance applicants or recipients. Simple requests for these items often go unheeded due to concerns about exposure to litigation. Currently, the cost of going to court to get subpoenas for these types of records makes investigating "smaller" fraud cases prohibitively expensive — the projected amount saved or recovered is less than the cost of getting the needed subpoenas. By allowing the Department to issue their own subpoenas, the costs of going to court are eliminated, and the Department will cost-effectively investigate more cases of suspected fraud. Subpoena power will equip the Department to conduct more thorough investigations of questionable welfare applications and efficiently collect information needed to prosecute individuals receiving benefits fraudulently. This will result in additional recovery of welfare overpayments.

The Permanent Fund Division recently hired one fraud investigator to address fraudulent applications. Within the first year, the fraud investigator examined tips from the public and from governmental agencies, resulting in identification of 420 cases of fraud, corresponding to \$590,600. In addition, selective audits were performed of applicant categories suspected of having a high incidence of fraud. Also, audits were performed on PFD applicants who had also refused jury duty, stating that they no longer lived in Alaska. As a result of these additional audits, another 450 cases of fraud were identified, corresponding to \$505,000. The one-person staff working to combat PFD fraud has begun an aggressive fraud program, aimed to assure that fraud is identified, prosecuted, and deterred to the extent possible.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

STATE OF ALASKA

DEPARTMENT OF REVENUE

PERMANENT FUND DIVIDEND DIVISION

FRANK MURKOWSKI, GOVERNOR

State Office Building
PO Box 110460
Juneau, AK 99811-0460
Telephone : 907-465-2323
Fax : 907-465-2098

April 19, 2004

The Honorable Fred Dyson
Alaska State Legislature
State Capitol Building
Juneau, AK 998091

Dear Senator Dyson:

Thank you for the opportunity to present our case for subpoena authority for the Permanent Fund Dividend Program.

Regrettably, the dividend program has its share of applicants who fraudulently seek dividends. These applicants include people who apply on behalf of deceased spouses and children, parents applying for children who are not in their custody, and those who steal the identity of others. The division has responsibility to assure that fraud is identified, prosecuted, and deterred to the extent possible.

A year ago, the division hired a new, very competent, investigator and we are in the process of developing an aggressive fraud program. In less than nine months, our single new inspector worked over 950 fraud tips received from the public and from other governmental agencies and as a result denied or assessed 420 applicants for a total of \$590.6. The division also conducted selective audits of categories of applicants that we had reason to think may include a high incidence of fraud. Last year, we audited all applicants who had refused jury duty, stating that they were no longer residents of the state and all applications mailed in from out of state. We denied or assessed another 450 applicants for a total of \$505.0 as a result of these audits. This year, we continue to follow up on all fraud tips, will repeat the two audits mentioned above, and we have planned a new audit of applicants using private mail box addresses.

To maximize our staff of one, we have established cooperative working relationships with federal, state, and local law enforcement agencies, and other state fraud units. We have recently received eager commitments from the US Office of the Inspector General to take any of our identity theft cases involving the use of a social security number, from the US Department of Justice to take any cases of identity theft involving stolen passports, and from the US Postal Inspector to press a class action suit of the cases that result from our private mail box audit.

Senator Dyson


April 19, 2004

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To be even more effective, we need specific subpoena power. Individuals are not always forthcoming with the information about themselves that we need to prove fraud; and sometimes public and private entities need a subpoena to be able to provide needed information about their clients. For example, we will need to subpoena the records of the private mail box entities to get the information we need to investigate possible fraud among that applicant group. Without specific authority, we would have to go to the court system on a case by case basis. This is a cumbersome process for both the PFD and for the court.

We look forward to working with you and your staff on this proposed legislation.

Sincerely,



Sharon Burton
Director

cc: Mike Tibbles
Steve Porter
Landa Baily
Tony Lombardo

MEMORANDUM

Division Of Public Assistance

Program Integrity and Analysis, Fraud Control Unit

STATE OF ALASKA

Department of Health and
Social Services

TO: Anthony Lombardo
Director, Division of Public Assistance

DATE: February 3, 2004

THRU:: Jim Dalman
Chief, Program Integrity & Analysis

FILE: Subpoena DT Mem

FROM: Jay Marley
Manager, Fraud Control Unit

PHONE: 269-1050

SUBJECT: Subpoena Deuces Tecum power for the Fraud Control Unit

The Division of Public Assistance, Fraud Control Unit (FCU) is seeking statutory authority to enhance the ability to obtain needed information relating to welfare fraud investigations. Subpoena Deuces Tecum power is a common tool for many states fraud control staff, and it is used by other agencies in Alaska as well. This memorandum provides supporting rationale for the department to pursue authority for this activity, and sample language from the Department of Labor.

1. The FCU relies on a variety of information sources in the conduct of welfare fraud investigations. Sources include banks, employers, landlords, various state and federal agencies, and the general public. A routine problem faced by the investigators of this unit is a reticence on the part of these sources to provide the information needed, and to do so in a timely manner. Part of the reticence stems from concerns of legal and civil repercussions as a result of their provision of information to the Division. This issue significantly contributes to the unit's current backlog of over 1000 cases and the ability to do more criminally prosecutions.
2. Cases in which the unit determines that fraud has occurred are processed for administrative sanctions, and may also be sent to the Department of Law for criminal prosecution. In either case, the evidence submitted must be considered credible. Part of a credibility determination relies on how the information was obtained, the source of the information, and motives for the provision of the evidence.
3. The Subpoena Deuces Tecum addresses both of the above concerns. Information provided under subpoena holds the provider harmless, creates an incentive to provide accurate information in a timely manner, and lends credibility to the information so acquired. Furthermore it is a tool commonly granted to Administrative and Criminal Law investigators in most state and federal agencies. (In Alaska, these include: CSED, Gaming Unit, Insurance Fraud, Occupational Licensing, Wage and Hour investigators, Workers Compensation investigators, UI investigators, and PFD investigators.)
4. This is an essential investigative tool. We have a mission to deter Public Assistance fraud through administrative and criminal procedures. Without the convenient power to subpoena information the investigators of this unit are severely hampered in accomplishing their goals.

SB 376 – Public Assistance Subpoena Powers

Summary

- ◆ This bill authorizes the Commissioner of the Department of Health and Social Services, or a designee at the Director level, to issue subpoenas to compel the production of records, (subpoenas duces tecum). These subpoenas are needed to investigate cases of suspected recipient welfare fraud. The Alaska Department of Labor currently has this type of subpoena power, as do many agencies in other states.
- ◆ Records such as rental agreements, utility billings or bank information are often used to verify information provided by public assistance applicants or recipients. Simple requests for these items often go unheeded due to concerns about confidentiality. Many institutions request or require a subpoena duces tecum, simply to deflect any potential liability for disclosure of customer information to a third party.
- ◆ Currently, the cost of going to the Attorney General's office to get subpoenas for these types of records makes investigating "smaller" fraud cases expensive and time consuming– most often the projected amount saved or recovered is less than the cost of getting the needed subpoenas and the staff time expended in the process.
- ◆ By allowing senior Department officials to issue these subpoenas, the time consuming, inter-agency process and associated legal costs are eliminated. The Department will cost-effectively investigate more cases of suspected fraud, insuring good program integrity.
- ◆ Subpoena power will equip the Department to conduct more thorough investigations of questionable welfare applications and efficiently collect information needed to prosecute individuals receiving benefits fraudulently.
- ◆ This will result in some additional recovery of welfare overpayments. Equally important, regular investigations of misleading, contradictory or suspicious client information, irrespective of the amount at stake, are good for program integrity. The state's fiduciary responsibilities and reputation as program administrator are safeguarded as individual recipients and the general public become increasingly aware that the program is closely watched.
- ◆ Urban legends and misinformation about "welfare cheats" are challenged by increased public awareness that the program is well managed and real cheaters get caught.