

**HB**

**541**

23-GH2134D  
Cook  
4/20/04

**CS FOR HOUSE BILL NO. 541(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

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

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to consideration by the legislature of the executive budget and other**  
2 **bills affecting appropriations; and providing for an effective date."**

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

4 **\* Section 1.** AS 24.08.035 is amended by adding a new subsection to read:

5 (f) Before a bill that would result in an increased appropriation over the  
6 amount in the budget submitted under AS 37.07.020 is referred to the rules committee  
7 of either house, there shall be attached to the fiscal note of the bill by the person  
8 preparing the fiscal note one or more proposed bills that, if enacted into law, would  
9 provide

10 (1) an offsetting amendment to reduce the unobligated and unexpended  
11 balance of a valid existing appropriation;

12 (2) an offsetting amendment to reduce a component within a state  
13 agency budget; or

14 (3) new revenue necessary to cover the increased appropriations

1 related to the bill for which the fiscal note was prepared.

2 \* Sec. 2. AS 37.07.070 is amended by adding a new subsection to read:

3 (b) It is not in order, as a matter of legislative procedure, in the house of  
4 representatives, the senate, or the committees of those houses to consider a budget  
5 amendment increasing an appropriation to finance state agency budgets over the  
6 amounts in the budget submitted under AS 37.07.020 unless

7 (1) an offsetting amendment is adopted that reduces the unobligated  
8 and unexpended balance of a valid existing appropriation;

9 (2) an offsetting amendment is adopted that reduces another  
10 component within the state agency budgets;

11 (3) money from the federal government or another nonstate source that  
12 was not anticipated when the budget was prepared under AS 37.07.020 has been  
13 received by the state treasury; or

14 (4) the legislature has affirmatively voted on final passage for one or  
15 more bills that would raise new revenue necessary to cover the increased  
16 appropriations related to the budget amendment if the bill is enacted into law.

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

# LEGAL SERVICES

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## MEMORANDUM

April 20, 2004

**SUBJECT:** Consideration of appropriations and bills that affect appropriations (CSHB 541( ))

**TO:** Representative Bruce Weyhrauch  
Attn: Ginny Austerman

**FROM:** Tamara Brandt Cook  
Director

TBC

Here is a draft in response to your request for a technical review and correction of HB 541. In response to the original memo I wrote to you about this bill dated April 16, 2004, identifying areas I was confused about, Ms. Ginny Austerman directed me to share the memo with the Attorney General's office and to work with that office. I have done so, and Jim Baldwin, Assistant Attorney General, has provided a written response to my questions together with a request for changes. I have incorporated the requested changes into this draft committee substitute.

In addition, I have clarified in AS 37.07.070(b) that certain budget amendments are "not in order" as a matter of legislative procedure rather than substantive law, to avoid any confinement problem that might arise if an amendment increasing an appropriation in violation of this provision is ever enacted into law. This comports with the intent of the provision as explained by Mr. Baldwin. I also originally asked who was to prepare proposed bills that are to be attached to fiscal notes under AS 24.08.035. In accordance with Mr. Baldwin's answer to that question, I have added the provision that the person who prepares the fiscal note must also prepare the draft bills.

I have enclosed a copy of Mr. Baldwin's memorandum for your information.

TBC:med  
04-425.med

Enclosure

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# MEMORANDUM

*Department of Law*

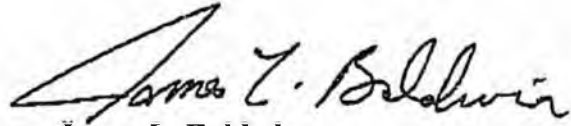
STATE OF ALASKA

To: Tamara Cook  
Director  
Legislative Legal Services

Date: April 19, 2004

File No.: 773-04-0134

Tel. No.: (907) 465-2133

  
From: James L. Baldwin  
Senior Assistant Attorney General

Subject: Response to Questions  
Raised by Tam Cook  
Regarding HB 541

Thank-you for your review and comments on HB 541. Please make the following changes in the draft Committee Substitute which are intended to address some your comments.

Page 1, line 6: delete "finance"

Page 1, line 11: delete "or"

Page 1, between lines 11 and 12 insert the following new material to read:

"(3) money from a non state source has been received by the state treasury that was not anticipated when the budget was prepared under AS 37.07.020 or... "

re-number remaining subparagraph accordingly.

In reply to of the questions set out in your memo, I offer the following:

(1) Sec. 1 of the bill makes an amendment to AS 37.07.070 which is addressing the legislature's review of the executive budget. Amendments are compared to the appropriation bill offered by the governor as required by the Executive Budget Act. The wording of the bill is intended to fit within the existing provision of 070 which address the budget under consideration by the legislature.

(2) This bill would not prevent the legislature from enacting budget amendments it considers to be in the best interest of the state. The statute would provide that consideration of a particular budget

Tamara Cook  
Director, Legislative Legal Services

April 19, 2004  
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amendment is "not in order." Once this fact is brought to the attention of a house, it could be appealed to the body which could vote to consider the matter notwithstanding the statute. If the house passes an offending appropriation bill, the operative effect of the process would be suspended. The restraint imposed by the statute is moral rather than legal in nature.

(3) The intent of the bill is not to force the legislature to enact the governor's budget, but rather to enforce accountability through knowledge of the consequences of amendments to the executive budget.

(4) As for the requirement to attach proposed bills to fiscal notes: This requirement would be the obligation of the person or agency responsible for preparing the fiscal note. The bills to generate revenue are attached for information purposes only. The requirement would be imposed to make certain that thought has been given to the method of raising revenue needed to fund the conditional appropriation represented by the fiscal note. Failure to comply with the requirement could be a basis for rejecting the fiscal note and therefore the consequences for non-compliance or imperfect compliance are moral or political in nature.

Thank-you for the careful review of this bill. Please let us know if we can assist you further.

**Subject: Fw: hb523/Hearing Today**  
**Date:** Wed, 21 Apr 2004 07:59:13 -0800  
**From:** Jim Sykes <jsykes@ak.net>  
**To:** terry.harvey@legis.state.ak.us

----- Original Message -----

**From:** Jim Sykes  
**To:** Representative Bruce Weyhrauch@legis.state.ak.us  
**Sent:** Wednesday, April 21, 2004 7:48 AM  
**Subject:** hb523/Hearing Today

**DT:** 4/21/2004  
**TO:** Rep. Bruce Weyhrauch, Chair  
House State Affairs Committee  
**FR:** Jim Sykes  
**RE:** HB 523

Hello Chairman Weyhrauch,

I will be online again today to speak to a couple of items on HB 523 near the end of the bill on political party status to which I invite your further consideration. Please distribute copies to all other committee members.

Pages 19 and 20, Section 43. The intent is to provide political party recognition for four years after a 3% statewide vote. It only provides two years if the 3% is gained during a non-Governor election year. It would simplify Division of elections tracking to simply provide 4 years for whichever statewide race qualified for 3%. The state has historically recognized party status for 4 years. The Libertarians got 6 years from 1982 until 1988, as I recall.

It would be logical to assume someone would go to court and argue that getting ballot status on a US House race in a non-Governor year should not be less valuable than obtaining ballot status in a Governor year election. It would be both more simple and straightforward to recognize ballot status for 4 years whenever more than 3% is obtained in a statewide race for Governor, US House or US Senate.

Secondly, Page 18, Sec 42 15.60.008 (3) (B) and the same provision on Page 20, Sec 43 AS15.60.01(21) (D) Both sections require a 3% registration test which is equal in number for a voter test, also 3%.

It is well recognized that it is many times more difficult to register people to a particular political party than it is to attract people to a candidate at the polls. Only 5 states have requirements that speak to both ballot test and registration test, but in no case is the registration test anywhere near the level of the ballot

test. I hope you received a statistical summary of ballot access requirements across the 50 states that I faxed last week.

States with ballot test AND registration test requirements

State	Vote Req	Registration Req.	% of Registration to vote test. to vote req.
AK	3%	3%	100.00
AZ	5%	2/3 of 1%	13.33
CO	1%	1000 reg. Voters	approx 1/10 of 1%
MA	3%	1%	33.33
NM	5%	plus 0.3% regis.	6.00

For quite a long time a majority of Alaskans have registered to *no* political party. Across the nation independent registrations are on the rise. There is no doubt that registering people to a specific political party is much more difficult to do than attract voters to a candidate in an election. For example Green Party statewide races have attracted as high of a percentage as 12.5% of the statewide vote, and yet registered voters are about 1% of the total.

Courts across the country have increasingly recognized the right for people to have fewer restrictions when it comes to ballot access rather than more restrictions.

I believe the committee is on the right track to guarantee Alaskans have reasonable access to the ballot. A small political party can be active without doing a statewide race every year. A more reasonable registration test would allow more stability and probably mean less work for the division of elections, in terms of tracking the recognition of political parties. Having the 1% registration test is not likely to invite more political parties than we already have, since it still requires a significant effort to register thousands of voters. It is worth noting that Colorado, with a considerably higher population, only requires 1,000 registered voters to qualify a party.

Your work in this area is very important, and thank you for your full consideration to these principles. If you have any questions I will endeavor to answer them as best I can. Thank you.

Sincerely,

Jim Sykes

Fw: hb523/Hearing Today

745-6962