

SB

45

CS FOR SENATE BILL NO. 45()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Legislative Budget and Audit Committee."

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

3 * Section 1. AS 11.56 is amended by adding new sections to article 6 to read:

4 Sec. 11.56.870. **Hindering the Legislative Budget and Audit Committee in**
5 **the first degree.** (a) A person commits the crime of hindering the Legislative Budget
6 and Audit Committee in the first degree if the person violates AS 11.56.880(a) and the
7 person is a public servant.

8 (b) Each failure to comply with a request from the committee or its staff is a
9 separate violation of this section.

10 (c) Hindering the Legislative Budget and Audit Committee in the first degree
11 is a class A misdemeanor. A state employee who is convicted under this section
12 immediately forfeits the employee's office or position. In this subsection, "state
13 employee" has the meaning given in AS 39.25.990.

14 Sec. 11.56.880. **Hindering the Legislative Budget and Audit Committee in**
15 **the second degree.** (a) A person commits the crime of hindering the Legislative

1 Budget and Audit Committee in the second degree if the person knowingly directs,
2 orders, discourages, threatens, restrains, coerces, forces, or prevents a person from
3 giving full cooperation to the committee or its staff in assembling or furnishing
4 requested information to the committee or its staff.

5 (b) Each failure to comply with a request from the committee or its staff is a
6 separate violation of this section.

7 (c) Hindering the Legislative Budget and Audit Committee in the second
8 degree is a class B misdemeanor. A state employee who is convicted under this
9 section immediately forfeits the employee's office or position. In this subsection,
10 "state employee" has the meaning given in AS 39.25.990.

11 * Sec. 2. AS 24.20.201 is amended by adding a new subsection to read:

12 (c) When the Legislative Budget and Audit Committee or its staff requests
13 information from a state official or from an agency or department of the state, the
14 official or the agency or department may not refuse to provide that information by
15 claiming the information is privileged unless the official, or the commissioner of the
16 department or the head of an agency if the information is requested from a department
17 or agency, asserts the privilege and the basis for the privilege under oath. The
18 committee may consider the assertion of privilege, and, if the committee disagrees, the
19 committee may seek review of the claim of privilege in the superior court.

20 * Sec. 3. AS 39.25.020 is amended by adding a new subsection to read:

21 (b) An appointing authority may not appoint a person to state service if the
22 person has been convicted of a crime under AS 11.56.870 or 11.56.880.

23 * Sec. 4. AS 39.90.140(3) is amended to read: *(Delayed imposition of sentence)*

24 (3) "matter of public concern" means

25 (A) a violation of a state, federal, or municipal law, regulation,
26 or ordinance;

27 (B) a danger to public health or safety;

28 (C) gross mismanagement, a substantial waste of funds, or a
29 clear abuse of authority; [OR]

30 (D) a matter accepted for investigation by the office of the
31 ombudsman under AS 24.55.100 or 24.55.320; or

1
2
3
4

(E) interference or any failure to cooperate with an audit or other matter within the authority of the Legislative Budget and Audit Committee;

* Sec. 5. AS 24.20.201(a)(9) and 24.20.206(1) are repealed.

● SSB45

Amnd #1

Page 2, line 3

after the word "the" add:

"legislative auditor or the legislative fiscal analyst"

Delete [committee or its staff]

Page 2, line 4, delete after the word "information"

[to the committee or its staff]

Then, to conform language elsewhere in the bill according,

(specifically , page one, line 8
, page two, line 5
, page two, line 12)



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LEGAL SERVICES**DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 8th St., Rm. 329MEMORANDUM

March 14, 2003

SUBJECT: Legislative Budget & Audit Committee Draft CS()
(Work Order No. 23-LS0205V)

TO: Senator Lyda Green
Attn: Jacqueline

FROM: Gerald P. Luckhaupt *[Signature]*
Legislative Counsel

Enclosed is the CS() you requested. You also had several questions.

1. You have asked if the legislature has provided that state employees lose their jobs and ability to be again hired as a state employee when they are convicted of certain crimes. Apart from qualifications for certain offices¹ or statutes that restrict, for example, sex offenders, from working with children, the legislature has not previously provided that persons convicted of certain crimes forfeit their state employment and cannot be reappointed to state employment. As an example, a state employee convicted of tampering with public records or official misconduct does not automatically lose their state employment by that conviction² and could be rehired by the state at some time in the future.

2. You have asked what is meant by "the committee or its staff" in the bill and who is included in that term. That term was used in the draft your office supplied to me to guide my initial drafting efforts and I continued the use of that term in the bill. I note that the term "committee or its staff" exists in AS 24.20.201(a)(3)³ and I assume that this was the

¹ For example, a person may not be a candidate for a public office of the state unless the person is a registered voter. Art. II, § 2; art. III, §§ 2 and 7, Constitution of the State of Alaska. A person may not register to vote if the person has been convicted of a felony involving moral turpitude. AS 15.05.050. Upon the person's unconditional discharge from the conviction the person may again register to vote and may again be a candidate for public office. "Felony involving moral turpitude" and "unconditional discharge" are defined in AS 15.60.010.

² However, I would assume that the person would be terminated for that misconduct.

³ AS 24.20.201(a)(3) provides:

Senator Lyda Green
March 14, 2003
Page 2

source of the term. As for what the term means and who is referred to by that term, that is not so easily answered. Clearly the term means the Legislative Budget and Audit Committee as a whole. It also seems clear to me that the term includes the (1) legislative finance division as AS 24.20.211 establishes the division as the "permanent staff agency responsible to the" committee "for performance of fiscal analysis and budget review functions;" and (2) legislative audit division as AS 24.20.241 establishes the division as the "permanent staff agency to the" committee "responsible for completion of the post-audit function." I conclude that the term also includes the chairman of the committee when the chairman's action is authorized by a majority of the committee.⁴ The term would also include any personal staff of the chairman or a member of the committee when the staff person's action is authorized by a majority of the committee.

GPL:lmb
03-079.lmb

Enclosure

(a) The Legislative Budget and Audit Committee has the power to

....
(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

⁴ This conclusion is based upon the language of AS 24.25.010 which refers to the chairman of a committee issuing subpoenas when a majority of the committee has authorized the chairman to do so. While AS 24.20.010 does not apply to the LB&A committee, the language is still instructive as to what is meant here.

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS0205V
Luckhaupt
3/13/03

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TWENTY-THIRD LEGISLATURE - FIRST SESSION

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Sponsor(s): SENATOR GREEN

A BILL

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1 **"An Act relating to the Legislative Budget and Audit Committee."**

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

3 *** Section 1. AS 11.56 is amended by adding new sections to article 6 to read:**

4 **Sec. 11.56.870. Hindering the Legislative Budget and Audit Committee in**
5 **the first degree. (a) A person commits the crime of hindering the Legislative Budget**
6 **and Audit Committee in the first degree if the person violates AS 11.56.880(a) and the**
7 **person is a public servant.**

8 **(b) Each failure to comply with a request from the committee or its staff is a**
9 **separate violation of this section.**

10 **(c) Hindering the Legislative Budget and Audit Committee in the first degree**
11 **is a class A misdemeanor. A public employee who is convicted under this section**
12 **immediately forfeits the employee's office or position. In this subsection, "public**
13 **employee" has the meaning given in AS 39.52.960.**

14 **Sec. 11.56.880. Hindering the Legislative Budget and Audit Committee in**
15 **the second degree. (a) A person commits the crime of hindering the Legislative**

WORK DRAFT

WORK DRAFT

23-LS0205V

1 Budget and Audit Committee in the second degree if the person knowingly directs,
 2 orders, discourages, threatens, restrains, coerces, forces, or prevents a person from
 3 giving full cooperation to the committee or its staff in assembling or furnishing
 4 requested information to the committee or its staff.

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 13 information from a state official or from a department of the state, the official or the
 14 department may not refuse to provide that information by claiming the information is
 15 privileged unless the official or the commissioner of the department, if the information
 16 is requested from a department, asserts the privilege and the basis for the privilege
 17 under oath. The committee may consider the assertion of privilege, and, if the
 18 committee disagrees, the committee may seek review of the claim of privilege in the
 19 superior court.

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- 25 (A) a violation of a state, federal, or municipal law, regulation,
 - 26 or ordinance;
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CSSB 45()

-2-

New Text Underlined [DELETED TEXT BRACKETED]

WORK DRAFT

WORK DRAFT

23-LS0205V

- 1
- 2
- 3

(E) interference or any failure to cooperate with an audit or other matter within the authority of the Legislative Budget and Audit Committee;

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN
SENATE DISTRICT G

SPONSOR STATEMENT FOR SENATE BILL 45

“An act relating to the Legislative Budget and Audit Committee.”

AS 24.20.201(a)(3) states that the **Legislative Budget and Audit Committee** has the power to **“require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information.”** Unfortunately, this well-intentioned statute is **unenforceable because it lacks any penalties** for those who are uncooperative or who undermine the work of this committee. Senate Bill 45 is designed to remedy this by **providing prosecutors with the necessary tools to deter and punish** those who hinder the investigative work of the legislative budget and audit committee.

Senate Bill 45 also **clarifies the process by which privilege is claimed and the process by which it is determined.**

When the legislature created the **Legislative Budget and Audit committee**, it envisioned this committee would have **full access to all information necessary to carry out their work.** Senate Bill 45 helps to ensure that this vision can occur.

I urge your support and swift passage of this important legislation.

23-LS0205VH
Luckhaupt
3/4/03

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TWENTY-THIRD LEGISLATURE - FIRST SESSION

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7 person is a public servant.

8 (b) Each failure to comply with a request from the committee or its staff is a
9 separate violation of this section.

10 (c) **Hindering the Legislative Budget and Audit Committee in the first degree**
11 **is a class C felony.** A public employee who is convicted under this section
12 immediately forfeits the employee's office or position. In this subsection, "public
13 employee" has the meaning given in AS 39.52.960. *and is ineligible for re-hire as a
public employee.*

14 Sec. 11.56.880. **Hindering the Legislative Budget and Audit Committee in**
15 **the second degree.** (a) A person commits the crime of hindering the Legislative

1 Budget and Audit Committee in the second degree if the person knowingly directs,
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13 from a public officer of the state or from a department of the state, the officer or the
14 department may not refuse to provide that information by claiming the information is
15 privileged unless the officer or the commissioner of the department, if the information
16 is requested from a department, asserts the privilege and the basis for the privilege
17 under oath. The committee may consider the assertion of privilege, and, if the
18 committee disagrees, the committee may seek review of the claim of privilege in the
19 superior court.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB45
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to the Legislative BRU Centralized Administrative Services
Budget & Audit Committee Component Administrative Services
Sponsor Senator Green
Requester (H) FIN Component No. 46

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

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)

No fiscal impact on the Department.

Prepared by: Dan Spencer, Director
Division: Division of Administrative Services
Approved by: Mike Miller, Commissioner
Agency: Department of Administration

Phone 465-5655
Date/Time 2/20/03 11:45 AM
Date 2/20/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 45
 () Publish Date: _____

Revision Date/Time (correction): 2/25/03 2:18 PM Dept. Affected: Law
 Title: "An Act relating to the Legislative Budget and Audit Committee." BRU: Criminal Division
 Component: All
 Sponsor: Senator Green
 Requester: Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (FY2003) cost: 0.0

Check 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)

This bill creates new crimes: Hindering the Legislative Budget and Audit Committee in the first and second degrees. Hindering the LB&A Committee in the first degree is a class B felony. Hindering the LB&A Committee in the second degree is a class C felony.

The Department of Law does not anticipate many new cases from passage of this legislation, and does not expect a measurable fiscal impact.

Prepared by: Joan M. Kasson Phone: (907) 465-5370
 Division: Attorney General's Office Date/Time: 2/25/03 2:18 PM
 Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General Date: 2/25/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB45
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to the Legislative BRU Centralized Administrative Services
Budget & Audit Committee Component Administrative Services
Sponsor Senator Green
Requester (H) FIN Component No. 46

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
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1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
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)

No fiscal impact on the Department.

Prepared by: Dan Spencer, Director Phone 465-5655
Division Division of Administrative Services Date/Time 2/20/03 11:45 AM
Approved by: Mike Miller, Commissioner Date 2/20/2003
Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

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Bill Version: SB 45
() Publish Date: _____

Revision Date/Time (correction): 2/25/03 2:18 PM Dept. Affected: Law
Title: "An Act relating to the Legislative Budget and BRU Criminal Division
Audit Committee." Component: All
Sponsor: Senator Green
Requester: Senate Judiciary Component No. _____

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Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
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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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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

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Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
This bill creates new crimes: Hindering the Legislative Budget and Audit Committee in the first and second degrees. Hindering the LB&A Committee in the first degree is a class B felony. Hindering the LB&A Committee in the second degree is a class C felony.

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Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 2/25/03 2:18 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 2/25/2003
Agency: Department of Law

HC02 Box 7691A
Palmer, Alaska 99645
January 30, 2003

The Honorable Lyda Green
State Capital Building, Room 561
Juneau, Alaska 99508-1182

RE: SB 45

Dear Senator Green:

This correspondence is to let you know that I support SB 45.

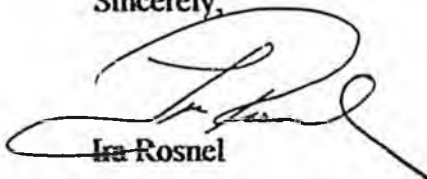
*Attached copy
of bill*

During these times of diminishing revenues, I believe that every effort must be made to maximize our ability to manage public funds while minimizing mismanagement, a problem all too common in government.

The only way that an accurate accounting can be made of each department and division in state government is by requiring state officials and bureaucrats to fully cooperate with, and address the concerns of, legislative auditors. SB 45 supports state employees' appropriate use of public funds in service to Alaskan citizens.

Thank you for your representation.

Sincerely,


Ira Rosnel