

HB

175

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB175-LAW-L&SA-1-18-
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the creation of a civil legal RDU Civil
services fund." Component Labor & State Affairs
 Sponsor Representative McGuire
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 37.05.146 to add a new subsection under c creating a civil legal services fund funded with punitive damages collected by the state under AS 09.17.020(j). The legislature may make appropriations from the fund to organizations that provide civil legal services to low-income individuals. Passage of this legislation will have no foreseeable impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/2/05 4:17 PM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/2/2005
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 175
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OMB
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 Component _____
 Sponsor McGuire Component No. _____
 Requester _____

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Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brad Pierce Phone _____
 Division: OMB Date/Time 3/2/05 11:05 AM
 Approved by: _____ Date 3/2/2005
 Agency: _____

ALASKA STATE LEGISLATURE

Rep. Lesli McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Nancy Dahlstrom
Rep. Pete Kott
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Don Bullock, Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: March 7, 2005
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 24-LS0656\G, HB 175, incorporating the attached conceptual amendment. The bill was passed out of committee last Friday.

If you have any questions, please call me at 4990.
Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

conceptual
AMENDMENT

#1

- PASSED

OFFERED IN THE HOUSE JUDICIARY

BY COGHILL

TO: HB 175

- 1 Page 1, line 14
- 2 Delete: "determined under 45 C.F.R. Part 1611"
- 3 ^{Insert} "that do not exceed one hundred and twenty-five percent (125 percent)
- 4 of the current official Federal Poverty Income Guidelines "

[Code of Federal Regulations]
[Title 45, Volume 4, Parts 1200 to End]
[Revised as of October 1, 1999]
From the U.S. Government -Printing Office via GPO Access
[CITE: 45CFR1611.3]

[Page 414]

TITLE 45--PUBLIC WELFARE

CHAPTER XVI--LEGAL SERVICES CORPORATION

PART 1611--ELIGIBILITY--Table of Contents

Sec. 1611.3 Maximum income level.

(a) Every recipient shall establish a maximum annual income level for persons to be eligible to receive legal assistance under the Act.

(b) Unless specifically authorized by the Corporation, a recipient shall not establish a maximum annual income level that exceeds one hundred and twenty-five percent (125 percent) of the current official Federal Poverty Income Guidelines. The maximum annual income levels are set forth in Appendix A.

(c) Before establishing its maximum income level, a recipient shall consider relevant factors including:

- (1) Cost-of-living in the locality;
- (2) The number of clients who can be served by the resources of the recipient;
- (3) The population who would be eligible at and below alternative income levels; and
- (4) The availability and cost of legal services provided by the private bar in the area.

(d) Unless authorized by Sec. 1611.4, no person whose income exceeds the maximum annual income level established by a recipient shall be eligible for legal assistance under the Act.

(e) This part does not prohibit a recipient from providing legal assistance to a client whose annual income exceeds the maximum income level established here, if the assistance provided the client is supported by funds from a source other than the Corporation.

24-LS0656\G
Bullock
3/3/05

CS FOR HOUSE BILL NO. 175(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE MCGUIRE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the creation of a civil legal services fund."

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

3 * **Section 1.** AS 37.05.146(c) is amended by adding a new paragraph to read:

4 (78) civil legal services fund under AS 37.05.590.

5 * **Sec. 2.** AS 37.05 is amended by adding a new section to read:

6 **Sec. 37.05.590. Civil legal services fund.** The civil legal services fund is
7 established as a special account in the general fund. The fund consists of
8 appropriations to it. Annually, the legislature may appropriate to the fund the amount
9 deposited into the general fund of the state under AS 09.17.020(j), less the costs of
10 collection, if any, incurred by the state. The legislature may make app.ropriations from
11 the fund to organizations that provide civil legal services to low-income individuals.
12 Nothing in this section creates a dedicated fund. In this section, "low-income
13 individual" means an individual with an income equal to or less than the maximum
14 income levels for Alaska determined under 45 C.F.R. Part 1611.

Vanessa Tondini

From: Andy Harrington [aharrington@alasc-law.org]
Sent: Thursday, March 03, 2005 11:51 AM
To: Brian Hove; Vanessa Tondini
Cc: Vance Sanders; Art Peterson
Subject: SB 19 & HB 175

Dear Brian and Vanessa,

First, thanks again for your work on the civil legal services fund!

Vanessa, thanks also for yesterday's phone message about the hearing; I left a message for you this morning, but thought I'd email as well. I'm home today with a head cold, but feel free to call me at 479-3990. I'll be at the Fairbanks LIO tomorrow afternoon for the hearing - I can make a brief statement, and be available for any questions. I think Art Peterson will be there in person in Juneau.

There were two minor changes suggested by the Department of Law in conversations subsequent to the Senate Judiciary hearing in January.

The first was a phone call I had from former Dept of Law attorney (soon to be District Court Judge) Keith Levy, calling to ask if it would create any problems for ALSC if the reference to "maximum income levels for Alaska determined by the Legal Services Corporation" were changed to "maximum income levels for Alaska determined under 45 CFR Part 1611 or successor provisions." I told him I didn't think it would create any problems from my perspective. I think his thought behind that change was that it was better to cross-reference a duly enacted federal regulation.

The second arose during a discussion which ALSC President Vance Sanders and I had last week with Acting Attorney General Scott Nordstrand about the bill, at the suggestion of Chief of Staff Jim Clark. Mr. Nordstrand's only concern was that any costs of collection the State might incur with respect to the punitive damage assignments should come out of the proceeds before they were put into the civil legal services fund. He didn't think these had been major, but he thought that, although he wouldn't mind the money going into the civil legal services fund, he didn't want the bill to create a disincentive for the Dept of Law to collect the funds. We talked a bit about whether this should be done as a percentage of the proceeds, or whether the Department of Law would want to keep track of those costs and report them annually, and he indicated a preference for the latter approach, to avoid over- or under-estimating those costs. He said it would address his concern if there was language in the bill making reference to the costs of collection. We also talked about ALSC helping with a public information campaign to make sure the bar was informed about the requirement, and working with the court system to see if judgment forms could be amended to specifically reference the statute, as ways of minimizing the effort the Dept of Law would need to put into collection efforts.

Brian, as you suggested this morning, I'm attaching a draft that includes language addressing these Dept of Law concerns.

And, again, thanks for your help!

Sincerely,

Andy Harrington
Alaska Legal Services Corporation
1648 South Cushman, Suite 300
Fairbanks AK 99701
907-452-5181
Fax 907-456-6359

3/3/2005

Alaska State Legislature

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax 9907) 269-0249



Chair, Judiciary Committee
Vice-Chair, House Committee on
Economic Development,
Trade and Tourism

Member
Oil & Gas Committee

Representative Lesil McGuire

House District 28

Sponsor Statement

HB 175

"An Act relating to the creation of a civil legal services fund."

HB 175 is designed to provide a financial mechanism whereby the legislature may make appropriations to organizations that provide civil legal services to low-income Alaskans. This would be accomplished through the creation of a civil legal services account funded by provisions required under AS 09.17.020(j). This section of Alaska law requires that 50% of all punitive damage awards be turned over to the state and deposited into the general fund.

The civil legal needs of economically disadvantaged Alaskans are generally no different than anyone else's. Family law, health, will and probate issues know no socio-economic boundaries. Yet when these needs arise, self-represented litigants quite often find themselves unable to effectively represent their interests. Furthermore, these situations often place the judge in the inappropriate position of offering legal advice or even mediating between parties.

Since 1966, the Alaska Legal Services Corporation (ALSC) has assisted low-income Alaskans with their civil legal needs. The ALSC is not a state agency but rather a non-profit entity. The ALSC has been funded by a combination of state, federal and private sources. However, over the last several years these funds have been on the decline.

The inherent logic of HB 175 lies in the fact that the funds utilized to assist the disadvantaged in civil legal matters flow out of the civil legal system itself. So, high-stakes civil cases provide the funding mechanism for smaller, but no less important cases impacting low-income Alaskans. Furthermore, necessary efficiencies are achieved throughout the entire process by working these cases through a non-profit entity such as ALSC.

HB 175 identifies an ongoing source of funding designed to aid the ALSC in its efforts to provide civil legal assistance to low-income Alaskans. This is accomplished through use of the state's 50% share of civil damage awards deposited to the general fund. It is important to note that HB 175 does not create a mandatory expenditure. Each legislature possesses an option to appropriate these monies to a civil legal services fund.



March 3, 2005

Honorable Lesil McGuire, Chair
House Judiciary Committee
Alaska State Capitol, Room 118
Juneau, Alaska 99801-1182

Dear Chair McGuire:

RE: HB 175 (McGuire) – Support

On behalf of the AARP members in Alaska, we encourage your colleagues on the House Judiciary Committee to support your bill to create a civil legal services fund.

HB 175 would provide a mechanism to provide some financial support for legal assistance programs that benefit low-income Alaskans. Many older Alaskans and their families need legal support for civil issues but, due to recent funding declines, such assistance is limited. HB 175 would not draw on General Funds but would be funded through punitive damage awards that are turned over to the state. Many states have worked creatively to continue low-income legal assistance programs. HB 175 is another example of good, positive creative public policy.

AARP recommends an "AYE" vote on HB 175.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marie Darlin".

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Representative Tom Anderson
Representative John Coghill
Representative Nancy Dahlstrom
Representative Pete Kott

Representative Les Gara
Representative Max Gruenberg



Anchorage Daily News

Richard J. Smiles, President and Publisher; Patrick Dougherty, Senior Vice President & Editor; Steve Lindhead, Associate Editor

Founded in 1846 by Herman C. Brown; Peter A. Crowl, Publisher, 1923-1939; Katherine Fleming, Editor and Publisher, 1971-1993; Gerald E. Galy, Publisher, 1984-1988; Laurence Fleming, Editor and Publisher, 1967-1971

OPINION

CUR VIEW

Legal aid

Small veto is big mistake

Gov. Frank Murkowski went easy with his veto pen this year, trimming only \$5 million in spending. Thanks to record-high oil prices, he didn't need huge cuts to balance the budget. And he didn't need to make huge cuts to right-size the government. Fifteen years of shrinking oil revenues have enforced sufficient austerity. Alaska's challenge is finding new, recurring revenue to sustain essential services without gambling on high oil prices or eating up rainy-day reserves.

Though Gov. Murkowski's reductions were small, one in particular was a big mistake. The \$62,500 he cut from legal aid to the poor is a serious hit to a shoestring operation that tries to fulfill the nation's promise of equal justice for all.

Alaska Legal Services handles civil cases, such as divorces, child custody, child support, evictions and domestic violence restraining orders. A 2002 study by the Justice Center at UAA found that the agency is "short-staffed, with stretched budgets" and relies heavily on recruiting volunteer lawyers, which eats up significant staff time.

Getting volunteers for the Bush is especially difficult. Private lawyers there are few, and it costs a lot to fly out volunteers from urban areas. In fact, Legal Services "is still almost the only source of civil legal assistance for the majority of the population" in the Bush, according to the Justice Center.

Gov. Murkowski is wrong when he says that funding legal aid to the poor "is not a basic responsibility of state government." Justice is not a commodity to be bought and sold in the free market. Funding legal aid for the poor levels the playing field and upholds the American ideal of equality under the law. While the governor's cut is small in total dollars, it has a big impact on a struggling agency doing an important job for vulnerable members of society.



[Click here to return to the original story](#)

My Turn: Veto of legal service funds hurts little guy

Sunday, July 25, 2004

By Janell Hafner

Last Tuesday, in what can only be deemed an attempt to further refine his message of lack of concern for the little guy, Gov. Frank Murkowski vetoed \$62,500 from the state budget earmarked for of the Alaska Legal Services Corp.

ALSC is a nonprofit with the singular purpose of reducing the legal consequences of poverty and providing legal assistance and equal access to the court system for individuals who would otherwise be unable to afford counsel.

The governor's position on his cuts to a program aimed at helping low-income Alaskans navigate the legal system was to state that the "state's support to this nonprofit organization has declined over the years." That sort of nonsensical reasoning is indicative of Murkowski's term in office; yet as an individual potentially aware of the legal inequality in our state I remain dismayed at his cavalier attitude.

Murkowski asserts that "providing a grant to an organization that provides legal assistance to individuals is not a basic responsibility of state government." I would argue otherwise. Alaska courts are bound to provide an impartial and accessible forum for all persons, and our government is charged with protecting and ensuring due process and equality for all Alaskans.

For a government official to provide lip service on working for a better Alaska while simultaneously engaging in practices that erode the ability of everyday Alaskans to educate themselves and properly navigate the laws of our state is not only dishonest, it's downright immoral. It is the sort of behavior we've grown accustomed to in politics of late but something that many of us, in moving here from the Lower 48, thought we might escape.

Alexander Hamilton once said that "justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit." The sum of \$62,500 might mean only a little "belt-tightening" to the D.C. expats now

circulating in Juneau and Anchorage, but it sure sends a potent message about the priority this administration places on the rights of working poor. It might well mean ALSC loses a branch office, or a couple of staff attorneys, or both, but it certainly means that deserving Alaskans who desperately need legal assistance will be met with a sign reading "closed due to budget cuts."

Low-income Alaskans aren't usually kicking out big campaign contributions, and so the groups that cater to their constitutional needs aren't generally first on the list to receive the administration's praise. If the governor's Web site is accurate, and he believes the opportunity and responsibility to make a better Alaska lies with all of us, perhaps he could set the example by leading. Perhaps he could "tighten another belt," or be a little more honest with himself and his staff about impact of legal services in peoples lives, even if it isn't popular and even if it isn't cost-effective. Our constitution might not always come cheap, but \$62,500 isn't much.

- Janell Hafner is a lawyer employed at Reges & Boone, LLC, in Juneau.



[Click here to return to the original story](#)

ALSC is important, needs its funding

Letter to the editor

Tuesday, July 27, 2004

Janell Hafner's "My Turn" article in Sunday's Empire, criticizing Gov. Frank Murkowski's veto of the legislature's appropriation to the Alaska Legal Services Corp., is excellent. Her analysis of its effect on "the little guy" is right on the mark. We have to hope that the governor's veto will be overridden.

ALSC has been helping low-income Alaskans since 1967. Organized under Alaska law, it is part of a nationwide program that provides free civil-law assistance - legal advice as well as representation in court. It helps assure that people without much money can have their rights and interests protected, whether in matters of domestic violence, housing, subsistence, improper governmental action, and a range of other issues. It helps protect basic human dignity and traditional American values. Clearly, this activity is to the benefit of all Alaskans.

Attorneys in Alaska - those in private as well as those in public practice - support one of the best pro bono publico programs in the country by donating their time and effort to cases for which the litigants cannot afford to pay. Alaska Legal Services, as an organization, along with a couple of other organizations, serves as a structural foundation for this kind of work, and it needs to pay its employees - the lawyers, the paralegals, the secretaries, and other staff - who have their own families to support.

The great cost-efficiency of the legal-aid program, represented by ALSC in Alaska, is astounding. The lawyers work for a fraction of the salary they could receive in the private sector, and typically they put in huge amounts of uncompensated overtime, simply because they are dedicated to the principle of equal access to the legal system. It's a program that provides the biggest "bang for the buck." Apparently, Murkowski believes in neither this principle nor this degree of efficiency.

Hafner is to be praised for her efforts, the ALSC staff is to be thanked for its continued work on behalf of low-income Alaskans, and the governor's veto of the ALSC appropriation needs to be overridden.

Art Peterson

B-6 Friday, July 23, 2004

Anchorage Daily News



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Steve Lindbeck
Associate Editor

Founded in 1946 by Norman C. Brown

Forest A. Crowl, Publisher, 1953-1960

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