

SB

75

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE (907) 465-3030
FAX (907) 465-3068

January 24, 2004

Honorable Fred Dyson, Chairman
Senate Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 121
Juneau, AK 99801

Dear Senator Dyson,


The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education, and Social Services Committee on Senate Bill 75 "An Act relating to public health and public health emergencies and disasters; relating to duties of the public defender and office of public advocacy regarding public health matters; relating to certain claims for public health matters; making conforming amendments; and providing for an effective date."

This bill is the culmination of a number of years work to develop a modern public health statute for Alaska.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal note should be on file with the committee. The department is preparing a detailed sectional analysis of the bill that will be provided to your committee staff within the next several days.

Your favorable consideration of this request will be appreciated.

Sincerely,


Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager Director
Division of Public Health

SB75



FRANK H. MURKOWSKI
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
Sta Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to public health and public health emergencies and disasters; relating to duties of the public defender and Office of Public Advocacy regarding public health matters; relating to certain claims for public health matters; and making conforming amendments.

Alaska's disease control laws were originally adopted by the Territorial Legislature in 1949. Some changes have been made to the laws since statehood. However, the recent severe acute respiratory syndrome crisis demonstrated the need to modernize them. Alaska is no longer protected from world disease outbreaks by geographical isolation. Modern air links rapidly put Alaskans at risk from infectious diseases originating on the other side of the globe. In a recent study, Alaska was noted as the only state in the nation with inadequate legal authority to respond to a public health emergency.

The Department of Health and Social Services (department) routinely uses the traditional public health disease control tools of epidemiological surveillance and investigation, and historically has used isolation and quarantine to stop the spread of disease in the rare times it has been warranted. Today, new global health threats, coupled with heightened expectations in the modern American social and legal environment for protection of individual rights, require the department to have more clearly defined legal authorities to act to protect the public while protecting the due process rights of infected individuals. This bill would give the department the needed flexibility to protect Alaskans from public health threats. The department would be authorized to offer medication to infected individuals who wish to take it. However, the department would not have authority to force medication upon infected individuals.

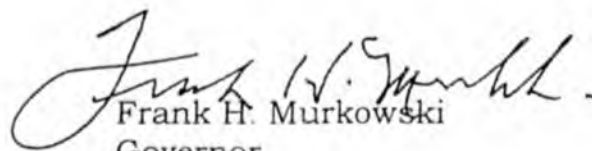
COMMITTEE COPY

The Honorable Ben Stevens
January 20, 2005
Page 2

The bill also would provide for powers to deal with public health issues that could arise in a declared disaster emergency.

I urge your support of this important bill.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 75
 (S) Publish Date: 1/21/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO PUBLIC HEALTH AND PUBLIC
HEALTH EMERGENCIES

RDU Public Health
 Component Public Health Admin Svcs

Sponsor (RLS) BY REQUEST OF THE
GOVERNOR

Requester GOVERNOR

Component No. 292

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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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)

Passage of this legislation is not expected to have a budget impact on the Division of Public Health, as the bill simply clarifies legal authority and provides new due process provisions for programmatic activities already conducted by the Division. The bill does not add new functions or mandates to the Department of Health & Social Services' legal responsibilities.

Prepared by: Richard Mandsaer, M.D.
 Division Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3090
 Date/Time 01/05/2005
 Date 01/06/2005

Sectional Analysis of HB 95/SB 75 (Public Health)

*(Prepared by the Department of Law and the Department of Health and Social Services,
January 25, 2005)*

HB 95/SB 75 would clarify the Department of Health and Social Services' legal authority to detect and respond to a public health threat, including the authority to conduct testing, screening, and examination of individuals, as well as quarantine and isolation powers with court authority; and the authority to collect relevant data; the Department's powers are augmented in conjunction with the Department of Military and Veterans' Affairs when the governor declares a condition of disaster emergency related to public health; and legal representation and court powers are clarified with respect to court proceedings related to conditions of public health importance.

I. Purpose and Intent (Section 1):

Sec. 1: Section 1 sets out the purpose and intent of the bill.

II. Changes to kinds of claims that may not be brought against the state or its agents, officers, or employees (Section 2):

Sec. 2: Types of damage: Section 2 adds acts or omissions related to isolation, quarantine, medical treatment, or other actions taken under the state's public health authority and power to a list of damages for which an action may not be brought against the state or its agents, officers, or employees.

III. Repeal of statutes and changes to citations of repealed statutes (Sections 3, 6, and 12):

Sec. 3: Section 3 deletes a citation to a statute that would be repealed by the bill regarding tuberculosis screening of public school employees.

Sec. 6: Section 6 renumbers citations to reflect statutes that would be repealed by the bill regarding registry of person with impairments.

Sec. 12: Section 12 repeals certain statutes regarding registry of persons with impairments and regarding tuberculosis and other disease control.

IV. Changes to general section regarding the Department of Health and Social Services' administration of public health laws (Sections 4, 5, and 7):

Sec. 4: Section 4 rewrites the section on the administration of public health laws to modernize and more clearly and accurately reflect the Department of Health and Social Services' public health powers.

Sec. 5: Section 5 clarifies the nature of the regulations the Department of Health and Social Services is charged with adopting as regards reporting of conditions of public health importance and confidentiality of information received under provisions regarding public health authority and powers.

Sec. 7: Section 7 adds a definition of "condition of public health importance" to the chapter regarding the administration of public health laws.

V. Updates to the Department of Health and Social Services' public health powers and authority (Section 8):

Sec. 8: Section 8 adds new sections regarding the Department of Health and Social Services' public health authority and powers to the chapter dealing with disease control. These sections replace provisions for two disease-specific conditions (tuberculosis and SARS), repealed under sec. 12, and provide authority that is not specific to a particular disease. The new sections are described as follows:

- prevention and control of conditions of public health importance
- data collection
- requirement to maintain confidentiality of information obtained
- requirement to maintain list of reportable diseases
- power to conduct epidemiological investigation
- medical treatment powers and authority
- isolation and quarantine powers and authority
- powers in a public health disaster
- definitions

Section 8 also balances the state's public health powers with modernized due process provisions for protection of individual rights.

VI. Changes to legal representation and court powers (Sections 9-11):

Sec. 9: Section 9 amends the right of an indigent person to counsel to include when the person is subject to isolation, quarantine, testing, screening, or examination related to disease control. If eligible, such right to counsel may be provided by the Public Defender Agency.

Sec. 10: Section 10 gives magistrates and district court judges the power to issue orders related to testing, screening, and examination of individuals related to disease control.

Sec. 11: Section 11 expands the Office of Public Advocacy's responsibilities to include acting as guardian ad litem for individuals in court proceedings related to testing, screening, examination, isolation, and quarantine related to disease control.

VII. Effective date (Section 13):

Sec. 13: Section 13 sets out an immediate effective date for the bill.

State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
FACT SHEET



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

January 21, 2005

Public Health Law Reform in Alaska

This legislation will ensure the Department has the appropriate legal authorities to protect and promote the public's health.

Issues / Background:

- Law is critically important to public health practice as it provides both the statutory framework within which governmental public health agencies operate, and the legal authorities required to monitor health status in communities, identify health threats, and act to control the spread of disease.
- Law is also an important tool of public health, in that it provides the vehicle for certain public policy strategies used to protect and promote health, for example, seat belt laws and tobacco tax laws.
- This public health law reform initiative deals with the first area of public health law only – the provision of the statutory framework and legal authorities for the public health agency to act.
- The Department's legal authorities for public health pose a problem in that they are both:
 - Antiquated – the basic enabling statute for public health (18.05.010) has not been updated since 1949 (10 years prior to statehood); and,
 - Layered – there are disease-specific laws which have been added-on over time to the general enabling statute, causing confusion and concern that the department does not have sufficient authority to detect and respond to future new threats to public health, such as the predicted influenza pandemic.
- A third problem posed by current public health law is that it does not provide for clear protections of individual rights in the event of a public health police power action.
- Twice in the past ten years, the Alaska legislature has been forced to act to fix State laws when public health authorities were questioned:
 - 1st in the mid-90's, when questions in the judicial system led to the addition of a new law detailing tuberculosis control procedures;
 - 2nd in the Spring of 2003 when concerns over the potential lack of quarantine authority for the new public health threat – SARS – resulted in rapid enactment of a new law for that particular disease.

-more-

Details:

- The proposed legislation will ensure that our State public health agency has:
 - a statutory framework that supports their mission, services and role;
 - clear authority for control of conditions of public health importance; and
 - established due process provisions for the protection of individual rights.

- The proposed legislation:
 - Defines "Essential Public Health Services" based on the nationally accepted description developed by the U.S. Public Health Functions Task Force
 - Describes the State's role in protection and promotion of the public's health
 - Provides clear authority for controlling of conditions of public health importance through:
 - Surveillance
 - Epidemiologic Investigation
 - Medical Treatment, Quarantine & Isolation
 - Requires protection of individual rights through modern due process provisions
 - Strengthens requirements for confidentiality and security of health records.
 - Adds new powers for the governor under the Alaska Disaster Act to enforce public health protection measures in the event of a declared disaster.

-30-

Contact: Richard Mandsager at 465-3090 or Deborah Erickson at 465-8615, Director's Office, Division of Public Health. Or email at: Richard_Mandsager@health.state.ak.us or Deb_Erickson@health.state.ak.us

AMENDMENT

OFFERED IN THE SENATE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

BY _____

TO: SB 75

1 Page 13, line 28, following "(g)," through page 13, line 31:

2 Delete all material.

3

4 Page 14, line 1:

5 Delete "the office of public advocacy to provide a guardian ad litem for the individual."

6

7 Page 17, following line 14:

8 Insert the following new material:

9 "Sec. 18.15.389. **Representation; guardian ad litem.** An individual who is the
10 respondent in proceedings under AS 18.15.355 - 18.15.390 has the right to be represented
11 by counsel in the proceedings. If the individual cannot afford an attorney, the court shall
12 direct the public defender agency to provide an attorney. The court may, on its own
13 motion or upon request of the individual's attorney or a party, direct the office of public
14 advocacy to provide a guardian ad litem for the individual."

15

STATE OF ALASKA

DEPARTMENT of HEALTH & SOCIAL SERVICES
DIVISION of PUBLIC HEALTH

FRANK H. MURKOWSKI, GOVERNOR

OFFICE OF THE DIRECTOR
P.O. BOX 110610
JUNEAU, AK 99811-0610
PHONE: (907) 465-3090
FAX: (907) 465-4632

February 8, 2005

The Honorable Fred Dyson
Alaska State Senate
State Capitol Room 121
Juneau, AK 99801-1182

Dear Senator Dyson,

Thank you for taking the time to meet with me last week regarding SB 75, the public health bill, and SB 73, the bill that authorizes certificates of participation for the construction of a new virology laboratory in Fairbanks. I appreciated your advice, and also the opportunity to discuss some of the other issues in which we have a common interest.

I have an amendment to propose to SB 75 that clarifies the right counsel and authority to request guardian ad litem services. A description of the proposed amendment (enclosed) follows:

The current bill provides the right to counsel for a person in a court action when the department asks a court for an order to quarantine or isolate that person to protect the public from substantial risk due to exposure to an infectious disease. Appointed counsel will be provided to the person if he or she can not afford their own. The bill also gives the court in such a proceeding authority to direct the Office of Public Advocacy to provide guardian ad litem services to the person upon the request of the person's attorney. These provisions are found in AS 18.15.385(g).

The amendment would delete these provisions from AS 18.15.385(g) and insert a new statutory provision, AS 18.15.389, devoted solely to the issues of representation and guardian ad litem services. This section would expand the right to counsel to include proceedings brought pursuant to AS 18.15.375(e) (challenging ex parte testing orders) as well as isolation/quarantine provisions. The section would also give the court authority, on its own motion or at the request of a party, to direct the Office of Public Advocacy to provide guardian ad litem services for the person responding to the court proceeding. Current language in the bill would only allow the appointment of a guardian ad litem if requested by the lawyer of the person.

Also enclosed for the committee is a copy of the Sectional Analysis on SB 75 prepared by the Department of Law.

Thank you for your consideration and assistance in advancing the proposed amendment and sharing the Sectional Analysis with the HESS Committee members. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Richard Mandsager / RME".

Richard Mandsager, M.D.
Director, Division of Public Health

enclosures

AMENDMENT

OFFERED IN THE SENATE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE
TO: SB 75

BY _____

1 Page 13, line 28, following "(g)," through page 13, line 31:

2 Delete all material.

3

4 Page 14, line 1:

5 Delete "the office of public advocacy to provide a guardian ad litem for the individual."

6

7 Page 17, following line 14:

8 Insert the following new material:

9 "Sec. 18.15.389. **Representation; guardian ad litem.** An individual who is the
10 respondent in proceedings under AS 18.15.375(e) or 18.15.385 has the right to be
11 represented by counsel in the proceedings. If the individual cannot afford an attorney, the
12 court shall direct the public defender agency to provide an attorney. The court may, on
13 its own motion or upon request of the individual's attorney or a party, direct the office of
14 public advocacy to provide a guardian ad litem for the individual."

15

AMENDMENT

Offered in the Senate HESS Committee
To: SB 75

By: Senator

Amending Section 5:
Page 6, line 17:

(4) the transportation of dead bodies; except that the commissioner may not require that a dead body be embalmed unless the body is known to carry a communicable disease or embalmment is otherwise required for the protection of the public health or for compliance with federal law;

...

STATE OF ALASKA

DEPT. of HEALTH and SOCIAL SERVICES

DIVISION of PUBLIC HEALTH

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110610

JUNEAU, AK 99811-0610

PHONE: (907) 465-3090, FAX: (907) 586-1877

February 4, 2005

The Honorable Fred Dyson
Alaska State Senate
State Capitol, Room 121
Juneau, AK 99801

The Honorable Kim Elton
Alaska State Senate
State Capitol, Room 115
Juneau, AK 99801

RECEIVED
FEB 07 2005

Dear Senators Dyson and Elton:

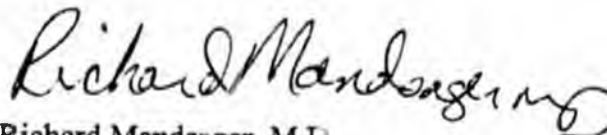
Thank you for your letter of January 25 on the issue of transportation of dead bodies in or out of Alaska. I appreciate your proposed legislation to clarify and strengthen the need to honor religious prohibitions regarding embalming. It has been the practice of the Department of Health and Social Services (DHSS) to grant such waivers when requested.

However, as your letter suggests, I believe DHSS can accomplish your goals by changing regulations – and that we already have the necessary statutory authority to do so.

It is my intent to work within DHSS and the Department of Law on a regulatory fix. Division of Public Health staff is checking to see how quickly we can adopt such changes in the Alaska Administrative Code.

I would be happy to meet with either or both of you on this matter, or to provide more information. Please feel free to contact me at any time. My office number is 465-3090. I look forward to working with you.

Sincerely,



Richard Mandsager, M.D.
Director
Division of Public Health

Cc: Joel Gilbertson, Commissioner
Department of Health and Social Services



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

SB 75: An Act Relating to Public Health

Presentation to the Senate HESS Committee

February 9, 2005

Richard Mandsager, M.D., Director

Alaska Department of Health & Social Services

Division of Public Health

“Public Health is what we, as a society, do collectively to assure the conditions in which people can be healthy.”

Institute of Medicine

PUBLIC HEALTH IS NOT HEALTH CARE

- Focus on **Populations**, not individuals
- Focus on **Prevention**, not treatment
- **Government** plays a unique role – legal obligations to prevent disease, disability, injury, and illness among populations

PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

Division of Public Health

Core Services

- Infectious Disease Control
- Chronic Disease Control
- Injury Prevention
- Respond to Disasters
- Assure Access to Quality Care
- Protect Against Environmental Health Hazards

Organizational Structure

- Epidemiology
- Public Health Nursing
- Public Health Laboratory
- Women, Children, and Family Health
- Community Health & EMS
- Bureau of Vital Statistics
- State Medical Examiner
- Certification & Licensing

How Prepared are we for a Public Health Emergency?

- Strong disease surveillance systems
- Specialized emergency operations plans
- Enhanced communication protocols and systems
- New or enhanced laboratory testing capabilities
- Consultative expertise re: human health effects and remediation of chemical and radiological exposures
- Specialized training for public health and health care providers
- Planning and coordination with others (hospitals, emergency management, law enforcement and FBI, 1st Responders)

PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

Preparedness Weaknesses

- Inadequate legal authorities (SB 75)
- Inadequate laboratory facility for virology (SB 73)
- Dependence on federal funds
- Insufficient staff capacity to allow time for both
1) response to existing priorities, and 2) training
and exercises for disasters

Old Public Health Enemies



PUBLIC HEALTH
PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

Traditional Disease Control



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

The Next SARS?



PUBLIC HEALTH
PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

Alaska Public Health Law Reform Proposal

The Problem – *Our laws don't protect us anymore*

- Alaska's public health laws are antiquated and layered – Alaska Law Review, 2000
- Alaska is the only state in the nation that does not have adequate statutory authority to quarantine – Trust for America's Health, 2004

1949: AS 18.05.010

Administration of Laws by the
Department

1995: AS 18.15.120

Tuberculosis Control

2003: AS 18.15.350

SARS Control

Alaska Public Health Law Reform Proposal

The Proposed Solution - Updated Laws that Provide:

- A statutory framework that supports the public health mission, services and role
- Clear authority for control of conditions of public health importance; and,
- Modern due process provisions for the protection of individual rights

SB 75: An Act Relating to Public Health

- Defines “Essential Public Health Services”
- Describes State’s role in health protection and promotion
- Provides clear authority for disease control through:
 - Surveillance
 - Epidemiologic Investigation
 - Medical Treatment, Quarantine & Isolation
- Requires protection of individual rights - due process
- Strengthens requirements for confidentiality and data security

SB 75: An Act Relating to Public Health

- I. Purpose/Intent (Sec. 1)
- II. Administration of Public Health Laws by the Department (Sec. 4, 5, 7)
- III. Public Health Authority and Powers (Sec. 8)
- IV. Legal Representation and Court Powers
 - a) Right of indigent person to counsel (Sec. 9)
 - b) Judicial powers augmented (Sec. 10)
 - c) Guardian ad litem responsibilities (Sec. 11)
- V. General Provisions
 - a) State Immunity (Sec. 2)
 - b) Repeal and changes to citations of statutes (Sec. 3, 6, 12)
 - c) Effective Date (Sec. 13)

SB 75: An Act Relating to Public Health

I. Purpose/Intent (Sec. 1)

- To protect and promote the health of the citizens of this state to the greatest extent possible through the public health system
- Not intended to mandate provision of certain services or implementation of unfunded programs

II. Administration of Public Health Law by DHSS (Sec. 4, 5, and 7)

- Modernize and clarify department's public health powers
- Clarifies nature of mandated regulations for public health reporting and adds regulatory mandate for data security and confidentiality
- Adds definition of "conditions of public health importance"

III. Public Health Powers and Authority (Sec. 8)

- Prevention and control of conditions of public health importance
- Surveillance through data collection and public health reporting
- Epidemiological investigations
- Medical treatment
- Quarantine and isolation
- Public health disasters

PUBLIC HEALTH

PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS

State Quarantine Authority

Source: Trust For America's Health with analytic and research support from the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities.

49 states and D.C. have adequate statutory authority to quarantine in response to a hypothetical bioterrorism attack scenario

1 state does NOT have adequate statutory authority to quarantine in response to a hypothetical bioterrorism attack scenario

Alabama *	Indiana *	Montana *	Pennsylvania *
Arizona *	Iowa *	Nebraska	Rhode Island *
California	Kansas	Nevada *	South Carolina *
Colorado	Kentucky	New Hampshire *	South Dakota *
Connecticut *	Louisiana *	New Jersey	Tennessee *
Delaware *	Maine *	New Mexico *	Texas
D.C. *	Maryland *	New York	Utah
Florida *	Massachusetts *	North Carolina *	Vermont
Georgia *	Michigan *	North Dakota	Virginia *
Hawaii *	Minnesota *	Ohio *	Washington ^
Idaho *	Mississippi	Oklahoma *	West Virginia *
Illinois *	Missouri	Oregon	Wisconsin *
			Wyoming *

Alaska



* State has statutory quarantine powers that may be enhanced or capable of expedited performance during general or public health emergencies.

^ Washington state has regulatory vs. statutory quarantine authority.

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/21/05

FURTHER: State Affairs
Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.11.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 75

SB 75 PUBLIC HEALTH DISASTERS/EMERGENCIES

"An Act relating to public health and public health emergencies and disasters; relating to duties of the public defender and office of public advocacy regarding public health matters; relating to certain claims for public health matters; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 75 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	1/06			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>K. L. ...</i>	✓			
<i>Ernie Wilber</i>	✓			
<i>James ...</i>	✓			
CHAIR: <i>Paul Ryan</i>	✓			

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 10, 2005

SUBJECT: Public Health - SB 75 (Work Order No. 24-GS1002\G)

TO: Senator Fred Dyson,
Chair of Senate Health, Education, and Social Services Committee
Attn: Jason Hooley

FROM: Jean M. Mischel 
Legislative Counsel

Enclosed is the CS you requested for SB 75, which was reported from the Senate HESS committee yesterday. I want to alert you to a problem with this bill that involves a title change and should be corrected before the bill passes the senate.

Section 8 of the bill expands available pleadings and allows expedited and *ex parte* court hearings in matters involving public health and public health disasters. These changes, in my opinion, have the effect of indirectly amending a number of court rules. Court rule changes must be noted in the title and require a 2/3 majority vote.

In addition, several non-substantive editorial changes have been made to this bill at your request to conform to the 2005 legislative drafting manual.

If I may be of further assistance, please advise.

JMM:med
05-092.med

Enclosure

Testimony of Patricia Senner MS, RN, ANP
Alaska Nurses Association
HB 95/SB75
February 9, 2005

Since 9/11 and the outbreak of SARS in Asia, the Alaska Nurses Association has been involved in advocating for better disaster/disease outbreak planning. We were very pleased to see that the Department of Health and Social Services has taken steps in strengthening their legal authority to respond to these types of public health emergencies.

We read this bill from two perspectives – that of a health care provider and that of the affected individuals. We feel that this bill adequately addresses the needs of both these interests.

There are some minor changes we would propose to the bill and questions we have about how some sections would interact with other existing laws. Our comments on these are being forwarded to the Committee for their consideration.

The one comment I did want to make now relates to Sec. 18.15.380 (page 11 line 14) (c) "An individual has the right to refuse treatment and may not be required to submit to involuntary treatment." I think that there needs to be a qualifier on this statement such as: "an individual has the right to refuse treatment as long as their refusal doesn't jeopardize the lives of others, or as long as that individual is willing to voluntarily take measures to prevent the spread of the disease they are infected with." For example, we don't think that an individual with active TB should be allowed to refuse treatment and then go to public places and cough on non-infected individuals.

Our other legal question refers to Section 18.15.385 (k) (page 15 line 17). This section states "all notices required to be served on an individual shall also be served on the parents or guardians of an individual who is an unemancipated minor; however parents or guardians of the minor do not have party status in the proceedings under this section." Our question is why don't the parents or guardians have party?

Again, we are very glad that the Department is being pro-active and putting into place the tools they need to respond appropriately to a public health disaster. The Alaska Nurses Association is willing to lend our support of helping in this type of planning.

Testimony of Patricia Senner RN
Alaska Nurses Association
HB95/ SB75
February 9, 2005

Detailed Comments

Page 3 line 9 "the department shall"- The department referred to in this section of the bill is the Department of Education not the Department of Health and Social Services as in the rest of the bill. You may want to clarify this.

Page 6 line 24 (8)" the voluntary certification of laboratories to perform diagnostic quality control..." Labs performing diagnostic tests on human samples are required to meet federal CLIA standards and food and water evaluation is done by the DEC. We're not certain how this section fits in with these other legislative mandates. Also "submitted by licensed physicians and nurses" should probably be changed to read "submitted by other licensed health care providers."

Page 8 line 17 "The department may request information from and inspect health care records maintained by health care providers that identify individuals or characteristics of individuals with reportable disease or other conditions of public health importance." We think the later part of this sentence gives way to much power to the department to review peoples private medical records. There is probably a stronger word that could replace "importance." You might want to say, "or other conditions that are a significant public health threat."

Page 9 line 12 and 19. The use of the word "disaster" is a bit confusing here. Is there a better word?

Page 11 line 15. As mentioned in our main testimony, we do not think a persons with a contagious disease should have the right to refuse treatment without being willing to take steps to prevent the spread of the disease they are infected with.

Page 15 line 17. Why don't parents and guardians have party status?

Page 17 line 21 . There should be an adjective added in from of adverse health effects in the community. Might want to change to " and can reasonably be expected to lead to serious adverse health effects in the community."

Page 19 line 1. The definition of health care practitioner should probably also include dentists.

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/21/05

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.11.05

Health, Education and Social Services Committee considered

SENATE BILL NO. 73

SB 73 STATE VIROLOGY LABORATORY

"An Act relating to a lease-purchase agreement for the construction, equipping, and financing of a state virology laboratory in Fairbanks, on land provided by the University of Alaska, Fairbanks, to be operated by the Department of Health and Social Services; relating to the issuance of certificates of participation for the laboratory; relating to the use of certain investment income for certain construction and equipment costs for the laboratory; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 73 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

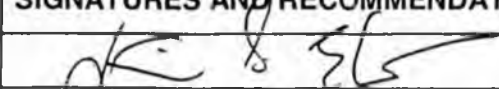
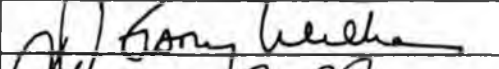
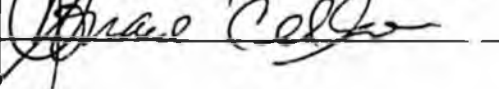
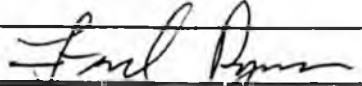
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	1/19	X			1
HSS	1/20	X			2
HSS	1/20	X			3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
			✓	
	✓			
			✓	
CHAIR: 	✓			

CS FOR SENATE BILL NO. 73(HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a lease-purchase agreement for the construction, equipping, and
2 financing of a state virology laboratory in Fairbanks to be operated by the Department
3 of Health and Social Services; relating to the issuance of certificates of participation for
4 the laboratory; relating to the use of certain investment income for certain construction
5 and equipment costs for the laboratory; and providing for an effective date."

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 **INTENT.** It is the intent of the legislature that the amount of money to be used for the
10 construction and equipping of a new state virology laboratory in Fairbanks, on land leased
11 from the University of Alaska, Fairbanks, is \$24,200,000. Of that amount, it is the intent of
12 the legislature that

13 (1) \$24,000,000 shall come from the proceeds of the certificates of

1 participation to be issued by the state bond committee under sec. 2 of this Act; and

2 (2) \$200,000 shall come from the investment income earned on the proceeds
3 of the sale of the certificates of participation described in sec. 2 of this Act.

4 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 NOTICE AND APPROVAL OF ENTRY INTO AND FINANCING OF A LEASE-
7 PURCHASE AGREEMENT. (a) Subject to annual appropriation, the Department of
8 Administration is authorized to enter into a lease-purchase agreement for a state virology
9 laboratory in Fairbanks to be constructed under the lease-purchase agreement and to be
10 operated by the Department of Health and Social Services.

11 (b) The state bond committee is authorized to provide for the issuance of certificates
12 of participation in one or more series in the aggregate principal amount of \$24,000,000 for
13 the construction of a state virology laboratory in Fairbanks under the lease-purchase
14 agreement authorized in (a) of this section. The remaining balance of the construction and
15 equipping costs shall be paid from investment income of \$200,000 earned on the proceeds of
16 the sale of the certificates of participation. The estimated total cost of construction,
17 acquisition, and other costs of the project is \$24,200,000. The estimated annual amount of
18 rental obligations under the lease-purchase agreement is \$2,375,000. The estimated total
19 lease payment for the full term of the lease-purchase agreement is \$35,572,890. In this
20 subsection, "cost of construction" includes credit enhancement and underwriting expenses,
21 rating agency fees, bond counsel fees, financial advisor fees, printing fees, advertising fees,
22 capitalized interest, and interest earnings used for lease payments.

23 (c) The state bond committee may contract for credit enhancement, underwriting,
24 credit ratings, bond counsel, financial advisor, printing, advertising, and trustee services that
25 the committee considers necessary in financing the project described in this section.

26 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 APPROVAL OF AGREEMENT. Section 2 of this Act constitutes the approval
29 required by AS 36.30.085.

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