

**HB**

**417**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/1/08

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance Committee considered CS FOR HOUSE BILL NO. 417(FIN) am

## HB 417 NONUNION PUBLIC EMPLOYEE SALARY & BENEFIT

"An Act relating to the compensation for certain public officials, officers, and employees not covered by collective bargaining agreements; relating to pay increments for longevity in state service; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS HB417 (FIN)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>HOUSE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input checked="" 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#
CRT	3/13/08	✓			2
OMB	3/11/08	✓			3
LEG	3/10/08	✓			4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Huggins	✓			
	OLSON			✓	
CO-CHAIR:	HOFFMAN			✓	
CO-CHAIR:					

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 4  
Bill Version: CSHB 417(FIN)  
(H) Publish Date: 3/18/08

Identifier (file name): HB417-LEG-03-10-08 Dept. Affected: Legislature  
Title: "An Act relating to compensation for certain public officials, officers, and employees not covered by..." RDU: All  
Sponsor: House Rules by Request Component: All  
Requester: House Finance Component Number: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	2,701.8		3,655.4	3,655.4	3,655.4	3,655.4	3,655.4	3,655.4
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>2,701.8</b>	<b>0.0</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	2,701.8		3,655.4	3,655.4	3,655.4	3,655.4	3,655.4	3,655.4
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>2,701.8</b>	<b>0.0</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>	<b>3,655.4</b>

Estimate of any current year (FY2008) cost: 1,760.8

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

This legislation adopts a new basic salary schedule. Employees of the Legislature are paid using this salary schedule. Increases in this schedule are 5.5% for FY08, an additional 3% for FY09, and another additional 3% for FY10. This legislation also makes changes to longevity pay increments for employees which would only apply if the responsible committee adopted the changes.

Prepared by: Karla Schofield, Deputy Director  
Division: Legislative Affairs Agency  
Approved by: Pamela Varni, Executive Director  
Legislative Affairs Agency

Phone: 465-6626  
Date/Time: 3/10/08 11:28 AM  
Date: 3/10/2008

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 3  
 Bill Version: CSHB 417(FIN)  
 (H) Publish Date: 3/18/08

Identifier (file name): HB417-GOV-OMB-3-11-08 Dept. Affected: Exec. Branch  
 Title Nonunion Public Employee Salary & Benefits RDU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Rules \_\_\_\_\_  
 Requester Governor Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	Appropriation		Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	
Personnel	10,427.7		14,314.9	14,314.9	14,314.9	14,314.9	14,314.9	
Travel								
Contractual	137.0		184.4	184.4	184.4	184.4	184.4	
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>10,564.7</b>	<b>0.0</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>	

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES ( )</b>							
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**FUND SOURCE** (Thousands of Dollars)

Federal Receipts	577.1		794.8	794.8	794.8	794.8	794.8
1003 GF Match							
General Funds	6,126.2		8,390.4	8,390.4	8,390.4	8,390.4	8,390.4
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Funds	3,861.4		5,314.1	5,314.1	5,314.1	5,314.1	5,314.1
<b>TOTAL</b>	<b>10,564.7</b>	<b>0.0</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>	<b>14,499.3</b>

Estimate of any current year (FY2008) cost: 6,278.2

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

This reflects the salary increases for non-covered Executive Branch employees for FY08 - FY10. Beginning in FY08 salaries are increased by 5.5%, in FY09 an additional 3% and in FY10 an additional 3%. The FY08 and FY09 health insurance amounts are already part of the respective year's budget. In FY10 health insurance costs are estimated to increase by \$18 from the FY09 amount of \$868/month to \$886/month.

It is anticipated that the FY08 amount will be added to a supplemental appropriation bill and the FY09 amount will be added to the operating budget bill. All of the electronic transactions have been transmitted to the Legislative Finance Division. A report showing amounts per department for FY08 and FY09 is attached. (The contractual amounts shown are for the Alaska Energy Authority, as AEA contracts for employees from AIDEA.)

Prepared by: Joan Brown, Chief Budget Analyst 465-4681  
 Division: Office of Management and Budget 3/11/08 10:30 AM  
 Approved by: Karen J. Rehfeld, Director 3/11/2008  
 Office of Management and Budget

FISCAL NOTE NO. 3 - CSHB 417(FIIN)

**GF/Fed/Other Summary by Department**  
**HB 417 and SB 297 Nonunion Public Employee Salary & Benefits**

Department	FY2008 Supplemental - Exempt COLA				FY2009 Governor Amended - Exempt COLA			
	GF	Federal	Other	Total	GF	Federal	Other	Total
Administration	1,070.9	0.0	90.1	1,161.0	1,773.7	0.0	143.7	1,917.4
Commerce	98.6	104.5	596.2	799.3	158.0	206.0	967.0	1,331.0
Corrections	80.5	0.0	0.0	80.5	126.1	0.0	0.0	126.1
Educ & Early Devel	51.9	0.0	362.6	414.5	82.5	0.0	572.7	655.2
Environ Conservation	22.8	15.0	21.9	59.7	38.3	22.3	31.0	91.6
Fish and Game	105.7	2.1	173.0	280.8	171.3	3.2	329.1	503.6
Governor	400.5	3.8	33.5	437.8	753.7	5.9	54.5	814.1
Health & Social Svcs	188.9	124.3	131.5	444.7	302.3	193.3	210.6	706.2
Labor & Workforce	76.6	25.5	75.0	177.1	145.6	25.7	107.5	278.8
Law	1,106.4	45.6	555.9	1,707.9	1,836.6	73.1	832.0	2,741.7
Military & Veterans Affairs	59.6	6.4	4.9	70.9	93.9	9.4	7.5	110.8
Natural Resources	120.4	3.4	54.3	178.1	179.0	20.9	140.2	340.1
Public Safety	88.5	6.6	9.9	105.0	145.5	10.4	9.5	165.4
Revenue	41.3	4.4	69.8	115.5	123.5	6.9	190.7	321.1
Transportation	125.7	0.0	119.7	245.4	196.2	0.0	265.4	461.6
<b>General Funds:</b>				<b>3,636.3</b>				<b>6,126.2</b>
<b>Federal Funds:</b>				<b>341.6</b>				<b>577.1</b>
<b>Other Funds:</b>				<b>2,298.3</b>				<b>3,861.4</b>
<b>Total:</b>				<b>6,278.2</b>				<b>10,564.7</b>

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 417(FIN)  
(H) Publish Date: 3/18/08

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Alaska Court System  
Title: Nonunion Public Employee Salary & Benefit RDU: \_\_\_\_\_  
Component: All Components  
Sponsor: Rules  
Requester: Governor Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriated by this fiscal note	Governor's Budget	Information					
			FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>OPERATING EXPENDITURES</b>								
Personal Services	5,001.6		7,244.0	7,244.0	7,244.0	7,244.0	7,244.0	7,244.0
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>5,001.6</b>	<b>0.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Federal Receipts							
1003 GF Match							
General Funds	5,001.6		7,244.0	7,244.0	7,244.0	7,244.0	7,244.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Funds							
<b>TOTAL</b>	<b>5,001.6</b>	<b>0.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>	<b>7,244.0</b>

Estimate of any current year (FY2008) cost: 2,165.0 (Includes Magistrates' Retro Pay)

**POSITIONS**

Full-time							
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

This reflects the salary increases for non-covered Judicial Branch employees for FY08 - FY10. Beginning in FY08 salaries are increased by 5.5%, in FY09 an additional 3% and in FY10 an additional 3%. The FY08 and FY09 health insurance amounts are already part of the respective year's budget. In FY10 health insurance costs are estimated to increase by \$18 from the FY09 amount of \$868/month to \$886/month.

As amended, the bill provides a retroactive FY08 increase for magistrates, and includes the magistrates in the change to the longevity pay.

Prepared by: Chris Christensen, Deputy Administrative Director 03/13/08  
Division: Alaska Court System  
Approved by: Stephanie J. Cole, Administrative Director 03/13/08  
Alaska Court System

Alaska Court System - Fiscal Note No. 2  
 CSHB 417 (FIN) Allocation by Budget Component  
 3/13/2008

<u>Component</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>
Appellate Courts	422.6	604.0	604.0	604.0	604.0	604.0
Trial Courts	3,931.9	5,684.8	5,684.8	5,684.8	5,684.8	5,684.8
Administration	568.0	844.5	844.5	844.5	844.5	844.5
Subtotal Alaska Court System	4,922.5	7,133.3	7,133.3	7,133.3	7,133.3	7,133.3
Alaska Judicial Council	58.1	83.0	83.0	83.0	83.0	83.0
Alaska Judicial Conduct	21.0	27.7	27.7	27.7	27.7	27.7
Total Alaska Court System (all agencies)	5,001.6	7,244.0	7,244.0	7,244.0	7,244.0	7,244.0

AMENDMENT

#2

OFFERED IN THE SENATE

BY SENATOR

Stedman

TO: SCS CSHB 417(FIN)

Page 6, line 25:

Following "Section"

Insert "5, 11(a), 12(a), 13, and" .

Following "Act"

delete "takes"

insert "take"

AMENDMENT -F1

OFFERED IN THE SENATE

TO: SCS CSHB 417(FIN), Draft Version "E"

1 Page 1, line 2:

2 Delete "; relating"

3 Insert ", "

4

5 Page 1, line 3, following "service":

6 Insert ", and to a State Officers Compensation Commission; providing for an  
7 effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986"

8

9 Page 1, following line 9:

10 Insert new bill sections to read:

11 \*\* Sec. 2. AS 24.10.100 is amended to read:

12 Sec. 24.10.100. Salary of legislators. Legislators shall receive a [THE]  
13 monthly salary under AS 39.23 [FOR EACH MEMBER OF THE LEGISLATURE IS  
14 \$2,001]. The president of the senate and the speaker of the house of representatives  
15 may receive additional compensation under AS 39.23 [ARE EACH ENTITLED  
16 TO AN ADDITIONAL \$500 A YEAR] during tenure of office.

17 \* Sec. 3. AS 24.10.130 is amended to read:

18 Sec. 24.10.130. Moving expenses and per diem allowance. (a) A member of  
19 the legislature may be [IS] entitled to reimbursement for the expenses of moving  
20 between the member's place of residence and the capital city for the purpose of  
21 attending a regular session of the legislature.

22 (b) Legislators and officers and employees of the legislative branch of  
23 government may be [ARE] entitled to a per diem allowance.

1 (c) The Alaska Legislative Council shall adopt a policy in accordance with  
 2 AS 39.23.540(d) regarding reimbursement for moving expenses applicable to all  
 3 legislators and an applicable per diem allowance policy. The policy must set  
 4 conditions for the reimbursement for moving expenses and payment of per diem and  
 5 prescribe the amounts of reimbursement adapted to the special needs of the legislative  
 6 branch as determined by the council."

7  
 8 Renumber the following bill sections accordingly.

9  
 10 Page 2, following line 10:

11 Insert new bill sections to read:

12 "\* Sec. 6. AS 39.20.010(a) is amended to read:

13 (a) The annual salary of the governor shall be in accordance with AS 39.23  
 14 [IS \$125,000].

15 \* Sec. 7. AS 39.20.030(a) is amended to read:

16 (a) The annual salary of the lieutenant governor shall be in accordance with  
 17 AS 39.23 [IS \$100,000].

18 \* Sec. 8. AS 39.20.080(a) is amended to read:

19 (a) The monthly salary of the head of each principal executive department of  
 20 the state shall be in accordance with AS 39.23 [IS NOT LESS THAN RANGE 28  
 21 NOR MORE THAN RANGE 30 OF THE SALARY SCHEDULE IN  
 22 AS 39.27.011(a) FOR JUNEAU, ALASKA]."

23  
 24 Renumber the following bill sections accordingly.

25  
 26 Page 2, following line 15:

27 Insert a new bill section to read:

28 "Sec. 10. AS 39.23 is amended by adding new sections to read:

29 **Sec. 39.23.500. Compensation commission established.** (a) The State  
 30 Officers Compensation Commission is established. The commission is composed of  
 31 five members who are state residents appointed by the governor. One member shall be

1 appointed from a list of two or more candidates submitted by the president of the  
 2 senate. One member shall be appointed from a list of two or more candidates  
 3 submitted by the speaker of the house of representatives. Members serve for staggered  
 4 terms of four years. Except as provided in AS 39.05.080(4), a vacancy shall be filled  
 5 for the balance of the unexpired term. A commission member may serve not more than  
 6 two complete consecutive terms.

7 (b) The commission shall annually elect a member to chair its meetings. A  
 8 majority of the commission members constitutes a quorum to transact business. The  
 9 affirmative vote of three members is required to approve the commission's  
 10 recommendations on compensation.

11 (c) The commission shall meet at the call of the chair. Notice of a meeting  
 12 shall be mailed to each member at least 20 days before the date scheduled for the  
 13 meeting.

14 (d) The commission shall meet to discuss its findings and recommendations at  
 15 least twice before submitting its final report to the presiding officers of each house of  
 16 the legislature and the governor.

17 (e) For budgetary purposes, the commission shall be established in the  
 18 Department of Administration.

19 **Sec. 39.23.510. Prohibitions against state or municipal service.** (a) During  
 20 membership on the commission, a member of the commission may not

21 (1) be employed by the state, including the University of Alaska;

22 (2) serve as a member of another state board, commission, or  
 23 authority; or

24 (3) hold elective state or municipal office.

25 (b) A member of the commission may not, in the four years preceding that  
 26 member's appointment, have served in an office or position for which the commission  
 27 shall submit a recommendation under AS 39.23.540.

28 **Sec. 39.23.520. Compensation.** Members of the commission serve without  
 29 compensation but are entitled to per diem and travel expenses authorized for members  
 30 of boards and commissions under AS 39.20.180.

31 **Sec. 39.23.530. Staff.** The director of personnel in the Department of

1 Administration shall serve as ex officio secretary to the commission and provide  
2 research, technical, and administrative services.

3 Sec. 39.23.540. Duties of the commission. (a) The commission shall review  
4 the salaries, benefits, and allowances of members of the legislature, the governor, the  
5 lieutenant governor, and each principal executive department head and prepare a  
6 report on its findings at least once every two years, but not more frequently than every  
7 year. The commission shall notify the legislature that the report is available.

8 (b) The commission may request reports or studies from any state agency as to  
9 the rate and form of compensation, benefits, and allowances for legislators, the  
10 governor, the lieutenant governor, and each executive department head. A state agency  
11 from which a report or a study is requested shall furnish it within a period of time  
12 prescribed by the commission.

13 (c) By November 15, the commission shall prepare its preliminary findings  
14 and recommendations for compensation of state officers that is reasonable and  
15 equitable. The commission shall give reasonable public notice of its preliminary  
16 findings and recommendations, solicit public comments, and give due regard to the  
17 public comments, before submitting a final report under (d) of this section.

18 (d) The commission shall make available to the governor and presiding  
19 officers of each house of the legislature a final report of its findings and  
20 recommendations as to the rate and form of compensation, benefits, and allowances  
21 for legislators, the governor, the lieutenant governor, and each principal executive  
22 department head during the first 10 days of a legislative session. Subject to (g) of this  
23 section and unless a bill disapproving all the recommendations for all officers listed in  
24 this section is enacted into law within 60 days after the recommendations are  
25 submitted to the governor and presiding officers of each house of the legislature, a  
26 recommendation as to the compensation, benefits, and allowances for

27 (1) a legislator has the force of law and becomes effective on the first  
28 day of the next regular legislative session; and

29 (2) the governor, the lieutenant governor, and each principal executive  
30 department head has the force of law and becomes effective on the first day of the  
31 fiscal year following the fiscal year in which the recommendation is submitted.

1 (e) The commission may prepare amendments to the report submitted under  
2 (d) of this section and notify the legislature that the amendments are available.

3 (f) A commission member who does not concur in the proposed or final  
4 recommendations may attach written objections to the commission's report of its  
5 findings and recommendations.

6 (g) A recommendation under this section increasing the compensation,  
7 benefits, and allowances of a public officer is not effective unless all recommended  
8 increases included in the final report under (d) of this section are fully funded by  
9 appropriations.

10 **Sec. 39.23.550. Recommendations relating to compensation.** (a) A  
11 recommendation of the commission may not have the effect of reducing the  
12 compensation or benefits of the governor and lieutenant governor who are in office or  
13 an executive department head who is appointed on or before the effective date of the  
14 commission's recommendation.

15 (b) The commission may recommend reduction in compensation for  
16 individuals who become governor, lieutenant governor, or an executive department  
17 head after the effective date of the commission's recommendation.

18 **Sec. 39.23.560. Recommendations relating to benefits.** The  
19 recommendations of the commission relating to benefits may not include any  
20 recommendation relating to health, retirement, disability, or death benefits under  
21 AS 39.30 and AS 39.35 for members of the legislature, the governor, the lieutenant  
22 governor, and each principal executive department head.

23 **Sec. 39.23.570. Filing with lieutenant governor and certification.** The  
24 commission shall, on transmitting its final recommendations for the compensation of  
25 legislators to the legislature, file the recommendations in the office of the lieutenant  
26 governor. When the recommendations become effective, the commission shall certify  
27 the copy of the recommendations on file in the office of the lieutenant governor.

28 **Sec. 39.23.580. Policy of the legislature.** It is the policy of the legislature that  
29 the commission recommend an equitable rate and form of compensation, benefits, and  
30 allowances for legislators.

31 **Sec. 39.23.590. Administrative Procedure Act inapplicable.** AS 44.62

1 (Administrative Procedure Act) does not apply to proceedings of the commission.

2 Sec. 39.23.599. Definition. In AS 39.23.500 - 39.23.599, "commission" means  
3 the State Officers Compensation Commission."  
4

5 Renumber the following bill sections accordingly.  
6

7 Page 4, following line 15:

8 Insert a new bill section to read:

9 "\* Sec. 16. AS 39.23.200, 39.23.210, 39.23.220, 39.23.230, 39.23.240, 39.23.250,  
10 39.23.260, 39.23.270, and 39.23.400 are repealed."  
11

12 Renumber the following bill sections accordingly.  
13

14 Page 4, following line 16:

15 Insert a new bill section to read:

16 "\* Sec. 18. Sections 5, 6, 7, and 8, ch. 124, SLA 1986, and that portion of sec. 12, ch. 124,  
17 SLA 1986, that provides for the delayed repeal of AS 24.10.100 and AS 24.10.105 are  
18 repealed."  
19

20 Renumber the following bill sections accordingly.  
21

22 Page 4, line 26:

23 Delete "sec. 5"

24 Insert sec. 11"  
25

26 Page 4, line 27:

27 Delete "secs. 6 and 7"

28 Insert "secs. 12 and 13"  
29

30 Page 4, line 30:

31 Delete "sec. 8"

1           Insert "sec. 14"

2

3   Page 5, line 8:

4           Delete "sec. 5"

5           Insert "sec. 11"

6

7   Page 5, line 9:

8           Delete "secs. 6 and 7"

9           Insert "secs. 12 and 13"

10

11   Page 5, line 12:

12           Delete "sec. 8"

13           Insert "sec. 14"

14

15   Page 5, line 14:

16           Delete "secs. 5 - 7"

17           Insert "secs. 11 - 13"

18

19   Page 5, following line 22:

20           Insert a new bill section to read:

21           "\* Sec. 22. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23           INITIAL APPOINTMENTS AND TERMS; FIRST MEETING. (a) The initial  
24 members of the State Officers Compensation Commission shall be appointed within 90 days  
25 after the effective date of this section.

26           (b) Notwithstanding AS 39.23.500(a) as enacted by sec. 10 of this Act, the terms of  
27 the first members of the State Officers Compensation Commission appointed by the governor  
28 under AS 39.23.500(a), as enacted by sec. 10 of this Act, are as follows: (1) two members  
29 shall be appointed for a four-year term; (2) one member shall be appointed for a three-year  
30 term; (3) one member shall be appointed for a two-year term; and (4) one member shall be  
31 appointed for a one-year term. The governor shall specify the term of office of each member

1 appointed subject to this section.

2 (c) Notwithstanding AS 39.23.500(c), as enacted by sec. 10 of this Act, the first  
3 meeting of the commission shall be called by the governor."  
4

5 Renumber the following bill sections accordingly.  
6

7 Page 5, line 26:

8 Delete "sec. 8"

9 Insert "sec. 14"

10  
11 Page 5, line 27:

12 Delete "sec. 8"

13 Insert "sec. 14"

14  
15 Page 5, line 28:

16 Delete "sec. 8"

17 Insert "sec. 14"

18  
19 Page 6, line 2:

20 Delete "sec. 15"

21 Insert "sec. 24"

22  
23 Page 6, line 5:

24 Delete "sec. 8"

25 Insert "sec. 14"

26  
27 Page 6, line 13:

28 Delete "sec. 10"

29 Insert "sec. 17"

30  
31 Page 6, line 14:

1 Delete "sec. 10"

2 Insert "sec. 17"

3

4 Page 6, line 15:

5 Delete "sec. 10"

6 Insert "sec. 17"

7

8 Page 6, line 18:

9 Delete "sec. 8"

10 Insert "sec. 14"

11

12 Page 6, line 20:

13 Delete "sec. 14(c)"

14 Insert "sec. 23(c)"

15

16 Page 6, line 23:

17 Delete "Sections 5, 11(a), 12(a), and 13"

18 Insert "Sections 11, 19(a), 20(a), and 21"

19

20 Page 6, following line 24:

21 Insert new bill sections to read:

22 "\* Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 CONDITIONAL EFFECT. (a) Sections 2, 3, and 6 - 8 of this Act take effect only if

25 (1) the State Officers Compensation Commission, established under sec. 10 of  
26 this Act, submits recommendations under AS 39.23.540(d), as enacted by sec. 10 of this Act;

27 (2) those recommendations are not disapproved of in the time and manner  
28 described in AS 39.23.540(d), as enacted by sec. 10 of this Act; and

29 (3) all of those recommendations are fully funded by appropriations as  
30 required by AS 39.23.540(g), added by sec. 10 of this Act.

31 (b) If the first recommendations submitted by the State Officers Compensation

1 Commission under (a) of this section are disapproved or are not fully funded, the commission  
 2 may continue to submit recommendations under (a) of this section until secs. 2, 3, and 6 - 8 of  
 3 this Act take effect.

4 (c) This section does not prevent a head of a principal executive department of the  
 5 state from obtaining a salary adjustment under sec. 19(a) of this Act.

6 \* Sec. 27. Section 9 and 12, ch. 124, SLA 1986, are repealed.

7 \* Sec. 28. If secs. 2, 3, and 6 - 8 of this Act take effect under sec. 26 of this Act,

8 (1) secs. 2 and 3 of this Act take effect on the effective date of the  
 9 appropriation described in sec. 26(a)(3) of this Act fully funding the recommendation for  
 10 legislators; and

11 (2) secs. 6 - 8 of this Act take effect on the effective date of the appropriation  
 12 described in sec. 26(a)(3) of this Act fully funding the recommendations for the governor,  
 13 lieutenant governor, and each principal executive department head."

14

15 Renumber the following bill sections accordingly.

16

17 Page 6, line 25:

18 Delete "Section 16 of this Act takes"

19 Insert "Sections 10, 11, 16, 19(a), 20(a), 21, 22, and 25 - 27 of this Act take"

20

21 Page 6, line 26:

22 Delete "sec. 17"

23 Insert "secs. 28 and 29"

RECEIVED

APR - 7 2008

A docted  
4/9/08

25-CH2011/E

Wayne  
4/6/08

SENATE CS FOR CS FOR HOUSE BILL NO. 417(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the compensation for certain public officials, officers, and employees  
2 not covered by collective bargaining agreements; relating to pay increments for  
3 longevity in state service; and providing for an effective date."

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

5 \* Section 1. AS 16.43.060 is amended to read:

6       Sec. 16.43.060. Compensation. Members of the commission are in the exempt  
7 service and are entitled to a monthly salary equal to a step in [STEP C.] Range 27  
8 [26] of the salary schedule in AS 39.27.011 [AS 39.27.011(a) FOR JUNEAU,  
9 ALASKA].

10 \* Sec. 2. AS 26.05.260(i) is amended to read:

11       (i) When active state service is authorized by the governor or by the adjutant  
12 general as the governor's designee, members of the Alaska State Defense Force are  
13 entitled to receive, for each day of active service under AS 26.05.070, pay and  
14 allowances as provided in this subsection. Pay is equal to that provided under

1 AS 39.27.011(a) - (f) and 39.27.020 [AS 39.27.011 - 39.27.020] for equivalent  
 2 assignments of state officials or employees, including adjustments under  
 3 AS 39.27.025, if applicable. Allowances shall be paid to the same extent, in the same  
 4 manner, and under the same conditions as provided for state officials and employees  
 5 under AS 39.20.110 - 39.20.170. However, pay or allowances are not authorized for  
 6 training or community service activities of members of the Alaska State Defense  
 7 Force.

8 \* Sec. 3. AS 36.30.010(d) is amended to read:

9 (d) The annual salary of the chief procurement officer is range 27 [24] of the  
 10 salary schedule established in AS 39.27.011.

11 \* Sec. 4. AS 39.20.080(b) is amended to read:

12 (b) The monthly salary of a deputy head of a principal executive department  
 13 of the state is equal to a step in [NOT LESS THAN STEP A NOR MORE THAN  
 14 STEP F,] Range 28 of the salary schedule in AS 39.27.011 [AS 39.27.011(a) FOR  
 15 JUNEAU, ALASKA].

16 \* Sec. 5. AS 39.27.011(a) is repealed and reenacted to read:

17 (a) The following monthly basic salary schedule is approved as the pay plan  
 18 for classified and partially exempt employees in the executive branch of the state  
 19 government who are not members of a collective bargaining unit established under the  
 20 authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act), and for  
 21 employees of the legislature under AS 24:

Range	Step	Step	Step	Step	Step	Step
No.	A	B	C	D	E	F
05	1892	1945	1999	2056	2117	2174
06	1999	2056	2117	2174	2238	2303
07	2117	2174	2238	2303	2374	2449
08	2238	2303	2374	2449	2518	2596
09	2374	2449	2518	2596	2679	2755
10	2518	2596	2679	2755	2840	2922
11	2679	2755	2840	2922	3022	3118
12	2840	2922	3022	3118	3223	3332

1	13	3022	3118	3223	3332	3449	3572
2	14	3223	3332	3449	3572	3697	3837
3	15	3449	3572	3697	3837	3960	4109
4	16	3697	3837	3960	4109	4257	4407
5	17	3960	4109	4257	4407	4558	4715
6	18	4257	4407	4558	4715	4861	5046
7	19	4558	4715	4861	5046	5203	5393
8	20	4861	5046	5203	5393	5555	5761
9	21	5203	5393	5555	5761	5938	6153
10	22	5555	5761	5938	6153	6353	6582
11	23	5938	6153	6353	6582	6801	7054
12	24	6353	6582	6801	7054	7289	7536
13	25	6801	7054	7289	7536	7809	8100
14	26	7054	7289	7536	7809	8100	8391
15	27	7289	7536	7809	8100	8391	8707
16	28	7536	7809	8100	8391	8707	9010
17	29	7809	8100	8391	8707	9010	9327
18	30	8100	8391	8707	9010	9327	9655.

19 \* Sec. 6. AS 39.27.011(c) is amended to read:

20 (c) Effective July 1, 2008 [2005], the amounts set out in the salary schedule  
21 contained in (a) of this section are increased by three [TWO] percent.

22 \* Sec. 7. AS 39.27.011(f) is amended to read:

23 (f) Effective July 1, 2009 [2006], the amounts set out in the salary schedule  
24 contained in (a) of this section, as increased under (e) of this section, are increased by  
25 three [TWO] percent.

26 \* Sec. 8. AS 39.27.011 is amended by adding new subsections to read:

27 (h) Pay increments, computed at the rate of 3.75 percent of the employee's  
28 base salary, shall be provided after an employee has remained in the final step within a  
29 given range for two years, and every two years thereafter, if, at the time the employee  
30 becomes eligible for the increment, the employee's current annual rating by the  
31 employee's supervisors is designated as "good" or higher.

1 (i) Pay increments provided for in (h) of this section are approved under  
2 AS 39.25.150(2) as an amendment to the pay plan for employees of the state.

3 (j) Subsections (h) and (i) of this section apply to employees of the legislature  
4 only if the committee responsible for adopting employment policies concerning the  
5 employee adopts a written policy that (h) and (i) of this section apply. Subsections (h)  
6 and (i) of this section apply to the employees of the office of the ombudsman only if  
7 the ombudsman adopts a policy that (h) and (i) of this section apply. Subsections (h)  
8 and (i) of this section apply to the employees of the office of victims' rights only if the  
9 victims' advocate adopts a policy that (h) and (i) of this section apply.

10 \* Sec. 9. AS 42.04.020(f) is amended to read:

11 (f) Members of the commission are in the exempt service and are entitled to a  
12 monthly salary equal to a step in [STEP C,] Range 27 [26], of the salary schedule in  
13 AS 39.27.011(a) for Juneau, Alaska. The chair of the commission is entitled to a  
14 monthly salary equal to a step in [STEP C,] Range 27 [,] of the salary schedule in  
15 AS 39.27.011(a) for Juneau, Alaska.

16 \* Sec. 10. AS 39.27.022 is repealed.

17 \* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 SALARY ADJUSTMENTS FOR CERTAIN EXEMPT OFFICERS AND  
20 EMPLOYEES OF THE EXECUTIVE BRANCH. (a) Public officers and permanent and  
21 temporary employees in the executive branch of the state government, other than the governor  
22 and lieutenant governor, who are in the exempt service under AS 39.25.110, are not members  
23 of a collective bargaining unit established under AS 23.40.070 - 23.40.260 (Public  
24 Employment Relations Act), and are not otherwise covered by AS 39.27.011(a), are entitled  
25 to receive salaries comparable to those received by classified and partially exempt employees  
26 of the executive branch under AS 39.27.011(a), as repealed and reenacted by sec. 5 of this  
27 Act, and under AS 39.27.011(e) and (f), as amended by secs. 6 and 7 of this Act.

28 (b) The agencies employing noncovered exempt officers and employees covered by  
29 this section may adopt compensation policies that provide for pay increments under  
30 AS 39.27.011(h) and (i), enacted by sec. 8 of this Act.

31 \* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 SALARY ADJUSTMENTS FOR CERTAIN EMPLOYEES OF THE JUDICIAL  
3 BRANCH. (a) Permanent and temporary employees and magistrates in the judicial branch of  
4 the state government, other than justices and judges, who are not members of a collective  
5 bargaining unit established under AS 23.40.070 - 23.40.260 (Public Employment Relations  
6 Act), and are not otherwise covered by AS 39.27.011(a), are entitled to receive salary  
7 adjustments comparable to those received by classified and partially exempt employees of the  
8 executive branch under AS 39.27.011(a), as repealed and reenacted by sec. 5 of this Act, and  
9 under AS 39.27.011(e) and (f), as amended by secs. 6 and 7 of this Act.

10 (b) The judicial branch may adopt compensation policies for its temporary and  
11 permanent employees and magistrates, other than justices and judges, that provide for pay  
12 increments under AS 39.27.011(h) and (i), enacted by sec. 8 of this Act.

13 (c) Justices of the supreme court and judges of the court of appeals and the superior  
14 and district courts are entitled to receive salary adjustments provided for in secs. 5 - 7 of this  
15 Act, in accordance with AS 22.05.140(d), AS 22.07.090(c), AS 22.10.190(d), and  
16 AS 22.15.220(e).

17 \* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 SALARY INCREASES FOR CERTAIN EMPLOYEES OF THE UNIVERSITY OF  
20 ALASKA. The employees of the University of Alaska who are not members of a collective  
21 bargaining unit are entitled to receive salary increases in accordance with the compensation  
22 policy of the Board of Regents of the University of Alaska.

23 \* Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 PROSPECTIVE APPLICATION. (a) Notwithstanding any other provisions of law,  
26 sec. 8 of this Act applies prospectively only. An employee may only earn pay increments  
27 under AS 39.27.011(h) and (i), as enacted by sec. 8 of this Act, based on qualifying service  
28 occurring on or after the effective date of sec. 8 of this Act.

29 (b) It is the intent of the legislature that (a) of this section is to expressly avoid the  
30 result in the decision of the Alaska Supreme Court in APEA v. State, 525 P.2d 12 (Alaska  
31 1974).

1 (c) Notwithstanding any other provision of this section, an employee who does not  
2 elect to receive a pay increment under sec. 15 of this Act is entitled to receive a pay increment  
3 computed at the rate of 3.75 percent of the employee's base salary instead of the first  
4 increment to which the employee would otherwise be entitled under AS 39.27.011(h) and (i),  
5 as enacted by sec. 8 of this Act, if, at the time the employee becomes eligible for the  
6 increment under this subsection, the employee's current annual rating by the employee's  
7 supervisors is designated as good or higher and the employee has served

8 (1) at least two years toward an increment under former AS 39.27.022; or

9 (2) at the last step of the employee's pay range for the two years immediately  
10 preceding the effective date of this section.

11 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 TRANSITION. Notwithstanding sec. 10 of this Act, if, but for the repeal of  
14 AS 39.27.022 by sec. 10 of this Act, an employee would have received a pay increment under  
15 former AS 39.27.022 within two years after the effective date of sec. 10 of this Act, the  
16 employee may elect to receive that increment instead of

17 (1) the first increment to which the employee would otherwise be entitled  
18 under AS 39.27.011(h) and (i), as enacted by sec. 8 of this Act; and

19 (2) the increment to which the employee would otherwise be entitled under  
20 sec. 14(c) of this Act.

21 \* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 RETROACTIVITY. Sections 5, 11(a), 12(a), and 13 of this Act are retroactive to  
24 July 1, 2007.

25 \* Sec. 17. Section 16 of this Act takes effect immediately under AS 01.10.070(c).

26 \* Sec. 18. Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2008.

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
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State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 3, 2008

**SUBJECT:** Application of sec. 15(b) to CSHB 417(FIN) am  
(Work Order No. 25-GH2011\C.A)

**TO:** Senator Lyda Green  
President of the Senate  
Attn: Portia Babcock

**FROM:** Dan Wayne *Daniel C. Wayne*  
Legislative Counsel

You have asked if sec. 15(b) of CSHB 417(FIN) am, added to the bill by a floor amendment, (1) violates the separation of powers doctrine implied in the Alaska Constitution or (2) creates a contingency in the bill.

I

Section 15(b) does not say precisely who -- which department or even which branch of government -- shall formally offer the terms of sec. 8 of the bill to state employee bargaining units. Nevertheless, sec. 15(b) can reasonably be interpreted as requiring the executive branch to offer to state employee bargaining units a specific contract term that is contrary to terms of an agreed upon contract, and this presents a separation of powers problem.

The Alaska Supreme Court has said:

... the separation of powers and its complementary doctrine of checks and balances are part of the constitutional framework of this state. The separation of powers doctrine is derived from the distribution of power among the three branches of government. The Alaska Constitution vests legislative power in the legislature; executive power in the governor; and judicial power in the supreme court, the superior court, and additional courts as established by the legislature. The separation of powers doctrine limits the authority of each branch to interfere in the powers that have been delegated to the other branches. The purposes of the separation of

powers doctrine are to preclude the exercise of arbitrary power and to safeguard the independence of each branch of government.<sup>1</sup>

The Department of Law has been particularly vigilant on the subject of legislative involvement in collective bargaining matters for which the executive branch has responsibility, and has expressed opposition. The department disagreed with efforts, by the 1983 Legislative Blue Ribbon Commission on the State Personnel Act, to rewrite the Public Employment Relations Act (AS 23.40.070 - 23.40.250) to provide a greater measure of legislative oversight:

[Y]ou proposed through SB 55 to provide a mechanism for legislative oversight where the state and an employee organization reach tentative approval of a collective bargaining agreement. My concern, again, is that a separation of powers question arises if the legislature asserts a right to approve or disapprove those non-monetary terms of a collective bargaining agreement not defined through substantive enactments.<sup>2</sup>

The idea, expressed by Mr. Rubini, that the legislature may involve itself in labor relations matters only through substantive enactments, is probably defensible only if, for example, the legislature, by general law, removed the longevity step calculation and payment issue from the parameters of collective bargaining as has been done, under AS 23.40.075, with other issues.

When it comes to legislative approval of executive branch contracts, for example, the Attorney General's office has long held that legislative approval is a violation of the separation of powers. In one opinion the Attorney General's office said:

In approving individual contracts, the legislature does not exercise a lawmaking function. Consequently, in the absence of a constitutional grant of such power or some unique circumstance that we cannot presently contemplate, a statute requiring legislative approval of an individual contract is a violation of the separation of powers. See *Chadha v. Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980). In *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947 (Alaska 1975), the Alaska Supreme Court held that the doctrine of separation of powers, though not expressly set out in the Alaska Constitution, is clearly implied. See also *Minutes of the Alaska Constitutional Convention 1955-56*, at 2228-29. Furthermore, the court has expressly recognized that it was a purpose of the framers of the Alaska

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<sup>1</sup> *Alaska Public Interest Research Group v. State*, 167 P.3d 27, 34 (Alaska, 2007). (Citations omitted).

<sup>2</sup> Letter of Assistant Attorney General Jonathan Rubini to Senator Bill Ray, February 10, 1983, page 1.

Senator Lyda Green  
April 3, 2008  
Page 3

Constitution to create a strong executive branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).<sup>2</sup>

A court would probably agree with the attorney general on this point, concluding that negotiating with state employee bargaining units is an executive and not a legislative function.

Sec. 15(b) of the bill requires the executive branch to offer terms to state employee bargaining units that are not already in the state's contracts with those bargaining units. If litigation ensues, it is likely that a court would find that sec. 15(b) encroaches on the authority of the executive to conclude collective bargaining agreements, a degree that violates the separation of powers doctrine.

## II

The answer to your second question is no - the provision does not create a contingency. A contingency would only be created if sec. 15(b) delayed one event until after the occurrence of a second event, which it does not seem to do.

Sec. 15(b) does, however, create a legal impracticality with its insertion of the phrase "(b)efore the effective date of this Act." This language literally requires that the offer be communicated before the subsection itself is to have legal effect. To avoid the impracticality, the words "Before the effective date of this Act" should be deleted and a reference to section 15(b) added to bill section 18's immediate effective date language.

If I may be of further assistance, please advise.

DCW:med  
08-250.med

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<sup>2</sup> 1982 Inf. Alaska Atty. Gen. Op. (file no. 366-269-83), November 3. The Attorney General's office has reiterated this position at least two other times in opinions. See 1985 Inf. Alaska Atty. Gen. Op. (file no. 166-065-86), August 13, and 1987 Inf. Alaska Atty. Gen. Op. (file no. 663-88-0094), September 17 (noting "the position of the Department of Law has consistently been that such requirements of legislative approval are unconstitutional as a violation of the doctrine of separation of powers").

# MEMORANDUM

State of Alaska  
Department of Law

To: Annette Kreitzer, Commissioner  
Kevin Brooks, Deputy Commissioner

Date: April 9, 2008

File No: 773-08-0011

Tel. No.: (907) 465-3600

Fax: (907) 465-2520

From: Kathleen Strasbaugh  
Assistant Attorney General

Subject: Legal problems posed by  
amendments to SB 297 and  
HB 417

## I. Introduction - Question Presented - Short Answer

HB 417 and SB 297 are bills introduced at Governor Palin's request that address the salaries of certain state officials and employees who are not covered by collective bargaining agreements under AS 23.40. You have asked whether amendments to the bills, subsection 15(b) of CSHB 417(FIN) am, and section 20 of CSSB 297(L&C), which purport to require that provisions in the bills regarding longevity pay steps be offered to bargaining units covered by negotiated collective bargaining agreements, pose any legal problems.

We believe these amendments do pose legal problems. These sections implicate the separation of powers between the executive and legislative branches of government in that they involve the legislature in an exercise of an executive power. We discuss our reasoning briefly below.

## II. Discussion

We note at the outset that we have reviewed the opinion of legislative counsel on this issue and find that we are generally in agreement with the discussion of the issues set out in the April 3, 2008, Memorandum from Legislative Counsel Dan Wayne to Senator Green concerning HB 417. We discuss a few additional points here.

A House floor amendment added the following language to HB 417 as part of a new section:

APPLICABILITY. (a) Section 8 of this Act applies to classified and partially exempt employees in the executive branch of state government

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Re: Legal issues, HB 417 and SB 297

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who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act).

(b) Before the effective date of this Act, the terms of sec. 8 of this Act, shall be formally offered to each established state employee bargaining unit through the state employee bargaining unit's collective bargaining agents, as an amendment to the contract governing the bargaining unit's terms and conditions of employment.

Sec. 15, CSHB 417(FIN) am. Section 8 adds to AS 39.27.011, the salary schedule for non-covered employees, longevity step provisions previously set out in AS 39.27.022, and shortens the period of time required to earn them. Section 15(a) conflicts with section 8's provisions that permit legislative agencies to adopt longevity steps, in that it appears to limit the application of section 8 to the executive branch. Section 15(b) would require that the terms of section 8 "be formally offered" to bargaining units of state employees as amendments to existing collective bargaining agreements before the law goes into effect, which, as legislative legal counsel has noted, is legally impractical. We also note that the title of HB 417 refers to noncovered employees and longevity steps, but not to employees covered by collective bargaining agreements who are excluded from AS 39.27.011 by its terms. Thus the title may not be adequately descriptive under Article II, Section 13 of the Alaska Constitution to cover the amendment.<sup>1</sup>

SB 297 has a similar, but not identical provision:

APPLICABILITY. Section 10 of this Act applies to classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act) only after its terms have been formally offered to each established state employee bargaining unit through the state employee bargaining unit's collective bargaining agents, as an amendment to the contract governing the bargaining unit's terms and conditions of employment.

Sec. 20, CSSB 297(L &C). In SB 297, section 10 is the equivalent of section 8 in HB 417. Here the language purports to prevent the application of the new longevity step provisions only to non-covered partially exempt and classified employees, until the provisions "have been formally offered" to collective bargaining units. Again, the title is

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<sup>1</sup> The provisions of art. II, sec. 13 are to be generously interpreted to allow comprehensive legislation. *State v. First National Bank*, 660 P.2d 406, 414-15 (Alaska 1982). However, the subject of the bill title does not encompass employees covered by collective bargaining agreements and may thus be a rare violation of sec. 13's title expression requirement.

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limited to officials and employees not covered by collective bargaining agreements, so it is not adequately expressive of the amendment.

Setting aside the form and drafting problems, both versions of the amendment involve the legislature in executive functions, supervision of state personnel and negotiation of collective bargaining agreements, functions that are firmly committed to the governor by Article III, sections 1 and 24-26, of the Alaska Constitution. *Cf.* 1981 Inf. Op. Att'y Gen'l at 1-2 (August 13; J-66-019-82) (governor has authority to appoint bargaining agent, *citing Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976)).

As legislative legal counsel noted in his April 3, 2008, opinion, the issue of legislative involvement in collective bargaining was a subject of some debate during the Blue Ribbon Commission on the State Personnel Act and discussions of legislation developed by the commission. 1984 House Finance Committee, *Minutes* at 141-43 (January 10, 1984, Hearing). Some legislators wanted greater involvement in the process. There were conflicting views on the role of the legislature. At least one union official testified at the 1984 hearing that her union did not want to negotiate with legislature. *Id.* at 143. This office advised that direct involvement in the bargaining process, beyond appropriating (or declining to appropriate) funds for monetary terms requiring an appropriation for their implementation, implicated the separation of powers between the executive and legislative branches. February 10, 1983, letter, Asst. Att'y Gen'l Rubini to Senator Ray. *Cf.* 1983 Inf. Op. Att'y Gen'l 383 (May 18; 366-612-83) (birthday holiday may be implemented by the executive branch without legislative approval because no appropriation required)<sup>2</sup>. Ultimately the legislature accepted the advice, and AS 23.40.215(b), adopted to allow the legislature to indicate its views on tentative collective bargaining agreements, was limited to an advisory process.

The amendments at issue raise concerns similar to those that arose during the Blue Ribbon Commission's review of state personnel and collective bargaining laws. Here, despite general law authorizing public employers, including the state, to reach bargaining agreements with their employees' collective bargaining agents, the amendment would have the legislature involve itself into the bargaining process by dictating the offer of a specific term to a special class of public employee, state executive branch employees covered by existing agreements. *Cf.* 1977 Inf. Op. Att'y Gen'l at 3 (June 17; J88-124-77) (criticizing language regarding special grants that potentially usurped the functions of the executive branch, including contracting on behalf of the state in derogation of general

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<sup>2</sup> The definition of monetary terms was amended to include changes in productive work hours, but we have questioned the approval process where appropriations are not required. *See* 2000 Inf. Op. Att'y Gen'l at 1-2 (April 7; 883-00-0013) (raising questions about a 2000 amendment to the definition of "monetary terms" purporting to require legislative approval for terms not requiring an appropriation).

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law) Collective bargaining and associated personnel management involve activities that are "essentially executive in character", and are already governed by general law. *Anderson v. Lamm*, 579 P.2d 620, 623-24 (Colo. 1978), *quoted in Alaska Legislative Council v. Knowles*, 21 P.3d 367, 380 n. 91 (Alaska 2001.) The Alaska Constitution allocates the authority to exercise this power to the governor.

The legislature has its own blunt but powerful instruments, the making of laws of general application and appropriation. In exercising its lawmaking authority, the legislature could require uniformity of salaries or other terms and conditions of employment by making them non-negotiable, as it has done with other subjects under AS 23.40.075. Report of the Blue Ribbon Commission on the State Personnel Act at 12-13 (January 9, 1980). But uniformity is not constitutionally required. *UACEA v. University of Alaska*, 988 P.2d 105, 109, n. 19 (Alaska 1999). , The legislature has authorized salary negotiations, and inevitably, the results will vary from unit to unit. Having authorized collective bargaining, and having acknowledged that its approval or disapproval of the resulting agreements is expressed by determining whether to exercise its constitutional authority to appropriate funds for the monetary terms, the legislature would not want to disrupt the process it has authorized by directing on an ad hoc basis that the executive branch add terms to pending proposals or existing agreements achieved after a bargaining process that involved compromises, trade-offs, and tactical choices by both parties.<sup>3</sup>

### III. Conclusion

In *Bradner*, in holding that the legislature did not have the authority to confirm subordinate executive officials, the Alaska Supreme held that the Alaska Constitution strongly delineated separate functions of the executive and legislative branches of government:

In our view, the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision

553 P.2d at 7. The court also noted that the Alaska Constitution was designed to provide for a strong executive. 553 P.2d at 3, n. 3. The legislature's role in collective bargaining is limited to the power of appropriation and the authorization of collective bargaining by general law. There is no indication in the constitution that the legislature has a role at the negotiating table.

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<sup>3</sup> Additionally, some of the state's bargaining units have salary schedules that do not resemble those in AS 39.27.011, and application of the longevity steps would not be appropriate.

To: Commissioner Kreitzer  
Re: Legal issues, HB 417 and SB 297

April 9, 2008  
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Accordingly, it is reasonable to conclude that subsection 15(b) of CSHB 417(FIN) and section 20 of CSSB 297 (L&C) encroach upon the executive branch, and may not withstand judicial scrutiny.

OFFERED IN THE SENATE  
TO: SCS CSHB 417(FIN)

AMENDMENT #2  
BY SENATOR Stedman

Page 6, line 25:

Following "Section"

Insert "5, 11(a), 12(a), 13, and" .

Following "Act"

delete "takes"

insert "take"

# MEMORANDUM

State of Alaska  
Department of Law

To: Annette Kreitzer, Commissioner  
Kevin Brooks, Deputy Commissioner

Date: April 9, 2008

File No: 773-08-0011

Tel. No.: (907) 465-3600

Fax: (907) 465-2520

From: Kathleen Strasbaugh  
Assistant Attorney General

Subject: Legal problems posed by  
amendments to SB 297 and  
HB 417

## I. Introduction - Question Presented - Short Answer

HB 417 and SB 297 are bills introduced at Governor Palin's request that address the salaries of certain state officials and employees who are not covered by collective bargaining agreements under AS 23.40. You have asked whether amendments to the bills, subsection 15(b) of CSHB 417(FIN) am, and section 20 of CSSB 297(I.&C), which purport to require that provisions in the bills regarding longevity pay steps be offered to bargaining units covered by negotiated collective bargaining agreements, pose any legal problems.

We believe these amendments do pose legal problems. These sections implicate the separation of powers between the executive and legislative branches of government in that they involve the legislature in an exercise of an executive power. We discuss our reasoning briefly below.

## II. Discussion

We note at the outset that we have reviewed the opinion of legislative counsel on this issue and find that we are generally in agreement with the discussion of the issues set out in the April 3, 2008, Memorandum from Legislative Counsel Dan Wayne to Senator Green concerning HB 417. We discuss a few additional points here.

A House floor amendment added the following language to HB 417 as part of a new section:

APPLICABILITY. (a) Section 8 of this Act applies to classified and partially exempt employees in the executive branch of state government

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Re: Legal issues, HB 417 and SB 297

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who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act).

(b) Before the effective date of this Act, the terms of sec. 8 of this Act, shall be formally offered to each established state employee bargaining unit through the state employee bargaining unit's collective bargaining agents, as an amendment to the contract governing the bargaining unit's terms and conditions of employment.

Sec. 15, CSHB 417(FIN) am. Section 8 adds to AS 39.27.011, the salary schedule for non-covered employees. longevity step provisions previously set out in AS 39.27.022, and shortens the period of time required to earn them. Section 15(a) conflicts with section 8's provisions that permit legislative agencies to adopt longevity steps, in that it appears to limit the application of section 8 to the executive branch. Section 15(b) would require that the terms of section 8 "be formally offered" to bargaining units of state employees as amendments to existing collective bargaining agreements before the law goes into effect, which, as legislative legal counsel has noted, is legally impractical. We also note that the title of HB 417 refers to noncovered employees and longevity steps, but not to employees covered by collective bargaining agreements who are excluded from AS 39.27.011 by its terms. Thus the title may not be adequately descriptive under Article II, Section 13 of the Alaska Constitution to cover the amendment.<sup>1</sup>

SB 297 has a similar, but not identical provision:

APPLICABILITY. Section 10 of this Act applies to classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act) only after its terms have been formally offered to each established state employee bargaining unit through the state employee bargaining unit's collective bargaining agents, as an amendment to the contract governing the bargaining unit's terms and conditions of employment.

Sec. 20, CSSB 297(L &C). In SB 297, section 10 is the equivalent of section 8 in HB 417. Here the language purports to prevent the application of the new longevity step provisions only to non-covered partially exempt and classified employees, until the provisions "have been formally offered" to collective bargaining units. Again, the title is

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<sup>1</sup> The provisions of art. II, sec. 13 are to be generously interpreted to allow comprehensive legislation. *State v. First National Bank*, 660 P.2d 406, 414-15 (Alaska 1982). However, the subject of the bill title does not encompass employees covered by collective bargaining agreements and may thus be a rare violation of sec. 13's title expression requirement.

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Re: Legal issues, HB 417 and SB 297

April 9, 2008  
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limited to officials and employees not covered by collective bargaining agreements, so it is not adequately expressive of the amendment.

Setting aside the form and drafting problems, both versions of the amendment involve the legislature in executive functions, supervision of state personnel and negotiation of collective bargaining agreements, functions that are firmly committed to the governor by Article III, sections 1 and 24-26, of the Alaska Constitution. *Cf.* 1981 Inf. Op. Att'y Gen'l at 1-2 (August 13; J-66-019-82) (governor has authority to appoint bargaining agent, *citing Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976)).

As legislative legal counsel noted in his April 3, 2008, opinion, the issue of legislative involvement in collective bargaining was a subject of some debate during the Blue Ribbon Commission on the State Personnel Act and discussions of legislation developed by the commission. 1984 House Finance Committee, *Minutes* at 141-43 (January 10, 1984, Hearing). Some legislators wanted greater involvement in the process. There were conflicting views on the role of the legislature. At least one union official testified at the 1984 hearing that her union did not want to negotiate with legislature. *Id.* at 143. This office advised that direct involvement in the bargaining process, beyond appropriating (or declining to appropriate) funds for monetary terms requiring an appropriation for their implementation, implicated the separation of powers between the executive and legislative branches. February 10, 1983, letter, Asst. Att'y Gen'l Rubini to Senator Ray. *Cf.* 1983 Inf. Op. Att'y Gen'l 383 (May 18; 366-612-83) (birthday holiday may be implemented by the executive branch without legislative approval because no appropriation required)<sup>2</sup>. Ultimately the legislature accepted the advice, and AS 23.40.215(b), adopted to allow the legislature to indicate its views on tentative collective bargaining agreements, was limited to an advisory process.

The amendments at issue raise concerns similar to those that arose during the Blue Ribbon Commission's review of state personnel and collective bargaining laws. Here, despite general law authorizing public employers, including the state, to reach bargaining agreements with their employees' collective bargaining agents, the amendment would have the legislature involve itself into the bargaining process by dictating the offer of a specific term to a special class of public employee, state executive branch employees covered by existing agreements. *Cf.* 1977 Inf. Op. Att'y Gen'l at 3 (June 17; J88-124-77) (criticizing language regarding special grants that potentially usurped the functions of the executive branch, including contracting on behalf of the state in derogation of general

---

<sup>2</sup> The definition of monetary terms was amended to include changes in productive work hours, but we have questioned the approval process where appropriations are not required. See 2000 Inf. Op. Att'y Gen'l at 1-2 (April 7; 883-00-0013) (raising questions about a 2000 amendment to the definition of "monetary terms" purporting to require legislative approval for terms not requiring an appropriation).

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Re: Legal issues, HB 417 and SB 297

April 9, 2008  
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law) Collective bargaining and associated personnel management involve activities that are "essentially executive in character", and are already governed by general law. *Anderson v. Lamm*, 579 P.2d 620, 623-24 (Colo. 1978), *quoted in Alaska Legislative Council v. Knowles*, 21 P.3d 367, 380 n. 91 (Alaska 2001.) The Alaska Constitution allocates the authority to exercise this power to the governor.

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### III. Conclusion

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in our view, the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision

553 P.2d at 7. The court also noted that the Alaska Constitution was designed to provide for a strong executive. 553 P.2d at 3, n. 3. The legislature's role in collective bargaining is limited to the power of appropriation and the authorization of collective bargaining by general law. There is no indication in the constitution that the legislature has a role at the negotiating table.

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<sup>3</sup> Additionally, some of the state's bargaining units have salary schedules that do not resemble those in AS 39.27.011, and application of the longevity steps would not be appropriate.

To: Commissioner Kreitzer  
Re: Legal issues, HB 417 and SB 297

April 9, 2008  
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Accordingly, it is reasonable to conclude that subsection 15(b) of CSIB 417(FIN) and section 20 of CSSB 297 (L&C) encroach upon the executive branch, and may not withstand judicial scrutiny.

# 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

April 3, 2008

**SUBJECT:** Application of sec. 15(b) to CSHB 417(FIN) am  
(Work Order No. 25-GH2011\A)

**TO:** Senator Lyda Green  
President of the Senate  
Attn: Portia Babcock

**FROM:** Dan Wayne *Daniel C. Wayne*  
Legislative Counsel

You have asked if sec. 15(b) of CSHB 417(FIN) am, added to the bill by a floor amendment, (1) violates the separation of powers doctrine implied in the Alaska Constitution or (2) creates a contingency in the bill.

1

Section 15(b) does not say precisely who -- which department or even which branch of government -- shall formally offer the terms of sec. 8 of the bill to state employee bargaining units. Nevertheless, sec. 15(b) can reasonably be interpreted as requiring the executive branch to offer to state employee bargaining units a specific contract term that is contrary to terms of an agreed upon contract, and this presents a separation of powers problem.

The Alaska Supreme Court has said:

... the separation of powers and its complementary doctrine of checks and balances are part of the constitutional framework of this state. The separation of powers doctrine is derived from the distribution of power among the three branches of government. The Alaska Constitution vests legislative power in the legislature; executive power in the governor; and judicial power in the supreme court, the superior court, and additional courts as established by the legislature. The separation of powers doctrine limits the authority of each branch to interfere in the powers that have been delegated to the other branches. The purposes of the separation of

Senator Lyda Green  
April 3, 2008  
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powers doctrine are to preclude the exercise of arbitrary power and to safeguard the independence of each branch of government.<sup>1</sup>

The Department of Law has been particularly vigilant on the subject of legislative involvement in collective bargaining matters for which the executive branch has responsibility, and has expressed opposition. The department disagreed with efforts, by the 1983 Legislative Blue Ribbon Commission on the State Personnel Act, to rewrite the Public Employment Relations Act (AS 23.40.070 - 23.40.250) to provide a greater measure of legislative oversight:

[Y]ou proposed through SB 55 to provide a mechanism for legislative oversight where the state and an employee organization reach tentative approval of a collective bargaining agreement. My concern, again, is that a separation of powers question arises if the legislature asserts a right to approve or disapprove those non-monetary terms of a collective bargaining agreement not defined through substantive enactments.<sup>2</sup>

The idea, expressed by Mr. Rubini, that the legislature may involve itself in labor relations matters only through substantive enactments, is probably defensible only if, for example, the legislature, by general law, removed the longevity step calculation and payment issue from the parameters of collective bargaining as has been done, under AS 23.40.075, with other issues.

When it comes to legislative approval of executive branch contracts, for example, the Attorney General's office has long held that legislative approval is a violation of the separation of powers. In one opinion the Attorney General's office said:

In approving individual contracts, the legislature does not exercise a lawmaking function. Consequently, in the absence of a constitutional grant of such power or some unique circumstance that we cannot presently contemplate, a statute requiring legislative approval of an individual contract is a violation of the separation of powers. See *Chadha v. Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980). In *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947 (Alaska 1975), the Alaska Supreme Court held that the doctrine of separation of powers, though not expressly set out in the Alaska Constitution, is clearly implied. See also *Minutes of the Alaska Constitutional Convention 1955-56*, at 2228-29. Furthermore, the court has expressly recognized that it was a purpose of the framers of the Alaska

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<sup>1</sup> *Alaska Public Interest Research Group v. State*, 167 P.3d 27, 34 (Alaska, 2007). (Citations omitted).

<sup>2</sup> Letter of Assistant Attorney General Jonathan Rubini to Senator Bill Ray, February 10, 1983, page 1.

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April 3, 2008  
Page 3

Constitution to create a strong executive branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).<sup>2</sup>

A court would probably agree with the attorney general on this point, concluding that negotiating with state employee bargaining units is an executive and not a legislative function.

Sec. 15(b) of the bill requires the executive branch to offer terms to state employee bargaining units that are not already in the state's contracts with those bargaining units. If litigation ensues, it is likely that a court would find that sec. 15(b) encroaches on the authority of the executive to conclude collective bargaining agreements, a degree that violates the separation of powers doctrine.

## II

The answer to your second question is no - the provision does not create a contingency. A contingency would only be created if sec. 15(b) delayed one event until after the occurrence of a second event, which it does not seem to do.

Sec. 15(b) does, however, create a legal impracticality with its insertion of the phrase "(b)efore the effective date of this Act." This language literally requires that the offer be communicated before the subsection itself is to have legal effect. To avoid the impracticality, the words "Before the effective date of this Act" should be deleted and a reference to section 15(b) added to bill section 18's immediate effective date language.

If I may be of further assistance, please advise.

DCW:med  
08-250.med

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<sup>2</sup> 1982 Inf. Alaska Atty. Gen. Op. (file no. 366-269-83), November 3. The Attorney General's office has reiterated this position at least two other times in opinions. See 1985 Inf. Alaska Atty. Gen. Op. (file no. 166-065-86), August 13, and 1987 Inf. Alaska Atty. Gen. Op. (file no. 663-88-0094), September 17 (noting "the position of the Department of Law has consistently been that such requirements of legislative approval are unconstitutional as a violation of the doctrine of separation of powers").

*adopted 4-9*

RECEIVED

APR - 7 2008

25-GH2011VE  
Wayne  
4/6/08

SENATE CS FOR CS FOR HOUSE BILL NO. 417(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the compensation for certain public officials, officers, and employees  
2 not covered by collective bargaining agreements; relating to pay increments for  
3 longevity in state service; and providing for an effective date."

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

5 \* Section 1. AS 16.43.060 is amended to read:

6           Sec. 16.43.060. Compensation. Members of the commission are in the exempt  
7 service and are entitled to a monthly salary equal to a step in [STEP C,] Range 27  
8 [26] of the salary schedule in AS 39.27.011 [AS 39.27.011(a) FOR JUNEAU,  
9 ALASKA].

10 \* Sec. 2. AS 26.05.260(i) is amended to read:

11           (i) When active state service is authorized by the governor or by the adjutant  
12 general as the governor's designee, members of the Alaska State Defense Force are  
13 entitled to receive, for each day of active service under AS 26.05.070, pay and  
14 allowances as provided in this subsection. Pay is equal to that provided under

1        AS 39.27.011(a) - (f) and 39.27.020 [AS 39.27.011 - 39.27.020] for equivalent  
 2 assignments of state officials or employees, including adjustments under  
 3 AS 39.27.025, if applicable. Allowances shall be paid to the same extent, in the same  
 4 manner, and under the same conditions as provided for state officials and employees  
 5 under AS 39.20.110 - 39.20.170. However, pay or allowances are not authorized for  
 6 training or community service activities of members of the Alaska State Defense  
 7 Force.

8        \* Sec. 3. AS 36.30.010(d) is amended to read:

9                (d) The annual salary of the chief procurement officer is range 27 [24] of the  
 10 salary schedule established in AS 39.27.011.

11        \* Sec. 4. AS 39.20.080(b) is amended to read:

12                (b) The monthly salary of a deputy head of a principal executive department  
 13 of the state is equal to a step in [NOT LESS THAN STEP A NOR MORE THAN  
 14 STEP F,] Range 28 of the salary schedule in AS 39.27.011 [AS 39.27.011(a) FOR  
 15 JUNEAU, ALASKA].

16        \* Sec. 5. AS 39.27.011(a) is repealed and reenacted to read:

17                (a) The following monthly basic salary schedule is approved as the pay plan  
 18 for classified and partially exempt employees in the executive branch of the state  
 19 government who are not members of a collective bargaining unit established under the  
 20 authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act), and for  
 21 employees of the legislature under AS 24:

Range	Step	Step	Step	Step	Step	Step
No.	A	B	C	D	E	F
05	1892	1945	1999	2056	2117	2174
06	1999	2056	2117	2174	2238	2303
07	2117	2174	2238	2303	2374	2449
08	2238	2303	2374	2449	2518	2596
09	2374	2449	2518	2596	2679	2755
10	2518	2596	2679	2755	2840	2922
11	2679	2755	2840	2922	3022	3118
12	2840	2922	3022	3118	3223	3332

1	13	3022	3118	3223	3332	3449	3572
2	14	3223	3332	3449	3572	3697	3837
3	15	3449	3572	3697	3837	3960	4109
4	16	3697	3837	3960	4109	4257	4407
5	17	3960	4109	4257	4407	4558	4715
6	18	4257	4407	4558	4715	4861	5046
7	19	4558	4715	4861	5046	5203	5393
8	20	4861	5046	5203	5393	5555	5761
9	21	5203	5393	5555	5761	5938	6153
10	22	5555	5761	5938	6153	6353	6582
11	23	5938	6153	6353	6582	6801	7054
12	24	6353	6582	6801	7054	7289	7536
13	25	6801	7054	7289	7536	7809	8100
14	26	7054	7289	7536	7809	8100	8391
15	27	7289	7536	7809	8100	8391	8707
16	28	7536	7809	8100	8391	8707	9010
17	29	7809	8100	8391	8707	9010	9327
18	30	8100	8391	8707	9010	9327	9655.

19 \* Sec. 6. AS 39.27.011(e) is amended to read:

20 (e) Effective July 1, 2008 [2005], the amounts set out in the salary schedule  
21 contained in (a) of this section are increased by three [TWO] percent.

22 \* Sec. 7. AS 39.27.011(f) is amended to read:

23 (f) Effective July 1, 2009 [2006], the amounts set out in the salary schedule  
24 contained in (a) of this section, as increased under (e) of this section, are increased by  
25 three [TWO] percent.

26 \* Sec. 8. AS 39.27.011 is amended by adding new subsections to read:

27 (h) Pay increments, computed at the rate of 3.75 percent of the employee's  
28 base salary, shall be provided after an employee has remained in the final step within a  
29 given range for two years, and every two years thereafter, if, at the time the employee  
30 becomes eligible for the increment, the employee's current annual rating by the  
31 employee's supervisors is designated as "good" or higher.

1 (i) Pay increments provided for in (h) of this section are approved under  
2 AS 39.25.150(2) as an amendment to the pay plan for employees of the state.

3 (j) Subsections (h) and (i) of this section apply to employees of the legislature  
4 only if the committee responsible for adopting employment policies concerning the  
5 employee adopts a written policy that (h) and (i) of this section apply. Subsections (h)  
6 and (i) of this section apply to the employees of the office of the ombudsman only if  
7 the ombudsman adopts a policy that (h) and (i) of this section apply. Subsections (h)  
8 and (i) of this section apply to the employees of the office of victims' rights only if the  
9 victims' advocate adopts a policy that (h) and (i) of this section apply.

10 \* Sec. 9. AS 42.04.020(f) is amended to read:

11 (f) Members of the commission are in the exempt service and are entitled to a  
12 monthly salary equal to a step in [STEP C,] Range 27 [26], of the salary schedule in  
13 AS 39.27.011(a) for Juneau, Alaska. The chair of the commission is entitled to a  
14 monthly salary equal to a step in [STEP C,] Range 27 [,] of the salary schedule in  
15 AS 39.27.011(a) for Juneau, Alaska.

16 \* Sec. 10. AS 39.27.022 is repealed.

17 \* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 SALARY ADJUSTMENTS FOR CERTAIN EXEMPT OFFICERS AND  
20 EMPLOYEES OF THE EXECUTIVE BRANCH. (a) Public officers and permanent and  
21 temporary employees of the executive branch of the state government, other than the governor  
22 and lieutenant governor, who are in the exempt service under AS 39.25.110, are not members  
23 of a collective bargaining unit established under AS 23.40.070 - 23.40.260 (Public  
24 Employment Relations Act), and are not otherwise covered by AS 39.27.011(a), are entitled  
25 to receive salaries comparable to those received by classified and partially exempt employees  
26 of the executive branch under AS 39.27.011(a), as repealed and reenacted by sec. 5 of this  
27 Act, and under AS 39.27.011(e) and (f), as amended by secs. 6 and 7 of this Act.

28 (b) The agencies employing noncovered exempt officers and employees covered by  
29 this section may adopt compensation policies that provide for pay increments under  
30 AS 39.27.011(h) and (i), enacted by sec. 8 of this Act.

31 \* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 SALARY ADJUSTMENTS FOR CERTAIN EMPLOYEES OF THE JUDICIAL  
3 BRANCH. (a) Permanent and temporary employees and magistrates in the judicial branch of  
4 the state government, other than justices and judges, who are not members of a collective  
5 bargaining unit established under AS 23.40.070 - 23.40.260 (Public Employment Relations  
6 Act), and are not otherwise covered by AS 39.27.011(a), are entitled to receive salary  
7 adjustments comparable to those received by classified and partially exempt employees of the  
8 executive branch under AS 39.27.011(a), as repealed and reenacted by sec. 5 of this Act, and  
9 under AS 39.27.011(e) and (f), as amended by secs. 6 and 7 of this Act.

10 (b) The judicial branch may adopt compensation policies for its temporary and  
11 permanent employees and magistrates, other than justices and judges, that provide for pay  
12 increments under AS 39.27.011(h) and (i), enacted by sec. 8 of this Act.

13 (c) Justices of the supreme court and judges of the court of appeals and the superior  
14 and district courts are entitled to receive salary adjustments provided for in secs. 5 - 7 of this  
15 Act, in accordance with AS 22.05.140(d), AS 22.07.090(c), AS 22.10.190(d), and  
16 AS 22.15.220(e).

17 \* Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 SALARY INCREASES FOR CERTAIN EMPLOYEES OF THE UNIVERSITY OF  
20 ALASKA. The employees of the University of Alaska who are not members of a collective  
21 bargaining unit are entitled to receive salary increases in accordance with the compensation  
22 policy of the Board of Regents of the University of Alaska.

23 \* Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 PROSPECTIVE APPLICATION. (a) Notwithstanding any other provisions of law,  
26 sec. 8 of this Act applies prospectively only. An employee may only earn pay increments  
27 under AS 39.27.011(h) and (i), as enacted by sec. 8 of this Act, based on qualifying service  
28 occurring on or after the effective date of sec. 8 of this Act.

29 (b) It is the intent of the legislature that (a) of this section is to expressly avoid the  
30 result in the decision of the Alaska Supreme Court in APEA v. State, 525 P.2d 12 (Alaska  
31 1974).

1 (c) Notwithstanding any other provision of this section, an employee who does not  
2 elect to receive a pay increment under sec. 15 of this Act is entitled to receive a pay increment  
3 computed at the rate of 3.75 percent of the employee's base salary instead of the first  
4 increment to which the employee would otherwise be entitled under AS 39.27.011(h) and (i),  
5 as enacted by sec. 8 of this Act, if, at the time the employee becomes eligible for the  
6 increment under this subsection, the employee's current annual rating by the employee's  
7 supervisors is designated as good or higher and the employee has served

8 (1) at least two years toward an increment under former AS 39.27.022; or

9 (2) at the last step of the employee's pay range for the two years immediately  
10 preceding the effective date of this section.

11 \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 TRANSITION. Notwithstanding sec. 10 of this Act, if, but for the repeal of  
14 AS 39.27.022 by sec. 10 of this Act, an employee would have received a pay increment under  
15 former AS 39.27.022 within two years after the effective date of sec. 10 of this Act, the  
16 employee may elect to receive that increment instead of

17 (1) the first increment to which the employee would otherwise be entitled  
18 under AS 39.27.011(h) and (i), as enacted by sec. 8 of this Act; and

19 (2) the increment to which the employee would otherwise be entitled under  
20 sec. 14(c) of this Act.

21 \* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 RETROACTIVITY. Sections 5, 11(a), 12(a), and 13 of this Act are retroactive to  
24 July 1, 2007.

25 \* Sec. 17. Section 16 of this Act takes effect immediately under AS 01.10.070(e).

26 \* Sec. 18. Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2008.

SARAH PALIN  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
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HB 417  
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February 29, 2008

The Honorable John Harris  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would amend the salary schedule set out in AS 39.27.011(a) to reflect the increase tentatively agreed to by the supervisory unit of state employees. The salary schedule would provide for a 5.5% increase in FY08, 3% in FY09 and 3% in FY10. Provisions that are not in codified sections of the statute authorize the same pay increments for employees and officials of the Alaska Court System, the University of Alaska, and certain independent state agencies.

I tasked an Executive Working Group under Administrative Order No. 237 with identifying recruitment and retention issues. Several legislators have expressed concern about whether the state is losing ground to other employers. This legislation would implement a portion of the recommendations of the Working Group. The full report is available on the Department of Administration website. With almost a quarter of the entire state workforce eligible to retire within five years, it is a priority of mine to recruit and retain qualified, professional staff.

The bill would also change the practice with respect to longevity pay steps for non-covered employees. The current law provides for 3.75 percent increases at two, four, nine, and 13 years after reaching F step on the salary schedule, and requires an employee to have seven years continuous service before the employee is eligible for longevity pay. This restriction will help the state attract and retain highly qualified employees. This legislation would repeal the longevity pay step statute, and provide in AS 39.27.011 for pay increments to employees at two year intervals after they attain the F step in their range. The requirement of seven years of continuous service would be eliminated. Legislative and Judicial branch employees who are not magistrates and judicial officers, and exempt officers and employees who are not covered by collective

The Honorable John Harris  
February 29, 2008  
Page 2

bargaining agreements may receive these increments if the agencies employing those persons adopt compensation policies that include those persons.

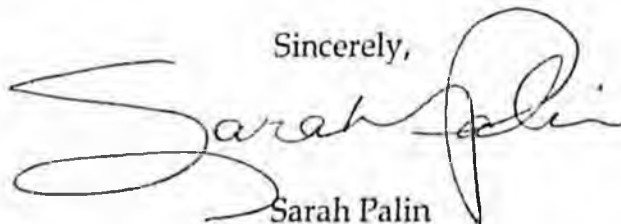
In addition, the bill would raise the pay range assigned to the members of the Commercial Fisheries Entry Commission (CFEC) and certain members of the Regulatory Commission of Alaska (RCA) from range 26 to range 27, and would raise the pay range of the chief procurement officer from range 24 to range 27. Statutory references to specific salary steps within pay ranges would be removed for deputy heads of principal departments, and CFEC and RCA members.

The bill would also provide for a July 1, 2008 effective date so that the 2008 salary increases are aligned with the new fiscal year for budgetary reasons, except that retroactive provisions of the bill would go into effect immediately.

These changes are consistent with the goal of this administration to improve recruitment and retention of state employees, and the result of the Administrative Order 237 Working Group.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large loop at the end of the last name.

Sarah Palin  
Governor

Enclosure

# STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

ANNETTE KREITZER, COMMISSIONER

SARAH PALIN, GOVERNOR

P.O. BOX 110200  
JUNEAU, ALASKA 99811-0200

PHONE: (907) 465-2200  
FAX: (907) 465-2135

April 3, 2008

The Honorable Bert Stedman  
Co-Chairman, Senate Finance Committee  
State Capitol, Room 516  
Juneau, AK 99801

Dear Senator Stedman:

I am writing to request you schedule House Bill 417, An Act relating to the compensation for certain public officials, officers, and employees not covered by collective bargaining agreements; relating to pay increments for longevity in state service; and providing for an effective date, at your earliest convenience. HB 417 would amend the salary schedule set out in AS 39.27.011(a) to increase salary for non-covered employees by 5.5% in fiscal year 2008, and an additional 3% increase in fiscal years 2009 and 2010.

HB 417 would implement a portion of the recommendations of the Executive Branch Working Group. With almost a quarter of the entire State workforce eligible to retire within five years, it is a priority of mine to recruit and retain qualified, professional staff; I believe we begin with making State salaries more competitive.

This legislation also:

- Changes the practice with respect to longevity pay steps for non-covered employees. The current law provides for 3.75 percent increases at two, four, nine, and 13 years after reaching F step on the salary schedule, and requires an employee to have seven years continuous service before the employee is eligible for longevity pay. The bill would also change the practice with respect to longevity pay.
- Repeals the longevity pay step statutes, and provides in AS 39.27.011 for pay increments to employees at two year intervals after they attain the F step in their range and receive a favorable evaluation. The requirement of seven years of continuous service would be eliminated.
- Raises the pay range assigned to the members of the Commercial Fisheries Entry Commission (CFEC) and certain members of the Regulatory

- Commission of Alaska (RCA) from range 26 to 27, and would raise the pay range of the chief procurement officer from range 24 to range 27.
- Provides for a July 1, 2008 effective date so that the 2008 salary increases are aligned with the new fiscal year for budgetary reasons, except that retroactive provisions of the bill would go into effect immediately.

I've enclosed a sectional analysis with this hearing request, and would be pleased to provide any additional information for your members' consideration.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Annette Kreitzer".

Annette Kreitzer

**CS HB 417 (FIN) am: Compensation for Certain Public Officials  
Sectional Analysis**

Section 1:

Compensation for Commercial Fisheries Limited Entry Commission Commissioners has been fixed at Range 26, Step C since 1980. The bill proposes a step in Range 27.

Section 2:

Conforming amendment for Alaska State Defense Force using the new schedule in AS 39.27.011(a) and the pay step differentials (unchanged) in AS 39.27.020.

Section 3:

Increases the compensation for the chief procurement officer to range 27. This position is currently a Range 24. The CPO is an appointed position, but since 2003, there has not been a separate director position in the Division of General Services. Many of the duties of the director were assigned to the CPO. A bill has been introduced by Senator Elton to do the same thing. (SB 177)

Section 4:

Removes the step limitation for Deputy Commissioners upon appointment.

Section 5:

Restates the salary schedule for FY08 at a 5.5% increase over the amount in AS 39.21.011(f) to be applied to classified and partially exempt employees (non-covereds).

Section 6:

Provides for the FY09 increase of 3%.

Section 7:

Provides for the FY10 increase of 3%.

Section 8:

(h) Provides the opportunity for merit increases every two years beyond step "F". The employee's annual performance evaluation must be designated as "good" or higher.

Section 8 (cont.):

(i) Ties the pay increments in section h (above) to the Personnel Rules found in AS 39.25.150(2):

“(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) must provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;”

(j) The Legislature and the independent agencies within its jurisdiction (Ombudsman, OVR) may choose to apply the merit increases to its staff or not.

Section 9:

Compensation for Regulatory Commission of Alaska (RCA) Commissioners has been fixed at Range 26, Step C. The bill proposes a step in Range 27. The Commission will have flexibility to propose an increase for the Chairman at a step or two above other commissioners, in recognition of the workload.

Section 10:

Repeals longevity steps (replaced by 2-year pay increments in section 8 above).

Section 11:

Exempt employees on salary overrides and Commissioners will not be eligible for the 5.5% pay increase for FY08 or the 3% increase for FY09. Fiscal notes have been adjusted accordingly.

Section 12:

Judicial employees including magistrates are entitled to 5.5-3-3% increases, and longevity step adjustments in the bill if the Judicial branch decides to implement them. Judges will NOT receive a retroactive adjustment, but WILL receive an 8.5% increase on July 1, 2008.

Section 13:

Employees of the University of Alaska are entitled to salary increases in accordance with the Board of Regents compensation policy.

Section 14:

Stipulates that the pay increments that replace the longevity steps are prospective beginning July 1, 2008.

Section 15:

Requires that the longevity step revision in section 8 be formally offered to each established bargaining unit before the effective date of the act. This section was added as an amendment on the House floor. This section is problematic because of the 11 bargaining units representing state employees, five do not have a pay structure that includes longevity steps.

Section 16:

Transition language from longevity steps to pay increments every two years to ensure that no employee is inadvertently "harmed" by the provisions of the bill.

Section 17:

5.5% pay increase is retroactive to July 1, 2007.

Section 18:

Provides an immediate effective date for retroactivity clause in section 16.

Section 19:

Effective date for the rest of the bill is July 1, 2008.

## CS HB 417 (FIN) am: Compensation for Certain Public Officials Talking Points

### What does HB 417 do?

- HB 417 will:
  - Put the compensation for Commercial Fisheries Limited Entry Commission and Regulatory Commission of Alaska commissioners at Range 27. (Section 1 and 9)
  - Recognize that the Chief Procurement Officer acts as the Director for the Division of General Services and puts the position's compensation at the Director Level (Range 27). (Section 3)
  - Restate the salary schedule for State employees not covered by union contracts (child protection advocates, attorneys in OPA/PD and Law, legislative employees, court system employees) with a 5.5% increase effective July 1, 2007.
  - Provides for a 3% increase for FY09 and in FY10.
  - Provides for salary adjustments for acceptable performance every two years after "F" step, to replace the current system of longevity steps after 2, 4, 9 and 13 years after reaching "F" step. State agencies will absorb the cost in existing budgets.

### Who's Not Covered in HB 417

- Commissioners and other fully-exempt executive branch employees currently on salary overrides would not be eligible for the FY08-FY09 increases. Fiscal notes have been adjusted accordingly.
  - Rationale: Commissioner's pay was increased in 2005. If a state agency already has the flexibility to pay an employee on an override to the salary schedule, there isn't as great a need to adjust salaries under this bill. (e.g., Division of Oil and Gas, Alaska Oil & Gas Conservation Commission, Division of Treasury)
  - Focus of the bill is to close the gap between fully-exempt and non-covereds by raising non-covered employees who haven't received a pay adjustment, instead of perpetuating the gap.

## **Why HB 417 Now?**

- We have heard a lot about state salaries not keeping up with pay in the private sector, the federal government, and inflation.
- Some have characterized this bill as rewarding political appointments and cronies. That is not the case.
- Hundreds of employees in the legislative and judicial branches, and over 1,500 in the executive branch are covered under this bill. (475 legal professionals in the Departments of Law and Administration, and hundreds of other professionals and “rank and file” workers).

## **Amendment Regarding Steps**

- An amendment was adopted on the House floor to require that the longevity step revision in section 8 be formally offered to each established bargaining unit before the effective date of the act. The Senate version (SB294) was also amended with similar language in Senate L&C before the bill was forwarded to Senate Finance.
- The Department of Administration is currently gathering the costs of implementing that amendment – It would be millions for FY 09. This monetary term should be left to a future round of negotiations.

## **Not an “Equal Treatment” Issue**

- There are 11 bargaining units representing state employees, and many don't even have longevity steps in their contracts. Each contract is different with different costs for different provisions.
- Collective bargaining belongs at the bargaining table and not in legislation.
- The administration made five separate offers to APEA-SU, one of which included the step revision coupled with a 40-hour work week. It was rejected.
- In a full page advertisement the union urged the Governor to offer the arbitrator's decision for class one members to the entire unit, sight-unseen.

- That is what was eventually offered to them, along with two additional requests for weekend differentials for some nurses and a geographic differential for some employees at the Spring Creek Correctional Center.
- It is inappropriate for SU to now “cherry-pick” from previous offers after its membership has ratified the state’s offer.
- Curiously, APEA-SU has not released the actual results of the ratification vote that was completed on March 12, only a statement that the contract was ratified.