

HB

117

SENATE COMMITTEE REPORT

DATE: 3/7/07

FURTHER:

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered CS FOR HOUSE BILL NO. 117(JUD)

HB 117 PROCLAMATION CALLING A SPECIAL SESSION

"An Act relating to proclamations issued by the governor calling the legislature into special session."

and recommends:

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

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

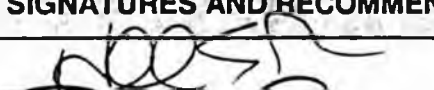


NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|------|--------|--------|------|-----|
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|-------|--------|--------|------|-----|
| LAW | 02/16 | | | ✓ | |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | PRINTED LAST NAME | DO PASS | DO NOT PASS | NO REC | AMEND |
|--|-------------------|---------|-------------|--------|-------|
|  | French | | | X | |
|  | Green | | | X | |
| Lyle Green | Green | | | ✓ | |
| Buende | Buende | ✓ | | | |
| | | | | | |
| CHAIR:  | McGuire | ✓ | | | |

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
(907) 465-4859
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John Harris
Speaker of the House

SPONSOR STATEMENT

COMMITTEE SUBSTITUTE for HOUSE BILL 117 (JUD)

"An Act relating to proclamations issued by the governor calling the legislature into special session."

House Bill 117 was introduced in order to give legislators and the public more notice in the event the Governor decides to call a special session outside of a disaster declaration or after the conclusion of a regular session.

Special sessions have become the norm rather than the exception during my tenure as a legislator. For "citizen-legislators," who are trying to make a living outside of their legislative duties, two weeks notice is insufficient and unfair to employers of legislators during the interim. More public notice leads to more public participation and ultimately, better legislation.

As stated in the first paragraph, the Governor still has the statutory authority to call a special session prior to the conclusion of a regular session, one hour after the conclusion of session, if a disaster declaration is issued and legislative action is required, or in the event of a disaster as defined under Title 26.

Sec. 24.05.100. Special sessions.

(a) The legislature may hold a special session not exceeding 30 calendar days in length. The special session shall be called in either of the following ways:

(1) The governor may call the legislature into special session by issuing a proclamation at least 15 days in advance of the convening date stated in the proclamation. At a special session called by the governor, legislation is limited to the subjects designated by the governor in the proclamation or to the subjects presented by the governor, and to reconsideration of legislation, if any, vetoed following a regular session of that legislature.

(2) The legislature may call itself into special session if two-thirds of the membership responds in the affirmative to a poll conducted by the presiding officer of each house. Each presiding officer may initiate a poll by their joint agreement, and each shall initiate a poll upon the request of 25 percent of the membership of each house, expressed in writing and signed by those members. When two-thirds of the membership to which the legislature is entitled responds in the affirmative, the president of the senate and speaker of the house shall jointly announce the result of the poll and a date for the convening of the special session. If one of the presiding officers is deceased, has resigned, or is incapacitated, the presiding officer of the other house may conduct the poll of the members of both houses.

(b) A special session may be held at any location in the state. If a special session called under (a)(1) of this section is to be convened at a location other than at the capital, the governor shall designate the location in the proclamation. If a special session called under (a)(2) of this section is to be convened at a location other than at the capital, the presiding officers shall agree to and designate the location in the poll conducted of the members of both houses.

Sec. 26.23.020. The governor and disaster emergencies.

(a) The governor is responsible for meeting the dangers presented by disasters to the state and its people.

(b) The governor may issue orders, proclamations, and regulations necessary to carry out the purposes of this chapter, and amend or rescind them. These orders, proclamations, and regulations have the force of law.

(c) If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency. The disaster emergency remains in effect until the governor finds that the danger has passed or the disaster has been dealt with so that the emergency no longer exists. The governor may terminate the disaster emergency by proclamation. A proclamation of disaster emergency may not remain in effect longer than 30 days unless extended by the legislature by a concurrent resolution. The proclamation must indicate the nature of the disaster, the area threatened or affected, and the conditions that have brought it about or that make possible the termination of the disaster emergency. A proclamation to declare a condition of disaster emergency must also state whether the governor proposes to expend state funds to respond to the disaster under (i) or (j) of this section.

(d) An order or proclamation issued under AS 26.23.010 - 26.23.220 shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless prevented or impeded by circumstances attendant upon the disaster, promptly filed with the Alaska division of homeland security and emergency management, the lieutenant governor, and the municipal clerk in the area to which it applies.

(e) A proclamation of a disaster emergency activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivisions or areas in question, and constitutes authority for the deployment and use of any force to which the plan or plans apply and for use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under AS 26.23.010 - 26.23.220 or any other provision of law relating to disaster emergency response.

(f) During the effective period of a disaster emergency, the governor is commander in chief of the organized and unorganized militia and of all other forces available for emergency duty. The governor may delegate or assign command authority by appropriate orders or regulations.

(g) In addition to any other powers conferred upon the governor by law, the governor may, under AS 26.23.010 - 26.23.220,

(1) suspend the provisions of any regulatory statute prescribing procedures for the conduct of state business, or the orders or regulations of any state agency, if compliance with the provisions of the statute, order, or regulation would prevent, or substantially impede or delay, action necessary to cope with the disaster emergency;

(2) use all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) transfer personnel or alter the functions of state departments and agencies or units of them for the purpose of performing or facilitating the performance of disaster emergency services;

(4) subject to any applicable requirements for compensation under AS 26.23.160, commandeer or utilize any private property, except for all news media other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor considers this necessary to cope with the disaster emergency;

(5) direct and compel the relocation of all or part of the population from any stricken or threatened area in the state if the governor considers relocation necessary for the preservation of life or for other disaster mitigation purpose;

(6) prescribe routes, modes of transportation, and destinations in connection with necessary relocation;

(7) control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in it;

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles;

(9) make provisions for the availability and use of temporary emergency housing;

(10) allocate or redistribute food, water, fuel, clothing, medicine, or supplies; and

(11) use money from the oil and hazardous substance release response account in the oil and hazardous substance release prevention and response fund, established by AS 46.08.010, to respond to a declared disaster emergency related to an oil or hazardous substance discharge.

(h) The governor may expend during a fiscal year not more than \$500,000 of state funds per incident to prevent, minimize, or respond to the effects of an incident that may occur or occurs in the state and that, in the determination of the governor, poses a direct and imminent threat of sufficient magnitude and severity to justify state action. Before expending funds under this subsection to respond to an incident, the governor shall provide a financing plan to cope with the incident to the legislature in the same manner prescribed for disaster emergencies under AS 26.23.025 (a).

(i) If the governor declares a condition of disaster emergency, the governor may expend during a fiscal year not more than \$1,000,000 of state funds per disaster declaration, including the assets of the disaster relief fund, to

(1) save lives, protect property and public health and safety, or lessen or avert the threat of the disaster that poses a direct and imminent threat of sufficient severity and magnitude to justify state action;

(2) implement provisions of law relating to disaster relief to cope with the disaster;

(3) alleviate the effects of the disaster by making grants or loans to persons or political subdivisions on terms the governor considers appropriate or by other means the governor considers appropriate.

(j) If the disaster described in the governor's proclamation to declare a condition of disaster emergency is a fire, the governor may expend state funds as necessary to save lives or protect property and public health and safety.

(k) The governor may expend more than \$500,000 of state funds to cope with an incident under (h) of this section or more than \$1,000,000 of state funds to cope with a disaster under (i) of this section under the following circumstances:

(1) if the legislature is in session, the legislature approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or

(2) if the legislature is not in session, either

(A) the governor convenes a special session of the legislature within five days after declaring the condition of disaster emergency or within five days after providing a financing plan to cope with an incident to the legislature and the legislature convenes in special session and approves a financing plan to cope with the incident or disaster that identifies the amount in excess of the expenditure limits that is to be expended from state funds; or

(B) the presiding officers of both the house of representatives and the senate agree that a special session should not be convened and so advise the governor in writing.

Sec. 26.23.900. Definitions.

In this chapter,

- (1) "commission" means the Alaska State Emergency Response Commission;
- (2) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from
 - (A) an incident such as storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic, explosion, or riot;
 - (B) the release of oil or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage;
 - (C) equipment failure if the failure is not a predictably frequent or recurring event or preventable by adequate equipment maintenance or operation;
 - (D) enemy or terrorist attack or a credible threat of imminent enemy or terrorist attack in or against the state that the adjutant general of the Department of Military and Veterans' Affairs or a designee of the adjutant general, in consultation with the commissioner of public safety or a designee of the commissioner of public safety, certifies to the governor has a high probability of occurring in the near future; the certification must meet the standards of AS 26.20.040 (c); in this subparagraph, "attack" has the meaning given under AS 26.20.200; or
 - (E) an outbreak of disease or a credible threat of an imminent outbreak of disease that the commissioner of health and social services or a designee of the commissioner of health and social services certifies to the governor has a high probability of occurring in the near future; the certification must be based on specific information received from a local, state, federal, or international agency, or another source that the commissioner or the designee determines is reliable;
- (3) "disaster emergency" means the condition declared by proclamation of the governor or declared by the principal executive officer of a political subdivision to designate the imminence or occurrence of a disaster;
- (4) *[Repealed, Sec. 22 ch 179 SLA 2004].*
- (5) "hazardous substance" has the meaning given in AS 46.03.826;
- (6) "major disaster" has the meaning given in 42 U.S.C. 5122;
- (7) "political subdivision" means

(A) a municipality;

(B) an unincorporated village; or

(C) another unit of local government;

(8) "temporary housing" has the meaning given in the federal Disaster Relief Act as amended;

(9) "unorganized militia" means all persons comprising that component of the militia of the state, as described in AS 26.05.010.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB117-LAW-LSA-2-18-07
 Bill Version: HB 117
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to proclamations calling a RDU Civil
special session. Component Labor & State Affairs
 Sponsor Representative Harris
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type-Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The bill would require the governor to issue a proclamation at least 30 days in advance of the convening date of a special session unless the proclamation is issued under AS 26.23.020(k), while both houses of the legislature are in regular or special session, or within one hour after the first house has adjourned from regular or special session. The department does not anticipate any significant fiscal impact.

Prepared by: Robert Meiners, Acting Director
 Division Administrative Services Division
 Approved by: Robert Meiners for Talis Colberg, Attorney General
 Agency Department of Law

Phone 465-5427
 Date/Time 2/16/07 9:37 AM
 Date 2/16/2007