

HB

152

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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April 15, 2009

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Legislature
State Capital, Room 417
Juneau, Alaska 99801-1182

Re: 2009 Revisor's Bill - CSHB 152(JUD)

Dear Senator French:

The Department of Law has reviewed CSHB 152(JUD), 2009 Revisor's Bill. The bill makes important technical improvements to the laws of this state. We recommend its passage.

If you need additional information, please let me know.

Sincerely,

WAYNE ANTHONY ROSS
ATTORNEY GENERAL

By:



Deborah E. Behr
Chief Assistant Attorney General

WAR:DEB:ajh

cc: Jerry Gallagher, Legislative Director, Office of the Governor
Kathryn Kurtz, Assistant Revisor of Statutes, Legislative Affairs Agency

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MEMORANDUM

March 30, 2009

SUBJECT: 2009 Revisor's Bill, CSHB 152(JUD)
(Work Order No. 26-LS0158\S)

TO: Senator Hollis French
Chair of the Senate Judiciary Committee

FROM: Kathryn L. Kurtz *KLK*
Assistant Revisor

Enclosed is a sectional summary for CSHB 152(JUD), the 2009 revisor's bill, which has been referred to the Senate Judiciary Committee. Would you please schedule this bill for a hearing? Thank you for your consideration. Please give me a call at 465-6663 if you have any questions.

KLK:ljw
09-194.ljw

Enclosure

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MEMORANDUM

March 30, 2009

SUBJECT: 2009 Revisor's Bill Sectional Summary - CSHB 152(JUD)
(Work Order No. 26-LS0158\S)

TO: Senator Hollis French
Chair of the Senate Judiciary Committee

FROM: Kathryn L. Kurtz *KLC*
Assistant Revisor

The following is a sectional summary of the 2009 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

... shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 2 - 5, 14, 16 - 18, 20, 25, 26, 32, 35, 36, 40, 41, 48, 61 - 65, 69, 77, 82, 83, and 85 amend or repeal provisions that have become obsolete through other legislative action.

Sections that correct errors or oversights: Sections 7, 9, 12, 13, 15, 22, 23; 27 - 29, 37, 43, 50, 59, 66 - 68, 70 - 73, 76, and 78 - 81 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 1, 6, 8, 10, 11, 19, 21, 24, 30, 31, 33, 34, 38, 39, 42, 44 - 47, 49, 51- 58, 60, 74, and 75 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL SUMMARY

Bill section 1 substitutes a generic description for a specific reference to the division of agriculture in AS 03.09.020(a). There is no statutorily created division of agriculture. Currently there is an administratively created division of agriculture within the Department of Natural Resources; however, that name could be changed

administratively. The generic reference will apply no matter what name is given to the division administratively.

Bill section 2 substitutes a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences" in AS 03.22.010. The University no longer has an institute called the "Institute of Agricultural Sciences." According to the office of the Dean of the School of Natural Resources and Agricultural Sciences, what was the Institute of Agricultural Sciences is now known as the Agricultural and Forestry Experiment Station.

Bill section 3 amends AS 03.22.020 by substituting a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences". See bill section 2.

Bill section 4 amends AS 03.22.040 by adding "and Forestry" to reflect the current name of the University of Alaska Agriculture and Forestry Experiment Station and makes the reference to the University generic for consistency with other references. See bill section 2.

Bill section 5 amends AS 03.22.050 by substituting a generic reference to "college or department of the University of Alaska responsible for the agricultural and forestry experiment station" for a specific reference to the "Institute of Agricultural Sciences". See bill section 2.

Bill section 6 substitutes a generic description for a specific reference to the division of agriculture in AS 03.47.040(2). See bill section 1.

Bill section 7 amends AS 08.36.246(a) to repeal subparagraph (B), which refers to "a specialty examination given by the Central Regional Examining Board" because there is no such exam given by that entity. The Chief Assistant Attorney General of the Legislation and Regulations section at the Attorney General's office is in accord with this change.

Bill section 8 inserts the word "acid" in AS 11.56.762 to reflect the full name of the system established in AS 44.41.035.

Bill section 9 corrects an apparent error by changing "adopted parent" to "adoptive parent" in AS 12.55.125(b). Although Alaska law provides a process for parents to adopt children, it does not provide for the adoption of parents by children.

Bill section 10 adds an "or" and changes "from" to "to" to improve the form and readability of AS 12.61.020(a).

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Bill section 11 deletes two commas to improve the form and readability of AS 12.61.020(c).

Bill section 12 deletes "is" and inserts "are" to create agreement between the two subjects and the verb in the first sentence of AS 12.62.160(a).

Bill section 13 changes "heirs" plural to the singular "heir" in AS 13.06.050(21) to match the singular tense used elsewhere in the paragraph. Under AS 01.10.050, words in the singular include the plural. In this instance, use of the singular throughout improves readability.

Bill section 14 amends AS 14.03.075(g)(2) to delete a reference to the definition of "individualized education program team" in AS 14.30.350, since that definition was repealed in 2001. This section replaces the reference with a description.

Bill section 15 changes the phrase "counting period" in AS 14.17.600 to "count period" to match the usage in AS 14.17.420(a)(2) and 14.17.990.

Bill section 16 amends AS 14.17.990(5) to reflect the repeal of 20 U.S.C. 7703(f)(2)(B), by inserting the word "former".

Bill section 17 deletes "by July 1, 1997," from AS 14.20.149(a), as the deadline has become obsolete.

Bill section 18 amends AS 14.35.025 by deleting a reference to the "United States Department of Health, Education, and Welfare," which no longer exists (it has been superseded by the Department of Health and Human Services and the Department of Education), and inserting a generic reference to "the appropriate federal agency."

Bill section 19 deletes the word "or" in one place in AS 14.40.826(a)(5), and adds commas and the word "have" in two places to improve the form and readability of the paragraph.

Bill section 20 amends AS 14.50.010 to indicate the repeal of 20 U.S.C. 401 - 602.

Bill section 21 amends AS 14.57.199 to substitute a generic description for a specific reference to the division of state libraries, archives, and museums. The division is not created in statute and could be renamed or reorganized administratively.

Bill section 22 deletes "two-thirds" and replaces it with "three-fourths" in AS 15.45.160 and adds a provision relating to the minimum number of signatures per district to conform this section to AS 15.45.140 and article XI, sec. 3, Constitution of the State of Alaska.

Bill section 23 deletes "two-thirds" and replaces it with "three-fourths" in AS 15.45.390 and adds a provision relating to the minimum number of signatures per district to conform this section to AS 15.45.370 and article XI, sec. 3, Constitution of the State of Alaska.

Bill section 24 makes a conforming change in AS 17.37.070(6) to reflect the removal of the definition of "treatment facility" in AS 47.14.990(12). The term "treatment facility" is not used anywhere in AS 47.14, so a definition of the term does not belong in AS 47.14.990. The term "treatment facility" is used in AS 47.12, and a definition of the term identical to that in AS 47.14.990 appears in AS 47.12.990. AS 17.37.070(6) refers to the definition of "treatment facility" in AS 47.14.990. Since that term and the other terms defined by reference are also defined in AS 47.12.990, and those definitions are identical to the ones found in AS 47.14.990, a reference to AS 47.12.990 is substituted for the original reference here to preserve the content of the definitions for purposes of this section despite the removal of the definition of "treatment facility" in bill section 73.

Bill section 25 deletes material applicable only before October 1, 2006 from AS 19.15.025(a).

Bill section 26 deletes material applicable only before October 1, 2006 from AS 19.15.025(b).

Bill section 27 deletes the word "care" and inserts "insurance" in AS 21.54.120(a) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

Bill section 28 deletes the word "care" and inserts "insurance" in AS 21.54.500(11) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

Bill section 29 deletes the word "care" and inserts "insurance" in AS 21.54.500(17) to accurately reflect the title of the federal Health Insurance Portability and Accountability Act of 1996.

Bill section 30 replaces a comma with the word "and" to improve the readability of AS 23.05.060(3).

Bill section 31 deletes "Alaska Workers' Compensation Board" in AS 23.05.067(a)(1)(B) and replaces it with "division of workers' compensation in the department." The reports referred to in AS 23.30.155(m) and (n) are made to the division.

Bill section 32 amends AS 23.20.175(c) to remove an obsolete date reference.

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Bill section 33 is a conforming amendment to AS 23.20.276(b) that reflects the repeal of AS 23.20.525(a)(4) and (5) and the renumbering of paragraphs in AS 23.20.525(a) in bill section 38.

Bill section 34 amends AS 23.20.277(c) to remove a paragraph that has become obsolete, as well as an obsolete date reference.

Bill section 35 is a conforming amendment to AS 23.20.278 that reflects the renumbering of paragraphs in AS 23.20.525(a) in bill section 38.

Bill section 36 corrects a citation in AS 23.20.401(b)(2) to reflect a 1982 renumbering of the referenced paragraph in the U.S.C.

Bill section 37 amends AS 23.20.408(h) to remove a reference to AS 23.20.408(g), since that subsection has not included the defined phrase since 1982.

Bill section 38 amends AS 23.20.525(a) to remove several obsolete date references, to repeal paragraphs (4) and (5) which have become obsolete, and to renumber the remaining paragraphs. Also makes a conforming change in AS 23.20.525(b).

Bill section 39 replaces the words "newsboys" and "salesman" in AS 23.20.526(a) to avoid use of gender specific terms; the phrase "service performed by an individual under the age of 18", used to replace "newsboys", is found in 26 U.S.C. 3306(c)(15)(A). Deletes a grammatically incorrect occurrence of the word "some". Inserts "United States" before "Secretary of Labor" and substitutes "that" for "which" to conform with current drafting style. Makes conforming changes required by the renumbering of paragraphs in AS 23.20.525(a) in bill section 38.

Bill section 40 makes conforming amendments in AS 23.20.526(d) required by the renumbering of paragraphs in AS 23.20.525(a) in bill section 38.

Bill section 41 removes obsolete date references in AS 23.20.530(b), and changes the word "tax" to "taxation". Also substitutes "that" for "which" and semi-colons for commas to conform to current drafting style.

Bill section 42 amends AS 24.05.135(c) to substitute a generic description for a specific reference to the division of state libraries, archives, and museums. The division is not created in statute and could be renamed or reorganized administratively.

Bill section 43 shortens the descriptive phrase "voter approval of alteration or abolishment of service areas" in AS 29.10.200(46) to "service areas" to reflect the scope of AS 29.35.450. Under AS 29.35.450(d), all of AS 29.35.450 applies to home rule municipalities, not just subsection (c), which deals with voter approval of alteration or abolishment of a service area. This corrects a drafting error.

The section amends a reference in AS 29.10.200(50) to reflect the 1992 renumbering of AS 29.45.570 as AS 29.45.800.

This section also amends AS 29.10.200(57) to remove "construction" and insert "revenue bonds" to reflect the actual content of AS 29.47.260 as noted in the current catchline. The original catchline for AS 29.47.260 was "construction" and that has been changed editorially to "Applicability of AS 37.10.085", but the text of the section, which relates to revenue bonds, has not been changed. AS 37.10.085 relates to financial aid to corporations by the state or a political subdivision of the state.

Bill section 44 adds language to AS 29.46.010(b) indicating that the subsection applies to home rule municipalities. The subsection already appears on the list in AS 29.10.200 of limitations on home rule powers. The change brings this section into conformity with other sections on the list, which include applicability in the text of the section listed.

Bill section 45 changes the word "section" in AS 29.46.030(a) to "subsection", since only subsection (a) of that section refers to findings.

Bill section 46 amends AS 29.60.860(b) to resolve a contradiction between the first and second sentences of the subsection. The agency has indicated that the revised wording is consistent with the agency's interpretation of the statute.

Bill section 47 deletes a reference to AS 12.55.185 in AS 33.16.090(c)(1) and replaces it with a reference to AS 12.55.127. The definition referred to in AS 12.55.185 simply directs the reader to the definition in AS 12.55.127, so the change enables the reader to refer to the relevant section directly.

Bill section 48 amends AS 33.30.015 by deleting "on and after August 17, 1999", a phrase setting a date after which the commissioner of corrections may not perform certain actions. Since the date is long past, the phrase is no longer needed.

Bill section 49 amends AS 38.07.030 to substitute a generic description for a specific reference to the division of agriculture, since that division is not created in statute and could be changed administratively. See bill section 1.

Bill section 50 amends AS 39.25.110(14) by adding the word "Alaska" before "Oil and Gas Conservation Commission", to conform to the statutory name of that commission created in AS 31.05.005.

Bill section 51 amends AS 41.10.100(b)(6) by substituting a generic description for a specific reference to the division of agriculture. See the full explanation at bill section 1.

Bill section 52 amends AS 44.41.035(b) by inserting "identification" in two places in order to make all references to the DNA identification registration system consistent.

Bill section 53 amends AS 44.41.035(l) by inserting the word "identification" in order to make all references to the DNA identification registration system consistent.

Bill section 54 amends AS 44.41.035(n) by inserting "identification" in order to make all references to the DNA identification registration system consistent.

Bill section 55 amends AS 44.41.035(p) by inserting "DNA" in order to make all references to the DNA identification registration system consistent.

Bill section 56 amends AS 45.07.309(a) to change "man" to "person" in order to avoid a gender specific reference, and "must" to "shall" since the subsection imposes a duty on a person.

Bill section 57 amends AS 45.10.220(6) to change the phrase "multiplied times" to "multiplied by" to conform to usage elsewhere in the Alaska Statutes.

Bill section 58, without changing the wording of the section, removes the subparagraph designators (A) and (B), making AS 45.14.403(a)(2) a unitary paragraph, rather than a paragraph with subparagraphs. This change is consistent with the Article 4A of the Uniform Commercial Code. It removes an inappropriate break following subparagraph (A) to clarify that the phrase "payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact" applies to the material in (A) as well as (B).

Bill section 59 corrects a reference in AS 45.29.313(b) to reflect the content of the corresponding sections of Article 9 of the Uniform Commercial Code (secured transactions).

Bill section 60 removes an extraneous "or" from AS 45.29.314(a).

Bill section 61 amends AS 45.50.471(b)(34) to remove AS 08.66.200 - 08.66.250 from a spanned reference, since those sections were repealed in 2002.

Bill section 62 updates a reference to federal law in AS 46.03.450(8). The section cites 49 U.S.C. 1671 et seq. and 49 U.S.C. 2001 et seq. Those sections have been combined, and recodified (without substantive change) at 49 U.S.C. 60101 et seq., so 49 U.S.C. 60101 et seq. is cited instead.

Bill section 63 removes an outdated date reference from AS 46.06.090(a).

Bill section 64 removes an outdated date reference from AS 46.06.090(b).

Bill section 65 removes a reference to AS 46.14.170(b) from AS 46.14.170(c); this is a conforming amendment required by the repeal of AS 46.14.170(b). See bill section 82.

Bill section 66 changes a reference in AS 46.14.300(c) from "15 U.S.C. 631" to "15 U.S.C. 632." AS 46.14.300(c) refers to the definition of a "small business concern." 15 U.S.C. 631 is the first section of the federal Small Business Act, but it is a purpose section and does not contain a definition of "small business concern." Criteria for identifying a "small business concern" are listed in 15 U.S.C. 632, and that section is referred to as the source of the definition elsewhere in federal law. *See* sec. 2, 105 P.L. 135 (Small Business Reauthorization Act of 1997) ("the term 'small business concern' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632)").

Bill section 67 changes a reference in AS 46.14.990(24) from "15 U.S.C. 631" to "15 U.S.C. 632." See bill section 66 for further explanation.

Bill section 68 updates a reference in AS 46.15.035(c)(2) from AS 16.05.870 to AS 16.05.871. AS 16.05.870 was repealed and renumbered as AS 41.14.870 by Executive Order No. 107, and that section was in turn repealed and renumbered as AS 16.05.871 in Executive Order No. 114. This section inserts the current cite.

Bill section 69 amends AS 46.15.165(c) by inserting the word "former" before a reference to 43 U.S.C. 270-1 and 270-2, to reflect the 1971 repeal of those sections. The reference is to land for which the patent, deed, or certificate was issued under those sections, so the reference should be retained.

Bill section 70 adds two words to AS 46.30.080 to correct a reference to the name of the advisory board created in AS 46.30.020, consistent with other references to the board in AS 46.30.

Bill section 71 amends AS 47.10.396 to remove the word "nonprofit" in two places to conform to amendments made by ch. 107, SLA 1998 to AS 47.10.392, 47.10.398, and 47.10.399, which now refer to corporations rather than nonprofit corporations.

Bill section 72 adds a subsection to AS 47.14.100 defining the term "adult family member" for purposes of that section. This change is related to the repeal of AS 47.14.295(1). The phrase "adult family member" is not used in AS 47.14.205 - 47.14.295, and has not been since those sections were enacted in 2005. However, the term is also used, without benefit of definition, in AS 47.14.100(e), (f), and (m). It appears that the placement of the definition in AS 47.14.295(1) instead of where it would apply to AS 47.14.100 was a drafting error in ch. 64, SLA 2005. This section relocates the definition to where it is needed. For the repeal of AS 47.14.295(1), see bill section 82.

Bill section 73 removes the term "treatment facility" from AS 47.14.990(12), because that term is not used in AS 47.14. See bill section 24.

Bill sections 74 and 75 amend AS 47.30.660(b) and AS 47.30.662(c) to substitute a generic description for specific references to the division of mental health and

developmental disabilities. The department no longer has a division with that name, and the former division's duties have been divided among other divisions.

Bill section 76 expands a citation in AS 47.30.772, enacted in 1984 and amended in 1992, to reflect the 2004 addition of AS 47.30.817 to the AS 47.30 article relating to patient rights.

Bill section 77 updates a spanned reference in AS 47.30.835(b), which now refers to "a determination of legal incapacity under AS 13.26.005 - 13.26.330." Since this section was enacted in 1981, AS 13.25.325 and .330, relating to powers of attorney and disability and incompetence, have been repealed. This bill section removes AS 13.25.325 and .330 from the scope of the spanned reference.

Bill section 78 changes the word "lead" in AS 47.30.838(b) to "led". Although the mistake appeared in the enacting law, the past tense is clearly more appropriate in this context.

Bill section 79 expands a citation in AS 47.30.855 to reflect the 2004 addition of AS 47.30.817 to the AS 47.30 list of patient rights.

Bill section 80 amends sec. 14, ch. 137, SLA 2002, which contains a delayed amendment to AS 16.43.970(b). The existing delayed amendment would sunset changes made to that section in 2002 effective December 30, 2013. An intervening amendment was made to AS 16.43.970(b) in sec. 16, ch. 42, 2006, adding the words "in the second degree" after "unsworn falsification" to conform to a change in AS 11.56.210 of the designation of that crime. The 2006 Act did not make a conforming change to the delayed amendment. This bill remedies that omission by adding the words "**in the second degree**" to the text of the delayed amendment scheduled to take effect in 2013. This will have the effect of retaining the intervening amendment. Note that the other changes indicated in the section, including deletion of "vessel interim-use permit, or vessel entry permit" are the changes made by the 2002 sunset provision. The only change being made in this bill is the addition of the words "**in the second degree**", which is a conforming amendment.

Bill section 81 amends sec. 12, ch. 50, SLA 2005 to remove the repeal of AS 14.25.070(b). AS 14.25.070(b) was enacted in 2005, and relettered as (c) that same year. AS 14.25.070 was repealed and reenacted July 1, 2008 by sec. 3, ch. 13, SLA 2008. This change corrects an oversight in sec. 3, ch. 13, SLA 2008. See bill section 83.

Bill section 82 repeals several sections.

- AS 08.36.246(a)(4)(B) appears to be obsolete since the Central Regional Examining Board does not offer a specialty examination.
- AS 31.05.080(b) was impliedly repealed by the enactment of AS 22.10.020(d), *Allen v. Alaska Oil and Gas Conservation Commission*, 147 P.3d 664, 667 - 668 (Alaska 2006); here, the repeal is made express.
- AS 44.88.180(b) was made obsolete by the 1982 amendment of AS 44.88.180(a),

and was removed from the statutes when the changes to AS 44.88.180(a) were made, but was not expressly repealed by ch. 113, SLA 1982.

- AS 46.14.170(b) provides for "a phased schedule for acting on operating permit applications submitted within 12 months following the date on which the federal administrator approves the state program under 42 U.S.C. 7661a(d)". The federal administrator gave the final interim approval of the state program in 1996. See 61 Federal Register 64463-64475 (December 5, 1996). Full approval of the operating permit program was effective November 30, 2001. See 66 Federal Register 63,184 (December 5, 2001). Since well more than 12 months have passed since the federal approval, this subsection has become obsolete.
- AS 46.14.990(13) defines the term "fugitive emissions", which is not found anywhere else in the Alaska statutes. The term was used in the definition of "potential to emit" in AS 46.14.990(21), until that definition was repealed and reenacted in sec. 57, ch. 46, SLA 2003.
- AS 47.14.295(1) defines the phrase "adult family member" for purposes of AS 47.14.205 - 47.14.295, where it is not used. See bill section 73.
- AS 47.14.990(11) defines the phrase "serious offense", which does not appear in the chapter to which AS 47.14.990 applies.
- AS 47.20.390(4) defines the term "health care insurer". That term does not appear elsewhere in AS 47.20.300 - 47.20.390, so the definition is superfluous.
- Secs. 33 and 34, ch. 122, SLA 1977, provide for the sunset of several changes to the state's unemployment compensation laws in case the federal law underlying those changes is held to be unconstitutional or is repealed. When these sections were enacted, in the spring of 1977, there was a live controversy about the constitutionality of 26 U.S.C. 3304(a)(6), as amended in 1976, which, among other things, required states to cover employees of the state and its political subdivisions in order to obtain federal certification of the state program and its concomitant tax and grant benefits. Other states challenged the constitutionality of the federal law, arguing that it constituted an impermissible infringement on state sovereignty under the Tenth Amendment to the federal constitution. In *New Hampshire Department of Employment Security v. Marshall*, 616 F.2d 240 (1st Cir. 1980), cert. denied 449 U.S. 806 (1980), the court held that the 1976 amendments to the federal unemployment tax act did not impair the sovereignty of New Hampshire. In *County of Los Angeles v. Marshall*, 631 F.2d 767, 769 (D.C. Cir. 1980), cert. denied 449 U.S. 837 (1980), the D.C. circuit adopted the first circuit's reasoning, holding that the "voluntary and wholly optional aspect" of the federal program defeated the argument that there was an "coercion and improper transgression upon the sovereignty of the state shielded by the *Tenth Amendment*." (emphasis in original) So, when the legislature enacted the changes necessitated by 26 U.S.C. 3304(a)(6) in 1977, there was an active controversy about whether the 1976 amendment to the federal act was constitutional. By the end of 1980, that controversy had been resolved in favor of the constitutionality of the federal statute, and the Supreme Court had declined to review the issue. However, the provisions of secs. 33 and 34, ch. 122, SLA 1977, providing for the return of several sections of the Alaska Statutes to their pre-1977 state, remains.

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The first paragraph of sec. 34's contingency language appears to be obsolete, given the resolution of the constitutional controversy. The second paragraph, calling for the sunset of the changes to the Alaska statutes in case 26 U.S.C. 3304(a)(6) is repealed, could conceivably take effect. However, it seems likely that this second paragraph was inserted in the contingency in case the federal government decided to repeal the offending section rather than litigating the issue to its conclusion--which is not what happened. It is not clear that the 1977 legislature meant for the changes to the Alaska statutes to be reversed if the federal statute were repealed for some other reason more than 30 years later. Arguably, then, the entire contingency provision has become obsolete. Sec. 33, ch. 122, SLA 1977, is repealed by this bill section. Because it relates to an effective date, sec. 34, ch. 122, SLA 1977, is repealed in a different bill section, bill section 85.

Bill section 83 is a delayed repeal of AS 14.25.070(e), which relies on AS 14.20.135, to reflect the delayed repeal of AS 14.20.135 under secs. 12 and 15, ch. 57, SLA 2001, as amended by sec. 6, ch. 15, SLA 2003, and by secs. 10 and 17, ch. 50, SLA 2005.

Bill section 84 conditions the effectiveness of bill section 83, repealing AS 14.25.070(e), on the repeal of AS 14.20.135.

Bill section 85 repeals sec. 34, ch. 122, SLA 1977, which is the effective date for sec. 33, ch. 122, SLA 1977. See bill section 82.

Bill section 86 provides an effective date for sec. 83.

Bill section 87 provides a special effective date for bill section 55, which amends AS 44.41.035(p), since that subsection will not take effect until July 1, 2009. The effective dates of the section and of the change made to the section in this bill should be the same.

Bill section 88 provides an immediate effective date for the bill, except sections 55 and 83.

Please give me a call if you have any questions about the above.

TEXT OF REPEALED PROVISIONS

AS 08.36.246(a)(4)(B):

(B) pass a specialty examination given by the Central Regional Examining Board;

AS 31.05.080(b):

(b) A person who has applied for reconsideration and is dissatisfied with the disposition of the application for reconsideration may appeal to the superior court. The questions reviewed on appeal are limited to the questions presented to the commission by the application for reconsideration.

AS 44.88.180(b):¹

(b) The state officer serves as a member from time to time and for all purposes of this chapter is a member for the purpose of voting on the resolution but after each vote the authority shall again consist of members referred to in AS 44.88.030 only, until one or more members may not again vote on a resolution because of the prohibition.

¹ AS 44.08.180(a) was amended by sec. 56, ch. 113, SLA 1982 as follows:

(a) A [NO] member of the authority may **not** vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if **the member** [HE] is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association **that** [WHICH] may be a party to the contract or lease. **A resolution of the authority that is approved by a majority of the members who are not barred from voting under this subsection is a valid action of the authority for all purposes.** [IF A PERSON MAY NOT VOTE BECAUSE OF THIS PROHIBITION, FOR ALL PURPOSES REGARDING ACTION OF THE AUTHORITY RELATING TO ADOPTION OF THE RESOLUTION, THE POSITION OF THE PERSON AS A MEMBER SHALL BE TRANSFERRED TO THE FIRST ONE OF THE FOLLOWING STATE OFFICERS WHO IS NOT THEN ACTING AS A MEMBER AND WOULD NOT BE PROHIBITED FROM VOTING ON THE RESOLUTION BECAUSE OF THE SAME PROHIBITION: COMMISSIONER OF ADMINISTRATION, ATTORNEY GENERAL, COMMISSIONER OF REVENUE, COMMISSIONER OF HEALTH AND WELFARE, COMMISSIONER OF LABOR, COMMISSIONER OF PUBLIC WORKS, COMMISSIONER OF PUBLIC SAFETY.]

AS 46.14.170(b):

(b) Notwithstanding (a) of this section, the department may establish a phased schedule for acting on operating permit applications submitted within 12 months following the date on which the federal administrator approves the state program under 42 U.S.C. 7661a(d). A phased schedule must ensure that at least one-third of the applications submitted during the first 12 months of the state's operation of its permit program after federal approval will be acted on by the department during each of the first three 12-month periods following federal approval of the program. The department shall give priority to the issuance of permits for new stationary sources and modifications of existing stationary sources.

AS 46.14.990(13):

(13) "fugitive emissions" has the meaning given in 40 C.F.R. 51.166(b);

AS 47.14.295(1):

(1) "adult family member" has the meaning given in AS 47.10.990;

AS 47.14.990(11):

(11) "serious offense" has the meaning given in AS 12.62.900;

AS 47.20.390(4):

(4) "health care insurer" means an entity regulated by the director of insurance, Department of Commerce, Community, and Economic Development, and includes a health, hospital, or medical service plan corporation, and a health maintenance organization;

Section 33, ch. 122, SLA 1977:

* **Sec. 33.** Sections 4, 5, 13, 15, 16, 21 and 22 of this Act, AS 23.20.525(a)(14) as enacted in sec. 18 of this Act, and the repeal of AS 23.20.526(a)(16) and (18) enacted in sec. 25 of this Act, are repealed and the language of AS 23.20.278, 23.20.325(a), 23.20.520(12), 23.20.525(a)(4), (5), and (14), 23.210.526(a)(16) and (18) and 23.20.526(d), as it existed before January 1, 1978, is revived.

Section 34, ch. 122, SLA 1977:

* **Sec. 34.** Section 33 of this Act takes effect upon the condition and at the time that:

Senator Hollis French

March 30, 2009

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(1) a decision of a federal court of competent jurisdiction, which decision is not subject to appeal or for which the time in which to appeal has run without and appeal having been taken, that the requirement of 26 U.S.C. 3304(a)(6) is unconstitutional becomes final; or

(2) Congressional repeal of 26 U.S.C. 3304(a)(6) takes effect in accordance with law.

KLK:ljw

09-195.ljw

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 152(JUD)
 (H) Publish Date: 3/23/09

Identifier (file name): HB152-LAW-CIV-3-11-09 Dept. Affected: LAW
 Title: 2009 REVISOR'S BILL RDU: CIVIL
 Sponsor: RULES BY REQUEST OF LEGISLATIVE COUNCIL Component: LEGISLATION & REGULATIONS
 Requester: JUDICIARY Component Number: 2209

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 152 makes important technical changes to the Alaska statutes to correct deficiencies, conflicts, or obsolete provisions. It is believed there will be no fiscal impacts on the Department of Law if HB 152 is enacted into law.

Prepared by: Robert Meiners, Deputy Director
 Division: Administrative Services Division
 Approved by: Richard Svobodny, Acting Attorney General
Department of Law

Phone 907.465.5427
 Date/Time 3/11/09 4:00 PM
 Date 3/11/2009