

**HB**

**176**

<TARGET><BILL>HB 176</BILL><SUBJECT>HB  
176</SUBJECT><COMM>HFIN29</COMM></TARGET>

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 1, 2015

FURTHER REFERRALS:

Date of Committee Action: 04.13.2015

The FINANCE Committee considered:

HB 176

**HOUSE BILL NO. 176**

"An Act eliminating geographic pay differentials for employees of the legislature; repealing state employee salary schedule increases; and providing for an effective date."

**HB 176-REPEAL STATE EMPLOYEE SALARY INCREASE**

Recommends it be replaced with  HCS or  CS for HB 176 (FIN)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

- List of Abbrev for Depts.:
- ADM
  - AJS
  - CED
  - COR
  - EED
  - DEC
  - DFG
  - GOV
  - DHS
  - LWF
  - LAW
  - LEG
  - MVA
  - DNR
  - DPS
  - REV
  - DOT
  - UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	AJS	X		
	GOV	X		
	LEG	X		

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Prof Wilson			X	
	Jammie Wilson			X	
	Gave		X		
	Gattis		X		
	Edgman			X	
	Munoz			✓	
	STODLER			X	
Chair:	THOMPSON	X			
Chair:	THOMPSON	✓			

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 176  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB176  
Title: REPEAL ST EMPL WAGE RAISE; LEGIS EMPL  
BENE  
Sponsor: FINANCE  
Requester: House Finance Committee

Department: Various (for Fiscal Notes only)  
Appropriation: Various  
Allocation: Court System  
OMB Component Number: 0

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>					
Personal Services	(2,212.0)	2,212.0					
Travel							
Services	(85.3)	85.3					
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>(2,297.3)</b>	<b>2,297.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	(2,189.3)	2,189.3					
1037 GF/MH	(108.0)	108.0					
<b>Total</b>	<b>(2,297.3)</b>	<b>2,297.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **No**  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

This version adds the funding information included in the FY16 Gov Request.

Prepared By: Doug Wooliver, Deputy Administrative Director  
Division: Alaska Court System  
Approved By: Judiciary  
Agency: Judiciary

Phone: (907)463-4750  
Date: 04/06/2015 05:00 PM  
Date: 04/06/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB176

**Analysis**

The 2.5% FY16 COLA reduction is included in the Senate version of HB72 for both covered and non-covered employees. This fiscal note needs to be modified if the Senate version of the operating bill (HB 72) is adopted. The conference committee on the operating budget will adjust the fiscal note as needed.

Division/Appropriation:

Trial Courts	(1,752.7)
Appellate Courts	(170.5)
Administration	<u>(242.4)</u>
Alaska Court System	(2,165.6)
Therapeutic Courts (GF/MH)	<u>(108.0)</u>
Total Alaska Court System	<u>(2,273.6)</u>
Alaska Judicial Council	(15.9)
Alaska Judicial Conduct	<u>(7.8)</u>
Total Judiciary	<u>(2,297.3)</u>

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 176  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB176-OOG-OMB-4-6-15  
Title: REPEAL ST EMPL WAGE RAISE;LEGIS EMPL  
BENE  
Sponsor: FINANCE  
Requester: House Finance

Department: Various (for Fiscal Notes only)  
Appropriation: Various  
Allocation: Executive Branch  
OMB Component Number: 0

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>					
Personal Services	(5,827.5)	5,827.5					
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>(5,827.5)</b>	<b>5,827.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1002 Fed Rcpts	(441.7)	441.7					
1003 G/F Match	(32.8)	32.8					
1004 Gen Fund	(2,398.5)	2,398.5					
1005 GF/Prgm	(27.0)	27.0					
1037 GF/MH	(70.1)	70.1					
1178 temp code	(2,857.4)	2,857.4					
<b>Total</b>	<b>(5,827.5)</b>	<b>5,827.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 (separate supplemental appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 (separate capital appropriation required)  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

Not applicable. Initial version.

Prepared By:	Arnold Liebelt, Policy Analyst	Phone:	(907)465-4676
Division:	Office of Management and Budget	Date:	04/06/2015 01:00 PM
Approved By:	Pat Pitney, Director	Date:	04/06/15
Agency:	Office of Management and Budget		

**Analysis**

This bill will do the following:

1. Exempts employees of the Alaska Legislature from receiving a geographic pay differential.
2. Repeals AS 39.27.011(f). This action will repeal the 2.5% Cost of Living Adjustment (COLA) that is scheduled to go into effect July 1, 2015 for classified and partially exempt employees in the executive branch that are not members of a collective bargaining unit.

The fiscal impact shown here only applies to the executive branch. It is based on the amount that is included in the FY 2016 Governor's budget for non-covered employees cost of living adjustment. This impact does not take into consideration the reduction in positions from the House and the Senate in HB 72. Thus the decrement shown here may be overstated based on the reduction of certain positions.

The 2.5% FY16 COLA reduction is included in the Senate version of HB72 for both covered and non-covered employees. This fiscal note needs to be modified if the Senate version of the operating bill (HB 72) is adopted. The conference committee on the operating budget will adjust the fiscal note as needed.

Fund Source 1178 (Temp Code) represents more than 50 other funding sources that together, add up to the \$2,857.4. The list of these funding sources is attached.

Scenario: FY2016 PS Base Rates &amp; COLA (11889)

Fund Code	Amount
1002 Federal Receipts (Federal)	441.7
1003 General Fund Match (UGF)	32.8
1004 General Fund Receipts (UGF)	2,398.5
1005 General Fund/Program Receipts (DGF)	27.0
1007 Interagency Receipts (Other)	767.3
1017 Benefits Systems Receipts (Other)	6.0
1018 Exxon Valdez Oil Spill Settlement (Other)	13.6
1024 Fish and Game Fund (Other)	1.1
1026 Highways/Equipment Working Capital Fund (Other)	2.0
1027 International Airport Revenue Fund (Other)	14.6
1029 Public Employees Retirement System Fund (Other)	9.4
1031 Second Injury Fund Reserve Account (DGF)	0.7
1032 Fishermen's Fund (DGF)	0.5
1034 Teachers Retirement System Fund (Other)	3.8
1036 Commercial Fishing Loan Fund (DGF)	2.2
1037 General Fund / Mental Health (UGF)	70.1
1040 Real Estate Surety Fund (DGF)	0.3
1045 National Guard & Naval Militia Retirement System (Other)	0.2
1046 Student Revolving Loan Fund (Other)	0.1
1050 Permanent Fund Dividend Fund (DGF)	3.5
1052 Oil/Hazardous Prevention/Response Fund (DGF)	5.0
1054 State Employment & Training Program (DGF)	2.2
1055 Interagency/Oil & Hazardous Waste (Other)	9.0
1061 Capital Improvement Project Receipts (Other)	191.3
1066 Public School Trust Fund (DGF)	0.7
1070 Fisheries Enhancement Revolving Loan Fund (DGF)	0.2
1076 Marine Highway System Fund (DGF)	16.6
1081 Information Services Fund (Other)	6.7
1092 Mental Health Trust Authority Authorized Receipts (Other)	58.7
1093 Clean Air Protection Fund (Other)	0.1
1094 Mental Health Trust Administration (Other)	50.0
1101 Alaska Aerospace Development Corporation Receipts (Other)	32.5
1102 Alaska Industrial Development & Export Authority Receipts (Other)	78.5
1103 Alaska Housing Finance Corporation Receipts (Other)	579.9
1104 Alaska Municipal Bond Bank Receipts (Other)	2.6
1105 Alaska Permanent Fund Corporation Receipts (Other)	188.1
1106 Alaska Student Loan Corporation Receipts (Other)	191.5
1108 Statutory Designated Program Receipts (Other)	129.9
1133 CSSD Administrative Cost Reimbursement (Federal)	10.1
1141 RCA Receipts (DGF)	62.4
1147 Public Building Fund (Other)	1.6
1151 Technical Vocational Education Program Account (DGF)	0.5
1156 Receipt Supported Services (DGF)	35.4
1157 Workers Safety and Compensation Administration Account (DGF)	13.9
1162 Alaska Oil & Gas Conservation Commission Rcpts (DGF)	104.6
1166 Commercial Passenger Vessel Environmental Compliance Fund (DGF)	0.5
1168 Tobacco Use Education and Cessation Fund (DGF)	3.0

Note: This report ignores included scenarios.

State of Alaska

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Office of Management and Budget

3-27-2015 12:43 pm

Scenario: FY2016 PS Base Rates &amp; COLA (11889)

Fund Code	Amount
1169 PCE Endowment Fund (DGF)	0.8
1172 Building Safety Account (DGF)	1.0
1200 Vehicle Rental Tax Receipts (DGF)	0.7
1201 Commercial Fisheries Entry Commission Receipts (DGF)	82.5
1205 Berth Fees for the Ocean Ranger Program (DGF)	0.4
1220 Crime Victim Compensation Fund (Other)	3.1
1229 AK Gasline Development Corporation In-state Pipeline Fund (Other)	127.8
1230 Alaska Clean Water Administrative Fund (Other)	0.2
1231 Alaska Drinking Water Administrative Fund (Other)	0.2
1232 In-state Pipeline Fund Interagency (Other)	7.4
1235 Alaska Liquefied Natural Gas Project Fund (AGDC-LNG) (Other)	32.5
	<u>5,827.5</u>

**Subcategory: Sal - UGF/DGF/Other/Fed Summary by Department Ignoring Included (1137)**  
**Non-covered**

Scenario: FY2016 PS Base Rates & COLA (11889)

Department	Unrestricted	Designated	Other	Federal	Total	PFT	PPT	Total NP Positions	
Department of Administration	504.1	108.2	99.4	2.7	714.4	0	0	0	0
Department of Commerce, Community, and Economic Development	24.4	96.5	495.3	1.2	617.4	0	0	0	0
Department of Corrections	77.7	0.0	0.0	0.0	77.7	0	0	0	0
Department of Education and Early Development	49.5	0.0	209.6	29.7	288.8	0	0	0	0
Department of Environmental Conservation	23.6	5.9	1.6	8.7	39.8	0	0	0	0
Department of Fish and Game	55.3	82.5	23.8	6.2	167.8	0	0	0	0
Office of the Governor	388.9	0.0	4.9	1.9	395.7	0	0	0	0
Department of Health and Social Services	127.5	3.8	135.4	58.0	324.7	0	0	0	0
Department of Labor and Workforce Development	34.5	18.8	23.1	10.7	87.1	0	0	0	0
Department of Law	667.7	18.6	306.5	2.7	995.5	0	0	0	0
Department of Military and Veterans Affairs	135.4	0.0	33.7	7.9	177.0	0	0	0	0
Department of Natural Resources	233.4	3.6	148.6	1.0	386.6	0	0	0	0
Department of Public Safety	39.9	4.5	2.1	1.1	47.6	0	0	0	0
Department of Revenue	96.6	5.0	916.9	320.0	1,338.5	0	0	0	0
Department of Transportation/Public Facilities	42.9	17.2	108.8	0.0	168.9	0	0	0	0
<b>Total:</b>	<b>2,501.4</b>	<b>364.6</b>	<b>2,509.7</b>	<b>451.8</b>	<b>5,827.5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 176  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB176-LEG-LEG-04-06-15  
Title: REPEAL ST EMPL WAGE RAISE;LEGIS EMPL  
BENE  
Sponsor: FINANCE  
Requester: House Finance

Department: Various (for Fiscal Notes only)  
Appropriation: Various  
Allocation: Legislative Branch  
OMB Component Number: 0

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>OPERATING EXPENDITURES</b>	<b>FY 2016</b>	<b>FY 2016</b>					
Personal Services	(1,171.3)	1,171.3					
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>(1,171.3)</b>	<b>1,171.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

1004 Gen Fund	(1,171.3)	1,171.3					
<b>Total</b>	<b>(1,171.3)</b>	<b>1,171.3</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial Version

Prepared By: Skiff Lobaugh, Human Resources Manager  
Division: Legislative Affairs Agency  
Approved By: Pamela Varni, Executive Director  
Agency: Legislative Affairs Agency

Phone: (907)465-6626  
Date: 04/06/2015 04:16 PM  
Date: 04/06/2015

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB 176

Analysis

The 2.5% FY16 COLA reduction is included in the Senate version of HB72 for both covered and non-covered employees. This fiscal note needs to be modified if the Senate version of the operating bill (HB 72) is adopted. The conference committee on the operating budget will adjust the fiscal note as needed.

The elimination of the 2.5% cost of living adjustment set for 7/1/2015 will total \$1,171.3 for FY16. Broken down as follows:

	2.5% COLA
<b>Budget &amp; Audit Committee RDU</b>	
Audit Division	\$122.8
Finance Division	\$156.3
Committee Expenses	\$ 10.5
Total for RDU	\$289.6
<b>Legislative Council RDU</b>	
Salaries and Allowances	\$ 0.0
Administrative Services	\$234.9
Council & Subcommittees	\$ 20.3
Legal & Research Services	\$108.4
Ethics Committee	\$ 4.7
Office of Victims' Rights	\$ 21.3
Office of the Ombudsman	\$ 26.7
Total for RDU	\$416.3
<b>Legislative Operating Budget RDU</b>	
Legislative Operating Budget	\$294.4
Session Expenses	\$171.0
Total for RDU	\$465.4
Total for Legislative Branch	\$1,171.3

# 2015 HOUSE FINANCE COMMITTEE VOTE SHEET

PASSES

DATE: 4.13.15

Amendment: HB 176

MEMBER

Favor

Oppose

REP. GATTIS	✓	
REP. GUTTENBERG		✓
REP. KAWASAKI	NOT PRESENT	
REP. MUNOZ		✓
REP. PRUITT	✓	
REP. SADDLER	✓	
REP. WILSON	✓	
REP. EDGMON		✓
REP. GARA		✓
REP. NEUMAN	✓	
REP. THOMPSON	✓	

YEA 6
NAY 4

*Adopted  
4/10/15*

29-LS0796E  
Wayne  
4/2/15

**CS FOR HOUSE BILL NO. 176( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act repealing state employee salary schedule increases; and providing for an**  
2 **effective date."**

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

4 **\* Section 1.** AS 39.27.011(f) is repealed.

5 **\* Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Mark Neuman  
Co-Chairman  
(907) 465-2679  
Rep.Mark.Neuman@akleg.gov

Alaska State Capitol Building, Rm 505



Representative Steve Thompson  
Co-Chairman  
(907) 465-3004  
Rep.Steve.Thompson@akleg.gov

Alaska State Capitol Building, Rm 511

## Sponsor Statement HB 176

"An Act eliminating geographic pay differentials for employees of the legislature; repealing state employee salary schedule increases; and providing for an effective date."

As we have discussed, the State of Alaska is currently faced with a \$3.5 billion shortfall in revenue for the Fiscal Year 2016. House Bill 176 will allow the state some control; over the rising costs of payroll, as we find a sustainable fiscal path.

The Legislature has minimal control over salaries. Negotiated increases for state employees added about \$150 million dollars annually beginning in FY 05. HB 176 eliminates the Cost of Living Adjustment (COLA) of 2.5% that was scheduled to go into effect on July 1, 2015 for unclassified state employees.

The estimated savings to the state is approximately \$9, 296,100 annually for all branches of government.

# 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

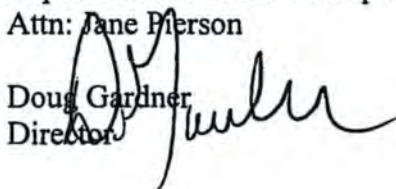
## MEMORANDUM

April 2, 2015

**SUBJECT:** Partial Repeal of Geographic Salary Differential  
(Work Order No. 29-LS0796H)

**TO:** Representative Steve Thompson  
Attn: Jane Pierson

**FROM:** Doug Gardner  
Director



As legal director I have reviewed Work Order No. 29-LS0796H to evaluate whether passage of the bill, and implementation of it, may expose the Legislative Affairs Agency (LAA) to liability in a potential lawsuit brought by legislative employees based on a claim that the bill violates the equal protection clause and the merit system clause of the Constitution of the State of Alaska. If the bill's provision eliminating geographic salary differentials for legislative employees is adopted and is implemented it will result in legislative employees in various geographic districts making much less money than similarly-situated non-union state employees that work in the same geographic district. As an example, an LIO employee that works in Unalaska and currently receive a 60 percent geographic salary differential, will receive a 60% pay cut if the bill passes while another non-union state employee working in the same community, perhaps in the office next door, would not. It is my advice that litigation is very probable if this bill passes, which may result in costly litigation and a damage award for back-pay and interest on lost wages.

### EQUAL PROTECTION

AS 39.27.020, the current statute under which certain non-union employees in the executive and legislative branches receive a geographic salary differential, was adopted by the legislature, based in part on a study conducted under AS 39.27.030, because the legislature determined it was a desirable policy.<sup>1</sup> Sections 1 and 2 of the bill would eliminate the geographic differential for legislative employees and allow the non-union employees in the executive branch to continue receiving it. Permitting some non-union employees to receive the salary differential while denying it to others, for reasons other

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<sup>1</sup> Magistrates and district court judges are also entitled to a geographic cost-of-living adjustment, under AS 22.15.220, depending on the location of their primary office.

than geographic location, may violate the constitutional equal protection clauses of the state and federal constitutions.

In *Malabed v. North Slope Borough*, 70 P.3d 416, 420 - 421 (Alaska 2003), the Court summarized the equal protection test as follows:

[T]he Alaska Constitution's equal protection clause affords greater protection to individual rights than the United States Constitution's Fourteenth Amendment. To implement Alaska's more stringent equal protection standard, we have adopted a three-step, sliding-scale test that places a progressively greater or lesser burden on the state, depending on the importance of the individual right affected by the disputed classification and the nature of the governmental interests at stake: first, we determine the weight of the individual interest impaired by the classification; second, we examine the importance of the purposes underlying the government's action; and third, we evaluate the means employed to further those goals to determine the closeness of the means-to-end fit. An appropriation that cannot be justified under this minimum standard would likely violate the equal protection clause of the Alaska Constitution.

As the importance of the individual rights affected increases, so does the burden on the state to show that the state's goal justifies the intrusion on the individual's interests in equal treatment and that the state's goal is rationally related to the means chosen to achieve the goal.

An individual's interest in receiving the geographic salary differential may be accorded a low level of protection under the state equal protection clause, because only an economic interest is implicated<sup>2</sup>. Generally, saving money would qualify as a legitimate state purpose, but the means of accomplishing that purpose is important to the outcome of an equal protection challenge. A court could decide that the state's reason for applying the geographic salary differential in one way to some employees and another way to other employees who are *similarly situated* it is not sufficient if there are more reasonable ways to accomplish the purpose of the bill. The salary differential itself appears to be based only on geography and not on a difference between the two branches of government. If the LAA is sued, and the claimant argues that two similarly situated employees doing essentially the same work are being treated differently, it is my opinion that it will be very difficult to defend such a suit and argue that the state had a rational basis for creating such a disparity in pay.

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<sup>2</sup> See *Underwood v. State*, 881 P.2d 322 (Alaska 1994).

Representative Steve Thompson

April 2, 2015

Page 3

## MERIT SYSTEM

Article 12, sec. 6 of the Constitution of the State of Alaska says "The legislature shall establish a system under which the merit principle will govern the employment of persons by the State." A geographic salary differential gives a salary bump to some non-union employees and not to others, based on geography. This does not violate the merit system requirement because the two groups of non-union employees affected by this, although similarly situated in other ways, live and work in two types of geographic regions; one type has a higher cost-of-living than the other type. The state has determined as a matter of policy and statute that in order to maintain the state workforce it desires to have it needs to pay higher salaries in regions with a higher cost of living. However, the bill would result in certain non-union state employees being paid more than similarly situated non-union state employees for reasons other than geography; if those reasons are not related to merit then a court may find that the geographic salary differential payments, or the failure to make the payments to similarly situated legislative employees, violate the constitutional merit system protection.

Under either of these two constitutional analyses, a court may decide that the state could satisfy its need to reduce its geographic salary differential expenditures in other ways that would not create two classes of similarly situated non-union state employees: for example, the state could reduce or eliminate geographic salary differentials for all similarly situated employees, without regard for which agency they work for.

In conclusion, I note that if a single plaintiff is successful under either of the theories discussed in this memorandum, the likely result is that the Agency will have to re-pay, with interest, the "geo-diff" for all Agency employees that receive the "geo-diff."

If I can be of further assistance, please advise.

DDG:dla  
15-250.dla

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**From:** Jackie Kephart <jjkephart11@gmail.com>  
**Sent:** Saturday, April 04, 2015 12:16 AM  
**To:** Rep. Steve Thompson  
**Subject:** HB176

Dear Representative Thompson,

I am writing to ask that you please vote “no” on House Bill 176 that repeals the contract-negotiated state employee cost of living raise of 2.5% effective July 1, 2015.

I have worked for the state since 1990 with the Department of Fish & Game. In those 25 years, our wages have never come close to catching up with the rise in inflation over the same time period. Our current 3-year contract was negotiated with the state in good faith and approved by many of you in the legislature to include raises of 1%-1%-2.5%.

I do understand the budget situation is not good because of falling oil prices. However even back in 1986 when the price of oil sank to a low of \$8 per barrel, the legislature did not renege on the state employee contract-negotiated pay raises that were in effect at the time of the crash. I ask that you also not renege on the pay raises in our existing contract especially since the state is giving away tax credits to oil companies that are \$400 million dollars more than the state brings in from taxes on these same oil companies.

Thank you for taking the time to read this, and I hope you will cast a “no” vote on HB176.

Sincerely,

Jackie Kephart

Fairbanks, Alaska

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**From:** DEAN DAWSON <tmkdawson@gci.net>  
**Sent:** Saturday, April 04, 2015 7:51 PM  
**To:** Rep. Steve Thompson  
**Subject:** FUNDING STATE EMPLOYEE COLA's

Dear Honourable Representative Thompson:

I urge you to fund the 2.5% state employee cost of living allowance that was previously bargained for in good faith. In my opinion it is just fine if more layoffs are required due to this course of action. Why?

The state of Alaska, like any big corporation of over 15K employees, has a significant amount of non-productive employees who are literal deadbeats. Unfortunately, the lack of an ebb/flow of the business cycle, along with employee protections, has made it virtually impossible to purge these individuals from the system after they become permanent employees. Laying off some of these PCN's will remove some of this deadwood.

Further, it is difficult to attract qualified staff for many technical positions due to the erosion of employee wages caused by inflation. Funding a reasonable 2.5% COLA for state employees will assist in hiring competent staff and is simply the right thing to do.

Thank you very much for your dedication and considering this request.

Sincerely,

Dean Dawson

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**From:** Jay <jaympearson@gmail.com>  
**Sent:** Thursday, April 09, 2015 4:44 AM  
**To:** Rep. Les Gara; Rep. Steve Thompson; Rep. Mark Neuman  
**Subject:** HB 176 and Broken Contracts

Hello Mr. Representative,

My name is James Pearson and currently work with the State as Second Mate on the ferry Tustumena.

It is disheartening to hear that once again our labor unions are being the target of poor planning and decisioning making in Juneau. A contract is a contract and both sides ( the DOA and the MMP) spent many hours and lots of money to come up with a deal. Thousands more were wasted on arbitration.

Time to start acting like leaders. A good leader is honest, a good leader listens, and a good leader shows empathy. If this House passes HB 176 with my contracted pay raises cut, we will truly know that our government cannot be trusted and that in fact, none of you are good leaders.

Thank you kindly,

James Pearson  
Second Mate Tustumena  
Masters Mates and Pilots

April 9, 2015

TO: Representative Steve Thompson,

This is regards to HB 176 – amended to eliminate pay increases for state employees

I am a SOA employee that works for the AMHS and a 14 year member of the IBU.

We bargained in with good faith through a long and hard contract negotiation with the State of Alaska.

The State of Alaska needs be accountable for these agreements and contacts with our union and all other state employee unions and not back out of them.

Please consider honoring the word of the State of Alaska by not eliminating these agreed to pay raises.

Thank You-

Beret Barnes  
PO Box 502  
Tenakee Springs, AK 99841  
907 736-2226