

SB

43

<TARGET><BILL>SB 43</BILL><SUBJECT>SB
43</SUBJECT><COMM>SCRA29</COMM></TARGET>

Senate Majority Leader

Alaska State Legislature

Joint Armed Services Committee

Co-Chairman

Judiciary Committee

Vice-Chairman

Resources Committee

State Affairs Committee

Legislative Council

Rules Committee




Senator John Coghill

Session Address:
State Capitol, Room 119
Juneau, AK 99801-1182
(907) 465-3719
Fax (907-465-3258

Interim Address:
1292 Sadler Way, Suite 340
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TO: Senator Click Bishop, Chair
Senate Community and Regional Affairs Committee

FROM: Senator John Coghill, Majority Leader 

DATE: February 12, 2015

SUBJECT: Request to Hear SB 43

I respectfully request a hearing for Senate Bill 43, "Immunity for Fire Dept. & Members," at your convenience.

Attached to this memorandum:

- Current version of the bill
- Sponsor Statement
- Supporting documents

If you have any questions, please contact me or my staff Jordan Shilling at 465-5834.

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SPONSOR STATEMENT **Immunity for Fire Dept. & Members** **Version W**

Senate Bill 43 extends protections to certain types of fire departments.

Under current law, municipal fire departments receive immunity from liability. However, some fire departments, such as those in Fairbanks, Chugiak, and Girdwood, operate as volunteer-based non-profits that contract with local governments to provide services. These types of fire departments aren't protected in statute (AS 09.65.070(c)).

Because the current statute does not protect them from liability, these fire departments, local governments, and ultimately taxpayers, are vulnerable.

Liability protections should not be exclusive to fire departments operated by municipalities and should be extended to include all fire departments that have a contractual relationship with local governments.

From: Dave Nebert
Sent: Wednesday, February 25, 2015 3:56 PM
To:
Subject: Support for SB43 & HB104

Interior Legislators,

I've been a fire commissioner for the Steese Volunteer Fire Department for over twenty years and urge you to support SB43 and HB104. These bills provide the legal protection needed for emergency responders in the FNSB as well as for the rest of Alaska. It's something that we have needed for years as it will protect private non-profit fire departments and their respective fire service area residents from unnecessary liability by reducing their liability. Please support and encourage other legislators to support these important bills.

Thanks for the work you do!

Dave Nebert, Chair

Steese Fire Service Area Commission

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 43
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB043-DPS-FLS-02-16-15
Title: IMMUNITY FOR FIRE DEPT. & MEMBERS
Sponsor: COGHILL
Requester: (S) Community & Regional Affairs

Department: Department of Public Safety
Appropriation: Fire and Life Safety
Allocation: Fire and Life Safety
OMB Component Number: 2883

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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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:

Not applicable, initial version.

Prepared By: Kelly Howell, Director
Division: Administrative Services
Approved By: Gary Folger, Commissioner
Agency: Public Safety

Phone: (907)465-4336
Date: 02/16/2015 03:00 PM
Date: 02/16/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 43

Analysis

This bill repeals and reenacts AS 09.65.070(c) relating to suits against incorporated units of local government; specifically as they relate to immunity for a fire department and employees or members of a fire department. The bill also adds a definition of "fire department" for purposes of this subsection.

This bill would have no fiscal impact on the Department of Public Safety's Division of Fire and Life Safety.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 43
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB043-DOT-IASO-2-16-15
Title: IMMUNITY FOR FIRE DEPT. & MEMBERS
Sponsor: COGHILL
Requester: (S) Community & Regional Affairs

Department: Department of Transportation and Public Facilities
Appropriation: International Airports
Allocation: International Airport Systems Office
OMB Component Number: 1649

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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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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: Mary Siroky, Director
Division: Administrative Services Division
Approved By: Mary Siroky, Director
Agency: Administrative Services Division

Phone: (907)465-8974
Date: 02/16/2015 04:45 PM
Date: 02/16/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 43

Analysis

DOT&PF's Airport Police & Fire Officer (APFO) units (at Anchorage Intl and Fairbanks Intl only) are registered fire departments under the state, with liability coverage. Additionally, our rural aircraft rescue and firefighting (ARFF) personnel are Maintenance & Operations folks trained in firefighting skills and, to the best of our knowledge, have mutual aid agreements with every community in which they are located, i.e., in the certificated Part 139 airports – the hubs. They do respond to local situations, as they are on the state time clock to ensure continued state coverage for those situations. **However**, those personnel are NOT registered fire departments like the international airports are.

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SUMMARY OF CHANGES **Immunity for Fire Dept. & Members**

(S)CRA

From version W to H

Section 1: An exception to the immunity was made for intentional acts of misconduct or gross negligence.

Section 2: "Notwithstanding (c) of this section" was added to ensure that subsection C does not inadvertently limit the immunities provided in subsection D.

29-LS0325VH
Shutts
3/2/15

CS FOR SENATE BILL NO. 43(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS COGHILL, Stoltze, Egan

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to immunity for a fire department and employees or members of a fire**
2 **department."**

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

4 *** Section 1.** AS 09.65.070(c) is repealed and reenacted to read:

5 (c) An action for tort or breach of a contractual duty based on the act or
6 omission of an employee or member of a fire department in the execution of a function
7 for which the department is established may not be maintained against an employee or
8 member of a fire department. An action for tort or breach of a contractual duty based
9 on the act or omission of an employee or member of a fire department in the execution
10 of a function for which the department is established may not be maintained against a
11 fire department unless the action alleges intentional misconduct or gross negligence.

12 In this subsection, "fire department" means a fire department that is

- 13 (1) operated and maintained by a municipality or village; or
- 14 (2) registered with the state fire marshal that provides services under

1 contract or agreement with a municipality or village.

2 * **Sec. 2.** AS 09.65.070(d) is amended to read:

3 (d) Notwithstanding (c) of this section, an [AN] action for damages may not
4 be brought against a municipality or any of its agents, officers, or employees if the
5 claim

6 (1) is based on a failure of the municipality, or its agents, officers, or
7 employees, when the municipality is neither owner nor lessee of the property
8 involved,

9 (A) to inspect property for a violation of any statute, regulation,
10 or ordinance, or a hazard to health or safety;

11 (B) to discover a violation of any statute, regulation, or
12 ordinance, or a hazard to health or safety if an inspection of property is made;
13 or

14 (C) to abate a violation of any statute, regulation, or ordinance,
15 or a hazard to health or safety discovered on property inspected;

16 (2) is based upon the exercise or performance or the failure to exercise
17 or perform a discretionary function or duty by a municipality or its agents, officers, or
18 employees, whether or not the discretion involved is abused;

19 (3) is based upon the grant, issuance, refusal, suspension, delay, or
20 denial of a license, permit, appeal, approval, exception, variance, or other entitlement,
21 or a rezoning;

22 (4) is based on the exercise or performance during the course of
23 gratuitous extension of municipal services on an extraterritorial basis;

24 (5) is based upon the exercise or performance of a duty or function
25 upon the request of, or by the terms of an agreement or contract with, the state to meet
26 emergency public safety requirements; or

27 (6) is based on the exercise or performance of a duty in connection
28 with an enhanced 911 emergency system and is not based on an intentional act of
29 misconduct or on an act of gross negligence.