

LEG. FINANCE - BILLS 1983 - 1984 1948

HB 579 - HB 588

1948

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

HRS 579

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: CSHB 579 (HRS)
Title: "An Act relating to TRS"

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: TRS Match

Sponsor: Furnace
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts						
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		17.5	18.9	20.4	22.0	23.8
TOTAL OPERATING		17.5	18.9	20.4	22.0	23.8

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Fund		17.5	18.9	20.4	22.0	23.8
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared by: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 4-27-84

Approved by Commissioner: Lisa Rudd Date: 4/30/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CS House Bill 579 (HESS)
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

April 27, 1984

IV Analysis: Passage of this bill will allow Junior Reserve Officer Training Corps instructors to participate in the Teachers' Retirement System (TRS) if they are individually certificated and supervise students for five or more hours a day.

Currently there are nine positions covered by the Public Employees' Retirement System (PERS) that we estimate would qualify under this bill. Those positions are currently with the Anchorage School District, which would experience an increase in cost equal to the state match.

<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
17.5	18.9	20.4	22.0	23.8

The present value of this benefit is \$80,000. This bill would have no perceptible effect on the funding ratio.

Offered: 3/16/84
Referred: Finance

Original sponsor: Furnace

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 579 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to Junior Reserve Officer Training
Corps instructors."

7

8

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

9

* Section 1. AS 14.20.207(1) is amended to read:

10

(1) "teacher" means a person serving in a teaching, coun-

11

seling, or administrative capacity and required to be certificated in

12

order to hold the position; or a Junior Reserve Officer Training Corps

13

instructor who is responsible for student supervision and instruction,

14

has direct student contact for five or more hours a day, and is certi-

15

ficated;

16

* Sec. 2. AS 14.25.220(38) is amended to read:

17

(38) "teacher or member" means a person eligible to partici-

18

pate in the system and who is covered by the system, including:

19

(A) a certificated full-time or part-time elementary

20

or secondary teacher, a certificated school nurse, a Junior

21

Reserve Officer Training Corps instructor who is responsible for

22

student supervision and instruction, has direct student contact

23

for five or more hours a day, and is certificated, or a certifi-

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cated person in a position requiring a teaching certificate as a

25

condition of employment in a public school of the state;

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(B) the commissioner of education and all supervisory

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positions in the Department of Education;

28

(C) a full-time or part-time teacher of the University

29

of Alaska or a person occupying a full-time administrative

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2616

REPRESENTATIVE WALT FURNACE

April 5, 1984

TO: House Finance Committee
FROM: Representative Walt Furnace
SUBJECT: House Bill 579

The purpose of this legislation is to correct an inequity existing in the Anchorage School District. Presently, all JROTC instructors, regardless of educational attainment and the certification that reflects that attainment, are paid at a level lower than their teacher colleagues. They are paid at 90 percent of the salary level of their teacher counterparts.

The bill grants teacher status to only certificated instructors that are charged with the direct supervision and instruction of students and have direct student contact for five or more hours a day.

This legislation gives qualified JROTC instructors professional recognition as teachers and allows them to participate in the teachers retirement system.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Offered: 3/16/84
Referred: Finance

Original sponsor: Furnace

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 579 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

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Reserve Officer Training Corps instructor who is responsible for

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cated person in a position requiring a teaching certificate as a

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condition of employment in a public school of the state;

26

(B) the commissioner of education and all supervisory

27

positions in the Department of Education;

28

(C) a full-time or part-time teacher of the University

29

of Alaska or a person occupying a full-time administrative

1 position at the University of Alaska which requires academic
2 standing; the approval of the administrator must be obtained
3 before an administrative position qualifies for membership in the
4 system;

5 (D) a state legislator who elects membership under
6 AS 14.25.040(b);

STATE OF ALASKA

CHAIRMAN,
HOUSE LABOR AND
COMMERCE



POUCH V
JUNEAU, ALASKA 99811
(907) 485-3882

P.O. BOX 1542
ANCHORAGE, ALASKA 99510
(907) 333-2818

REPRESENTATIVE WALT FURNACE

April 3, 1984

TO: House Finance Committee
FROM: Representative Walt Furnace
SUBJECT: House Bill 579

The purpose of this legislation is to correct an inequity existing in the Anchorage School District. Presently, all JROTC instructors, regardless of educational attainment and the certification that reflects that attainment, are paid at a level lower than their teacher colleagues. They are paid at 90 percent of the salary level of their teacher counterparts.

The bill grants teacher status to only certificated instructors that are charged with the direct supervision and instruction of students and have direct student contact for five or more hours a day.

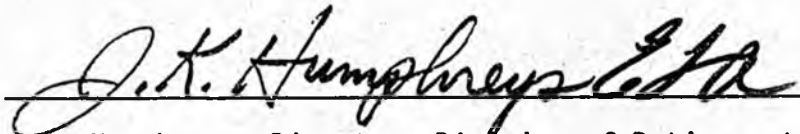
This legislation gives qualified JROTC instructors professional recognition as teachers and allows them to participate in the teachers retirement system.

Position Paper

CSHB 579 (HESS)

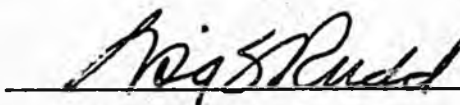
Passage of this bill would allow Junior Reserve Officer Training Corps Instructors to participate in the Teachers' Retirement System (TRS) if they are responsible for student supervision and instruction and have direct contact with students for five hours or more each day and if they are certificated.

The Department opposes this bill. To open participation in the Teachers' Retirement System to certain individuals who happen to be certificated but for whom certification is not a condition of employment does not appear to serve any public purpose. There are undoubtedly other employees in the Public Employees' Retirement System who happen to possess a certificate and would have reason to pursue coverage under the TRS. These persons would automatically be covered in the TRS under current law if a certificate were required.



J.K. Humphreys, Director, Division of Retirement & Benefits

4/27/84
Date



Lisa Rudd, Commissioner, Department of Administration

4/30/84
Date

Offered: 3/16/84
Referred: Finance

Original sponsor: Furnace

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 579 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to Junior Reserve Officer Training
Corps instructors."

7

8

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

9

* Section 1. AS 14.20.207(1) is amended to read:

10

(1) "teacher" means a person serving in a teaching, counseling, or administrative capacity and required to be certificated in order to hold the position; or a Junior Reserve Officer Training Corps instructor who is responsible for student supervision and instruction, has direct student contact for five or more hours a day, and is certificated;

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16

* Sec. 2. AS 14.25.220(38) is amended to read:

17

(38) "teacher or member" means a person eligible to participate in the system and who is covered by the system, including:

18

19

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, a Junior Reserve Officer Training Corps instructor who is responsible for student supervision and instruction, has direct student contact for five or more hours a day, and is certificated, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state;

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26

(B) the commissioner of education and all supervisory positions in the Department of Education;

27

28

(C) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative

29

1 position at the University of Alaska which requires academic
2 standing; the approval of the administrator must be obtained
3 before an administrative position qualifies for membership in the
4 system;

5 (D) a state legislator who elects membership under
6 AS 14.25.040(b);

Introduced: 2/6/84
Referred: Health, Education &
Social Services

1 IN THE HOUSE

BY FURNACE

2 HOUSE BILL NO. 579

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Junior Reserve Officer Training
7 Corps instructors."

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

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11 seling, or administrative capacity and required to be certificated in
12 order to hold the position; or a Junior Reserve Officer Training Corps
13 instructor who is responsible for student supervision, has direct
14 student contact for five or more hours a day, and is certificated;

15 * Sec. 2. AS 14.25.220(38) is amended to read:

16 (38) "teacher or member" means a person eligible to partici-
17 pate in the system and who is covered by the system, including:

18 (A) a certificated full-time or part-time elementary
19 or secondary teacher, a certificated school nurse, a Junior
20 Reserve Officer Training Corps instructor who is responsible for
21 student supervision, has direct student contact for five or more
22 hours a day, and is certificated, or a certificated person in a
23 position requiring a teaching certificate as a condition of
24 employment in a public school of the state;

25 (B) the commissioner of education and all supervisory
26 positions in the Department of Education;

27 (C) a full-time or part-time teacher of the University
28 of Alaska or a person occupying a full-time administrative posi-
29 tion at the University of Alaska which requires academic

1 standing; the approval of the administrator must be obtained
2 before an administrative position qualifies for membership in the
3 system;

4 (D) a state legislator who elects membership under
5 AS 14.25.040(b);

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

2/27/84

Date: 3-6-84

The Committee on finan ^{FINANCE} financ has had HB 586

"An Act relating to benefits for elected officials under the public employees' retirement system; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note 47.0
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

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MEMBERS HAVING
OTHER RECOMMENDATIONS:

...

...

CHAIRMAN

Introduced: 2/8/84
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY ZHAROFF

2

HOUSE BILL NO. 586

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to benefits for elected officials
under the public employees' retirement system; and
providing for an effective date."

7

8

9

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

10

* Section 1. AS 39.35.125(b) is amended to read:

11

(b) Service as an elected official before January 1, 1981, with

12

an employer may be included retroactively as credited service with the

13

system if the elected official or former elected official makes retro-

14

active contributions equal to what would have been made if the elected

15

official or former elected official had been included in the system

16

when the oath of office as an elected official was taken, plus accrued

17

interest from July 1, 1984. The rate used to calculate the retroac-

18

tive contributions may not be less than the rate in effect on Jan-

19

uary 1, 1961. [AN ELECTED OFFICIAL OR FORMER ELECTED OFFICIAL MUST

20

CLAIM PRIOR SERVICE AND MAKE RETROACTIVE CONTRIBUTIONS BEFORE FEB-

21

RUARY 1, 1983]. An elected official or former elected official may

22

not receive credited service under this subsection for any period in

23

which the elected official or former elected official was receiving a

24

retirement benefit from the system. An elected official or former

25

elected official receiving a retirement benefit from the system on

26

January 1, 1981, is not eligible to claim credited service under this

27

subsection unless the elected official or former elected official is

28

reemployed as an active member [AND CLAIMS THE CREDITED SERVICE BEFORE

29

FEBRUARY 1, 1983]. Service as an elected official with an employer

1 constitutes employment as an active member as [SO] long as a [NO]
2 waiver of coverage under (a) of this section is not in effect.
3 * Sec. 2. This Act takes effect July 1, 1984.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

HB 586

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 586
Title: "An Act relating to PERS"

FISCAL DETAIL

Agency Affected: All State Agencies
Program Category Affected: PERS

Sponsor: Zharoff
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	47.0	50.7	54.8	59.2	63.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	47.0	50.7	54.8	59.2	63.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Fund	42.5	45.9	49.6	53.5	57.8
Federal Funds	2.2	2.4	2.6	2.8	3.0
Other	2.3	2.4	2.6	2.9	3.1
Total	47.0	50.7	54.8	59.2	63.9

POSITIONS:

Full-Time					
Part-Time					
Temporary					

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 586
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 17, 1984

IV Analysis: Passage of this bill would remove the time limit for elected officials to claim service as an elected official prior to January 1, 1981 under the Public Employees' Retirement System (PERS). This bill would also impose a date when interest would begin accruing on the cost of that service.

There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. This is estimated to result in a .01% increase in the PERS employer contribution rate. The PERS state salaries are estimated to be \$469,898,512.00 for FY 85.

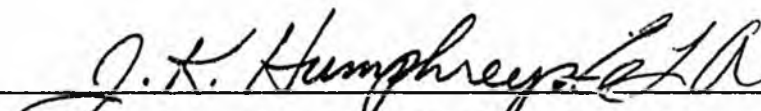
The present value of this benefit increase is \$1,260,00; this would produce a .1% decrease in the PERS funding ratio.

Position Paper

HB 586

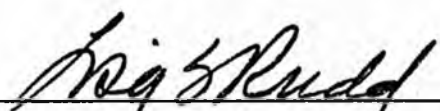
This bill would remove the deadline of February, 1983 for elected officials to claim credit for service as an elected official prior to January 1, 1981.

The Division of Retirement and Benefits publicized the original change in the law which made it possible to claim such service but it was not possible to identify and positively notify all members who were eligible to claim credit before the deadline. There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied . The department supports this bill.



J.K. Humphreys, Director, Division of Retirement & Benefits

2/22/84
Date



Lisa Rudd, Commissioner, Department of Administration

2/22/84
Date

Fred C. Brechan

BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

HB 580

January 26, 1984

Mr. Fred Zharoff
State Representative for
13th District
Juneau, Alaska 99811

Dear Fred:

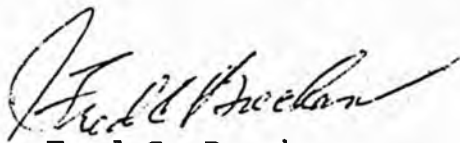
Enclosed is a copy of my most recent correspondence regarding the nine years service in Borough and City government.

I would have paid contributions and made my claim if I had ever been notified of my eligibility.

I feel that I am entitled to participate in the Public Employees Retirement program; or is this just a program for the chosen few.

I appreciate anything you can do in this regard.

Sincerely yours,



Fred C. Brechan

FCB:njm
Enclosures

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811
(907) 465-4463

HB 580
Public Employees Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental Vision Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

January 24, 1984

Mr. Fred Brechan
P.O. Box 1275
Kodiak, AK 99615

Dear Mr. Brechan:

This is in reply to your request for information on claiming your nine prior years service as an elected official with Kodiak Island Borough and the Kodiak City Council before January of 1974.

At this time, the PERS statutes do not allow retroactive credit for service prior to January 1, 1981. This was possible if you had made your claim and paid the contributions prior to February 1, 1983. Unfortunately, you missed that deadline and prior elected official service is not currently creditable.

Sincerely,



Sue Palmer
Retirement Field Representative

SF/je
20/601/0123-01
Enclosure

Fred C. Brechan
BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

HB 580

December 23, 1983

State of Alaska
Dept. of Administration
Division of Retirement Benefits
Pouch CR
Juneau, Alaska 99811


Attention: Ms. Sue Palmer

Dear Ms. Palmer:

To answer your letter of December 19, 1983, I am not an elected official at present. I am interested in prior service. Enclosed are letters pertaining to my years of service in Borough and City government.

I served two three-year terms on the City Council and one three-year term on Kodiak Island Borough.

Sincerely yours,



Fred C. Brechan
SS#557-10-0239

FCB:njm
Enclosure

Introduced: 2/8/84
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY ZHAROFF

2

HOUSE BILL NO. 586

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to benefits for elected officials
7 under the public employees' retirement system; and
8 providing for an effective date."

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

10 * Section 1. AS 39.35.125(b) is amended to read:

11 (b) Service as an elected official before January 1, 1981, with
12 an employer may be included retroactively as credited service with the
13 system if the elected official or former elected official makes retro-
14 active contributions equal to what would have been made if the elected
15 official or former elected official had been included in the system
16 when the oath of office as an elected official was taken, plus accrued
17 interest from July 1, 1984. The rate used to calculate the retroac-
18 tive contributions may not be less than the rate in effect on Jan-
19 uary 1, 1961. [AN ELECTED OFFICIAL OR FORMER ELECTED OFFICIAL MUST
20 CLAIM PRIOR SERVICE AND MAKE RETROACTIVE CONTRIBUTIONS BEFORE FEB-
21 RUARY 1, 1983]. An elected official or former elected official may
22 not receive credited service under this subsection for any period in
23 which the elected official or former elected official was receiving a
24 retirement benefit from the system. An elected official or former
25 elected official receiving a retirement benefit from the system on
26 January 1, 1981, is not eligible to claim credited service under this
27 subsection unless the elected official or former elected official is
28 reemployed as an active member [AND CLAIMS THE CREDITED SERVICE BEFORE
29 FEBRUARY 1, 1983]. Service as an elected official with an employer

1 constitutes employment as an active member as [SO] long as a [NO]
2 waiver of coverage under (a) of this section is not in effect.
3 * Sec. 2. This Act takes effect July 1, 1984.

Original sponsor: Tischer

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 588 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees to persons who prevail in certain state adminis-
8 trative proceedings; and providing for an effective
9 date."

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

11 * Section 1. AS 09.50 is amended by adding a new section to read:

12 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE PROCEEDINGS.

13 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT
14 IN ADMINISTRATIVE PROCEEDING. (a) If action by a state agency re-
15 sults in an administrative proceeding in which the state agency takes
16 a position adverse to the respondent and the proceeding is to impose a
17 civil penalty on a person or to revoke, suspend, limit, or condition a
18 person's right, authority, license, or privilege, the hearing officer
19 or other official who presides over the proceeding shall allow the
20 respondent to recover from the state the respondent's costs of de-
21 fense, including attorney fees, if the respondent prevails in the
22 administrative proceeding.

23 (b) If a civil penalty is imposed on a person in an administra-
24 tive proceeding or the proceeding results in the revocation, suspen-
25 sion, limitation, or conditioning of a right, authority, license, or
26 privilege and the decision made in the administrative proceeding is
27 reversed on the merits in a subsequent court proceeding, the court
28 shall allow the person who was the subject of that decision to recover
29 from the state the reasonable costs of the appeal and the

1 administrative proceeding, including reasonable attorney fees.

2 (c) An award of attorney fees under this section may not exceed
3 \$75 an hour for services actually performed by an attorney for the
4 prevailing party, and the total amount of an award of attorney fees
5 may not exceed \$10,000 unless the prevailing party demonstrates and
6 the hearing officer or court determines that extreme hardship or
7 inequity would result from the limitation.

8 (d) An award of costs or attorney fees made under this section
9 may be appealed to the superior court.

10 (e) The provisions of this section do not apply to a claim for
11 costs or attorney fees that is specifically authorized by statute or
12 by rule of court.

13 (f) In this section "state agency" means a department, office,
14 agency or other instrumentality of the state, including the University
15 of Alaska.

16 * Sec. 2. This Act applies only to administrative proceedings that are
17 commenced after the effective date of this Act.

18 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB588 (Fin)
 Title: Reimbursement for costs and attorney fees
 Sponsor: Tischer
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: All Agencies
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		✓				
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				
TOTAL		0				

POSITIONS:

FULL-TIME		na				
PART-TIME		"				
TEMPORARY		"				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: House Finance Phone: 465-4984
 Division: _____ Date: 4/24/84

Approved by Commissioner: Rep. Bettisworth Date: 4/24/84
 Agency: [Signature]

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note Analysis

CSHB ⁵⁸⁸~~512~~(Fin)

It is the intent of the House Finance Committee that any activity generated by this legislation be assumed through current funding levels of FY 85 appropriations.

It is felt that Agencies will not be impacted substantially if more scrutiny is given to administrative proceedings and civil actions where the state may be liable for costs and attorney fees.

In the event that there are additional costs incurred through such proceedings as Cited above, the Agency affected may return to the Legislature with specific requests to be included through the FY 86 budgeting process.

Rec'd 5/14

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB588(Fin)
 Title: An Act providing for the award of costs and attorney fees...
 Sponsor: Tischer
 Requestor: Sen Judiciary
 Date of Request: 5-9-84

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: Motor Vehicles/Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		69.0	74.9	79.4	84.2	89.3
200 TRAVEL		6.0	6.4	6.8	7.2	7.6
300 CONTRACTUAL		19.6	20.8	22.0	23.3	24.7
400 SUPPLIES		.4	.4	.4	.4	.5
500 EQUIPMENT		17.7	-0-	-0-	-0-	.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		463.2	491.0	520.5	551.7	584.8
800 MISCELLANEOUS						
TOTAL OPERATING		575.9	593.5	629.1	666.8	707.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		575.9	593.5	629.1	666.8	707.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown *BB* Phone: 465-4335
 Division: Motor Vehicles Date: May 8, 1984
 Approved by Commissioner: [Signature] Date: 5/9/84
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

In 1983, the Division of Motor Vehicles held approximately 350 driver's license suspension/revocation hearings (not including November and December DWI hearings), and 180 motor vehicles title revocation and determination hearings. This year we are averaging over 100 driver's license hearings per month as a result of the new DWI law. About 25% of last year's hearings were found in favor of the citizen. Attorney time on driver's license hearings is estimated at 4 hours for each hearing, and for motor vehicle titles at 6 hours each.

Recently some attorneys have been advertising that they will take cases on a contingency basis in which there would be no cost to the client. In the situations addressed in this bill, if the attorney won the case the attorney would be paid by the State. If the case was lost, however, the attorney would collect no fee.

If this bill were to pass, especially with the above type of advertisements, it would have a tendency to increase the number of hearings. It is also felt that if this bill were to pass, regardless of the above-mentioned advertisements, more people would request hearings than in the past. Thus one additional hearing officer and clerical support will be needed.

100 - Personal Service

1 Hearing Office, Range 16 (new Class)	41.0	
1 Clerk IV, Range 9	28.2	
		69.0

200 - Travel

Hearing Officer to various locations to conduct hearings	6.0	6.0
--	-----	-----

300 - Contractual

310 Phones, tolls, postage	1.2	
320 Forms	.3	
330 Space Rental, 300 sq. ft. @2.25	8.1	
360 Equipment Rental	8.0	
1 AJIS terminal		
.382 DP Chargeback	2.0	
Programming and maintenance		19.6

400 - Commodities

Normal Office Supplies	.4	.4
------------------------	----	----

500 - Equipment

Office Equipment, 2 employees	3.9	
WANG Word processing station	12.0	
Recording/Transcribing Equipment	1.8	

17.7

700 - Claims

ATTORNEY FEES

A. Driver's License:

- | | | |
|----|--|-------|
| 1. | Limited licenses issued at hearings:
60 per month = 720 annually x 4 hours
each = 2,880 hours x \$75 per hour | 216.0 |
| 2. | Respondent complies with law, thus license
action is rescinded at hearing:
10 per month = 120 annually x 4 hours
each = 480 hours x \$75 per hour | 36.0 |
| 3. | Other driver's license hearings:
10 per month = 120 annually
x 4 hours each = 480 hours x \$75 per
hour | 36.0 |

B. Title and Registration

- | | | |
|----|--|------|
| 1. | Determination of ownership:
10 per month = 120 annually x 6 hours
each = 720 hours x \$75 per hour | 54.0 |
| 2. | Other
2 per month = 24 annually x 6 hours
each = 144 hours x \$75 per hour | 10.8 |

TOTAL: 352.8

OTHER COSTS

Respondent's transportation, loss of wages, transcript preparation; etc. 1,104 incidents @\$100 average per case	110.4
SUBTOTAL	463.2

TOTAL

575.9

ASSUMPTIONS:

Effective date of July 1, 1984. Six percent inflation factor used for FY-86 and subsequent years. Due to uncertain areas involving technical/procedural problems outlined in our bill analysis and position paper, the assumption was made that the respondent was "prevailing" in the situations outlined in those areas, and the State would have to pay costs and attorney fees. Clarification of those areas may change the projected expenditures listed in Line Item 700.

1.	POSITION TITLE Clerk IV				RANGE/STEP 9B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	PERSONAL SERVICES									
5.	Salary		20,400							
6.	Benefits		3,656							
7.	Supplemental Benefits		1,251							
8.	Fixed Benefits		2,728							
9.	TOTAL PERSONAL SERVICES	01		28,0						
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04		.1						
13.	Equipment	05		2.1						
14.	Other									
15.	TOTAL COST			30.2						
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		30.2						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

Each time action is taken against a person's driving privilege or vehicle registration/title, the individual has the right to ask for a hearing per AS 28.05.131-141. With passage of this bill additional hearings will be requested, and this position will be necessary to process the paperwork generated by hearings requests, and hearings.

Would handle paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records. Would handle inquiries concerning hearings.

Would be responsible to see that computer files are updated to reflect when license action is stayed upon receipt of a request for a hearing. Also that the computer files are updated to reflect a hearing officer's decision.

Would be responsible to see that hearing records are transcribed as necessary, and to prepare certified copies of those records for courts, prosecutors, private attorneys, etc

Would prepare documents required by the court whenever an appeal is filed. This includes "Notice of Parties", "Affidavits", "Notice of Filing of Record", etc.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Motor Vehicles

COMPONENT Driver Services

FY 85

Page of

Revised Date

1.	POSITION TITLE (Hearing Officer) Driver Improvement Specialist			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will be responsible to hold hearings under the Division of Motor Vehicles administrative suspension program. The majority will be driver license hearings. In addition to holding hearings, would be required to prepare for each hearing, maintain appropriate records, and render a written decision of each hearing.</p> <p>Each time action is taken against a person's driving privilege, or vehicle registration/title, the individual has the right to ask for a hearing per AS 28.05.131-141. With the passage of this bill additional hearings will be requested, and this position will be necessary if hearings are to be held in a timely manner.</p> <p>Will travel to various cities throughout Southcentral Alaska to conduct hearings at the office of the department nearest to the residence of the person requesting the hearing, as required by AS 28.05.141(b).</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	30,876							
6.	Benefits	5,534							
7.	Supplemental Benefits	1,893							
8.	Fixed Benefits	2,728							
9.	TOTAL PERSONAL SERVICES	01	41.0						
10.	Travel	02	6.0						
11.	Contractual	03							
12.	Commodities	04	.3						
13.	Equipment	05	1.8						
14.	Other								
15.	TOTAL COST		49.1						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	49.1					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Motor Vehicles

COMPONENT Driver Services

Page _____ of _____

Revised Date _____

FY 85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 588(Fin.)
 Title: "Award of cost and attorney fees to persons..."
 Sponsor: Tischer
 Requestor: Senate Judiciary
 Date of Request: 5/22/84

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Occupational Safety and Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		24.0	48.0	50.9	53.9	57.2
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	24.0	48.0	50.9	53.9	57.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	24.0	48.0	50.9	53.9	57.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert J. Bacolas Phone: 465-4870
 Division: Labor Standards and Safety Date: _____

Approved by Commissioner: Robert W. Jordan Date: 5/22/84
Jim Robison
 Agency: Department of Labor

LEG:A:50
 Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE

BILL/RESOLUTION NO: CS for HB 588(Fin.)

TITLE: "An Act relating to award of cost and attorney fees to persons..."

AGENCY AFFECTED: Department of Labor

Page 2

Under this bill the Department of Labor, Occupational Safety and Health would be responsible for reimbursing costs and attorney fees to persons who prevail against the State in administrative proceedings for contested Occupational Safety and Health inspections

The following assumptions have been made in preparing this fiscal note:

1. The effective date is July 1, 1984.
2. Forty inspections will be contested each year.
3. Twenty percent of the cases will be at least partially reversed.
4. Fifty percent of the reversed cases will be represented by an attorney.
5. Average cost per case will be \$6,000 at a maximum of \$75/hour.
6. One hundred percent of the attorney fees will be reimbursable.
7. The number of cases with legal representation will double in FY '86.
8. Six percent inflation rate is used from FY '86 thru FY '89.

LEG:A:50

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 588(Fin)
Title: "award of cost and attorney fees to persons...."Sponsor: TischerRequestor: Senate JudiciaryDate of Request: 5/22/84

FISCAL DETAIL

Agency Affected: LaborProgram Category Affected: Social Services

BRU, Program or Subprogram(s) Affected:

Employment Security BRUUnemployment Insurance Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		54.0	114.5	133.5	155.6	181.5
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		54.0	114.5	133.5	155.6	181.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		54.0	114.5	133.5	155.6	181.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay, Jr. Phone: 465-2712Division: Employment Security Division Date: 5/22/84Approved by Commissioner: Robert W. Jordon Date: 5/22/84Agency: Labor

LEG:B:11

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE

BILL/RESOLUTION NO: CSHB 588 (FIN.)

TITLE: "An Act relating to award of cost and attorney fees to persons...."

AGENCY AFFECTED: Department of Labor

Page 2

Under this bill the Department of Labor, Employment Security Division would be responsible for reimbursing costs and attorney fees to persons who prevail against the State in administrative proceedings for Unemployment Insurance benefit and tax cases.

The following assumptions have been made in preparing this fiscal note.

1. The effective date is July 1, 1984.
2. Four thousand projected cases in FY '85.
3. Thirty percent of the cases will be reversed.
4. Ten percent of the reversed cases will be represented by an attorney.
5. Average cost per case will be \$450 with a maximum fee of \$75 per hour.
6. One hundred percent of the costs and attorney fees will be reimbursable.
7. The number of cases with legal representation will double in FY '86.
8. For FY '87 thru FY '89, 10% increase annually in the reversed cases represented by an attorney.
9. Six percent inflation factor has been used for FY '86 thru FY '89.

LEG:B:11

Position Paper

CS HB 588 (FIN)

CS HB 588 proposes payment by the State for legal expenses incurred by a respondent during administrative hearings. The bill is vague as to which administrative proceedings are covered and which are not. It is the position of the Department that AS 44.77.010, (Claims against the State), and AS 47.45.050, (Longevity Bonus Appeals) would be covered, but not aggrieved bidder appeals (AS 36.98.070 and AS 37.05.240). Additionally, this department is responsible for a variety of hearings by independent boards such as the State Personnel Board (AS 39.25), Alaska Labor Relations Agency (AS 23.40), State Retirement Board, etc., none of which should be covered by the bill. It appears that the bill may have arisen from a specific kind of circumstance, but the result is so vague (as to what kinds of hearings are covered) that it renders the bill impractical. Due to this vagueness, it is impossible to prepare an accurate fiscal note.

This bill apparently will require a second hearing in any situation covered by this bill in which the respondent prevails. At the conclusion of a hearing, the hearing officer usually is not certain of who prevailed. It is only after careful deliberation and weighing of all evidence that the prevailing party is determined. Upon receipt of notice of the hearing officer award, the respondent would then submit a claim for his costs and attorney fees. To verify the allegations regarding costs and attorney fees will require the second hearing. It is impossible to make an award of costs and fees at the first hearing because even if it is clear who the prevailing party will be, legal fees and costs will continue until the official decision is received by the respondent, who then will be advised by his attorney on available options.

It should also be noted that although the bill makes provision for the respondent to recover costs and attorney fees where the respondent prevails, there is no provision for the State to recover its costs and fees. Even when appeals are frivolous, the bill requires the State to defend its actions with no recourse or reimbursement.

For the above reasons, this department takes a position opposing CS HB 588.

Kenneth R. Ryals
Kenneth R. Ryals
Director of Administrative Services

5/23/84
Date

Lisa Rudd
Commissioner Lisa Rudd
Department of Administration

5/23/84
Date

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CSHB 588(Jud)

Opposed

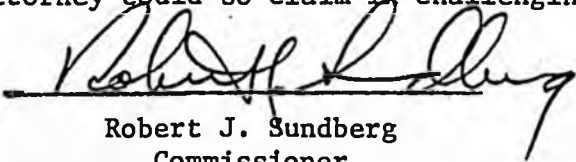
March 20, 1984

CSHB 588(Jud), An Act providing for the award of costs and attorney fees to persons who prevail in certain state administrative proceedings; and providing for an effective date.

The Department is opposed to this piece of legislation. There are too many questionable areas as to when costs would have to be paid, such as the following examples:

- 1) A number of motor vehicle hearings are held at the request of a citizen who is disputing another's right to a motor vehicle or title. The department acts as the hearing officer to determine the facts and decide the proper owner. This is classified as a departmental hearing so the question arises, is the department liable for the fees of the winner?
- 2) If the driver's license suspension is under the financial responsibility law, and the citizen complies with the law prior to the hearing, such as entering into a settlement agreement with the injured party and buying insurance, the hearing officer does not sustain the department's action (in actuality the action would be withdrawn), does this mean the respondent "prevails"?
- 3) If the driver's license revocation is as a result of a DWI arrest in which the citizen took the breath test and the results were above .10; and the citizen asks for an administrative review to obtain a limited license; and the hearing officer grants the limited license; does this mean the respondent "prevails"?

Another item of concern is that most hearing officers are department employees. Although they always attempt to be completely unbiased, the subconscious realization that an adverse decision will cost the State money may have an influence. Even if it didn't, and I'm sure it wouldn't, the respondent's attorney could so claim in challenging the decision.


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 588(Jud)
 Title: An Act providing for the award
of costs and attorney fees to
 Sponsor: Tischer
 Requestor: HOUSE Finance
 Date of Request: 3-16-84

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: Motor Vehicles/Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		69.0	74.9	79.4	84.2	89.3
200 TRAVEL		6.0	6.4	6.8	7.2	7.6
300 CONTRACTUAL		19.6	20.8	22.0	23.3	24.7
400 SUPPLIES		.4	.4	.4	.4	.5
500 EQUIPMENT		17.7	-0-	-0-	-0-	.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		698.4	740.5	784.9	832.0	881.9
800 MISCELLANEOUS						
TOTAL OPERATING		811.1	843.0	893.5	947.1	1.004.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		811.1	843.0	893.5	947.1	1.004.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 3-20-84

Approved by Commissioner: X Date: 4/17/84
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL NOTE ANALYSIS
CS HB 588(Jud)

In 1983, the Division of Motor Vehicles held approximately 350 driver's license suspension/revocation hearings (not including November and December DWI hearings), and 180 motor vehicles title revocation and determination hearings. This year we are averaging over 100 driver's license hearings per month as a result of the new DWI law. About 25% of last year's hearings were found in favor of the citizen. Attorney time on driver's license hearings is estimated at 4 hours for each hearing, and for motor vehicle titles at 6 hours each.

Recently some attorneys have been advertising that they will take cases on a contingency basis in which there would be no cost to the client. In the situations addressed in this bill, if the attorney won the case the attorney would be paid by the State. If the case was lost, however, the attorney would collect no fee.

If this bill were to pass, especially with the above type of advertisements, it would have a tendency to increase the number of hearings. It is also felt that if this bill were to pass, regardless of the above-mentioned advertisements, more people would request hearings than in the past. Thus one additional hearing officer and clerical support will be needed.

100 - Personal Service

1 Hearing Office, Range 16 (new Class)	41.0	
1 Clerk IV, Range 9	28.2	
		69.0

200 - Travel

Hearing Officer to various locations to conduct hearings	6.0	6.0
---	-----	-----

300 - Contractual

310 Phones, tolls, postage	1.2	
320 Forms	.3	
330 Space Rental, 300 sq. ft. @2.25	8.1	
360 Equipment Rental	8.0	
1 AJIS terminal		
.382 DP Chargeback	2.0	
Programming and maintenance		19.6

400 - Commodities

Normal Office Supplies	.4	.4
------------------------	----	----

500 - Equipment

Office Equipment, 2 employees	3.9	
WANG Word processing station	12.0	
Recording/Transcribing Equipment	1.8	

17.7

700 - Claims

ATTORNEY FEES

A. Driver's License:

1. Limited licenses issued at hearing:
60 per month = 720 annually x 4 hours
each = 2,880 hours x \$125 per hour 360.0
2. Respondent complies with law, thus license
action is rescinded at hearing:
10 per month = 120 annually x 4 hours
each = 480 hours x \$125 per hour 60.0
3. Other driver's license hearings:
10 per month = 120 annually
x 4 hours each = 480 hours x \$125 per
hour 60.0

B. Title & Registration

1. Determination of ownership:
10 per month = 120 annually x 6 hours
each = 144 hours x \$125 per hour 90.0
2. Other
2 per month = 24 annually x 6 hours
each = 144 hours x \$125 per hour 18.0

TOTAL: 588.0

OTHER COSTS

Respondent's transportation, loss of wages,
transcript preparation; etc. 1,104 incidents
@\$100 average per case 110.4
SUBTOTAL 698.4

TOTAL 811.1

ASSUMPTIONS:

Effective date of July 1, 1984. Six percent inflation factor used for FY-86 and subsequent years. Due to uncertain areas involving technical/procedural problems outlined in our bill analysis and position paper, the assumption was made that the respondent was "prevailing" in the situations outlined in those areas, and the State would have to pay costs and attorney fees. Clarification of those areas may change the projected expenditures listed in Line Item 700.

1.	POSITION TITLE Clerk IV			RANGE/STEP 9B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRD.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	20,400							
6.	Benefits	3,656							
7.	Supplemental Benefits	1,251							
8.	Fixed Benefits	2,728							
9.	TOTAL PERSONAL SERVICES	01		28,0					
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04		.1					
13.	Equipment	05		2.1					
14.	Other								
15.	TOTAL COST			30.2					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	30.2					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

Each time action is taken against a person's driving privilege or vehicle registration/title, the individual has the right to ask for a hearing per AS 28.05.131-141. With passage of this bill additional hearings will be requested, and this position will be necessary to process the paperwork generated by hearings requests, and hearings.

Would handle paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records. Would handle inquiries concerning hearings.

Would be responsible to see that computer files are updated to reflect when license action is stayed upon receipt of a request for a hearing. Also that the computer files are updated to reflect a hearing officer's decision.

Would be responsible to see that hearing records are transcribed as necessary, and to prepare certified copies of those records for courts, prosecutors, private attorneys, etc.

Would prepare documents required by the court whenever an appeal is filed. This includes "Notice of Parties", "Affidavits", "Notice of Filing of Record", etc.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Motor Vehicles
COMPONENT Driver Services

Page _____ of _____
Revised Date _____

FY 85

1.	POSITION TITLE (Hearing Officer) Driver Improvement Specialist				RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		30.876							
6.	Benefits		5,534							
7.	Supplemental Benefits		1,893							
8.	Fixed Benefits		2,728							
9.	TOTAL PERSONAL SERVICES		01		41.0					
10.	Travel		02		6.0					
11.	Contractual		03							
12.	Commodities		04		.3					
13.	Equipment		05		1.8					
14.	Other									
15.	TOTAL COST				49.1					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		49.1						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This position will be responsible to hold hearings under the Division of Motor Vehicles administrative suspension program. The majority will be driver license hearings. In addition to holding hearings, would be required to prepare for each hearing, maintain appropriate records, and render a written decision of each hearing.

Each time action is taken against a person's driving privilege, or vehicle registration/title, the individual has the right to ask for a hearing per AS 28.05.131-141. With the passage of this bill additional hearings will be requested, and this position will be necessary if hearings are to be held in a timely manner.

Will travel to various cities throughout Southcentral Alaska to conduct hearings at the office of the department nearest to the residence of the person requesting the hearing, as required by AS 28.05.141(b).

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Motor Vehicles

COMPONENT Driver Services

FY 85

Page _____ of _____

Revised Date _____

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 588(Jud)
 Title: An Act providing for the award of costs and attorney fees to
 Sponsor: Tischer
 Requestor: HOUSE Finance
 Date of Request: 3-16-84

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: Motor Vehicles/Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		69.0	74.9	79.4	84.2	89.3
200 TRAVEL		6.0	6.4	6.8	7.2	7.6
300 CONTRACTUAL		19.6	20.8	22.0	23.3	24.7
400 SUPPLIES		.4	.4	.4	.4	.5
500 EQUIPMENT		17.7	-0-	-0-	-0-	.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		698.4	740.5	784.9	832.0	881.9
800 MISCELLANEOUS						
TOTAL OPERATING		811.1	843.0	893.5	947.1	1,004.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		811.1	843.0	893.5	947.1	1,004.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 3-20-84

Approved by Commissioner: [Signature] Date: 4/17/84
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

FISCAL NOTE ANALYSIS
CS HB 588(Jud)

In 1983, the Division of Motor Vehicles held approximately 350 driver's license suspension/revocation hearings (not including November and December DWI hearings), and 180 motor vehicles title revocation and determination hearings. This year we are averaging over 100 driver's license hearings per month as a result of the new DWI law. About 25% of last year's hearings were found in favor of the citizen. Attorney time on driver's license hearings is estimated at 4 hours for each hearing, and for motor vehicle titles at 6 hours each.

Recently some attorneys have been advertising that they will take cases on a contingency basis in which there would be no cost to the client. In the situations addressed in this bill, if the attorney won the case the attorney would be paid by the State. If the case was lost, however, the attorney would collect no fee.

If this bill were to pass, especially with the above type of advertisements, it would have a tendency to increase the number of hearings. It is also felt that if this bill were to pass, regardless of the above-mentioned advertisements, more people would request hearings than in the past. Thus one additional hearing officer and clerical support will be needed.

100 - Personal Service

1 Hearing Office, Range 16 (new Class)	41.0	
1 Clerk IV, Range 9	28.2	
		69.0

200 - Travel

Hearing Officer to various locations to conduct hearings	6.0	6.0
--	-----	-----

300 - Contractual

310 Phones, tolls, postage	1.2	
320 Forms	.3	
330 Space Rental, 300 sq. ft. @2.25	8.1	
360 Equipment Rental	8.0	
1 AJIS terminal		
382 DP Chargeback	2.0	
Programming and maintenance		19.6

400 - Commodities

Normal Office Supplies	.4	.4
------------------------	----	----

500 - Equipment

Office Equipment, 2 employees	3.9	
WANG Word processing station	12.0	
Recording/Transcribing Equipment	1.8	

17.7

700 - Claims

ATTORNEY FEES

A. Driver's License:

1. Limited licenses issued at hearing:
60 per month = 720 annually x 4 hours
each = 2,880 hours x \$125 per hour 360.0
2. Respondent complies with law, thus license
action is rescinded at hearing:
10 per month = 120 annually x 4 hours
each = 480 hours x \$125 per hour 60.0
3. Other driver's license hearings:
10 per month = 120 annually
x 4 hours each = 480 hours x \$125 per
hour 60.0

B. Title & Registration

1. Determination of ownership:
10 per month = 120 annually x 6 hours
each = 144 hours x \$125 per hour 90.0
2. Other
2 per month = 24 annually x 6 hours
each = 144 hours x \$125 per hour 18.0

TOTAL: 588.0

OTHER COSTS

Respondent's transportation, loss of wages,
transcript preparation; etc. 1,104 incidents
@\$100 average per case 110.4
SUBTOTAL 698.4

TOTAL 811.1

ASSUMPTIONS:

Effective date of July 1, 1984. Six percent inflation factor used for FY-86 and subsequent years. Due to uncertain areas involving technical/procedural problems outlined in our bill analysis and position paper, the assumption was made that the respondent was "prevailing" in the situations outlined in those areas, and the State would have to pay costs and attorney fees. Clarification of those areas may change the projected expenditures listed in Line Item 700.

1.	POSITION TITLE Clerk IV				RANGE/STEP 9B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.					
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.							
3.	CONTINUATION LEVEL				JUSTIFICATION										
4.	TYPE OF EXPENDITURE														
	1	2	3												
	PERSONAL SERVICES														
5.	Salary	20,400			<p>Each time action is taken against a person's driving privilege or vehicle registration/title, the individual has the right to ask for a hearing per AS 28.05.131-141. With passage of this bill additional hearings will be requested, and this position will be necessary to process the paperwork generated by hearings requests, and hearings.</p> <p>Would handle paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records. Would handle inquiries concerning hearings.</p> <p>Would be responsible to see that computer files are updated to reflect when license action is stayed upon receipt of a request for a hearing. Also that the computer files are updated to reflect a hearing officer's decision.</p> <p>Would be responsible to see that hearing records are transcribed as necessary, and to prepare certified copies of those records for courts, prosecutors, private attorneys, etc</p> <p>Would prepare documents required by the court whenever an appeal is filed. This includes "Notice of Parties", "Affidavits", "Notice of Filing of Record", etc.</p>										
6.	Benefits	3,656													
7.	Supplemental Benefits	1,251													
8.	Fixed Benefits	2,728													
9.	TOTAL PERSONAL SERVICES	01	28.0												
10.	Travel	02													
11.	Contractual	03													
12.	Commodities	04	.1												
13.	Equipment	05	2.1												
14.	Other														
15.	TOTAL COST		30.2												
	RECEIPT CODE	FUNDING SOURCE													
16.		Federal Receipts 1002													
17.		G.F. Match 1003													
18.		General Funds 1004		30.2											
19.		I-A Receipts 1005													
20.		Program Receipts 1028													
21.		Other													
FOR B&M USE ONLY															
4A KEY NUMBER _____															

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Motor Vehicles
COMPONENT Driver Services

Page _____ of _____
Revised Date _____

FY 85

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2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		5,534							
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11.	Contractual		03							
12.	Commodities		04		.3					
13.	Equipment		05		1.8					
14.	Other									
15.	TOTAL COST				49.1					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002							
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FOR B&M USE ONLY										
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13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 BRU Motor Vehicles
 COMPONENT Driver Services

Page _____ of _____
 Revised Date _____

FY 85

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 5, 1984

The Honorable Albert P. Adams
Chair, House Finance Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Proposed Finance CS for HB 588
-- (Jud) (attorney fees in
administrative hearing)

Dear Representative Adams:

With this letter I am forwarding a proposed draft Finance Committee substitute for HB 588 concerning costs and attorney fees in administrative proceedings. The proposed draft would make the following two primary changes:

1) Limit the scope of the bill to hearings governed by the Administrative Procedure Act;

2) Limit the maximum amount of costs and attorney fees recoverable, but with a "safety valve" for extreme hardship and inequity cases.

The draft would also expand the applicability of the bill to any prevailing party in administrative hearings, not just to respondents who prevail.

All of these changes would help accomplish the desirable goal of the legislation in a far more reasonable and logical manner and with a far smaller fiscal impact. They would prevent significant complication and protraction of state administrative hearings and undue encouragement of excessive attorney involvement.

The same proposed draft was also offered to the House Judiciary Committee. The second page of the proposed draft is identical to the original version of the bill as it was introduced by Representative Tischer.

The Honorable Albert P. Adams
Chair, House Finance Committee
Alaska House of Representative

April 5, 1984
Page 2

Please let me know if I can provide any more information or other assistance to the committee on this bill.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Peter H. Froehlich
Assistant Attorney General

PBF:eja

cc w/attach. The Honorable Mae Tischer
Alaska House of Representatives

Ray Gillespie
Legislative Assistant to the Governor

Arthur H. Peterson
Assistant Attorney General and
Legislation Attorney

DRAFT
Law

PROPOSED COMMITTEE SUBSTITUTE
(DEPARTMENT OF LAW)

1 THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 588 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees in administrative proceedings; and providing for
8 an effective date."

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

10 * Section 1. AS 44.62 is amended by adding a new section to read:

11 Sec. 44.62.515. COSTS AND ATTORNEY FEES. (a) A decision in an
12 administrative proceeding under AS 44.62.330 -- 44.62.630 must include
13 an award to the prevailing party of costs and reasonable attorney
14 fees.

15 (b) If an administrative proceeding results in the revocation,
16 suspension, limitation, or conditioning of a right, authority,
17 license, or privilege and the decision made in the administrative
18 proceeding is reversed on the merits in a subsequent court proceeding,
19 the court may allow the person who was the subject of that decision to
20 recover reasonable costs of the appeal and of the administrative
21 proceeding, including reasonable attorney fees, from the state.

22 (c) The amount of costs and attorney fees that may be awarded
23 under this section shall be determined by reference to the Alaska
24 Rules of Civil Procedure, Rules 54(d), 79, and 82, as if the action
25 had been brought in a state court. However, an award of attorney fees
26 may not exceed \$75 an hour for services actually performed by the
27 attorney and, unless a prevailing party demonstrates to the hearing
28 officer that extreme hardship or inequity would result from this
29 limitation, no award may exceed \$5,000.

1 (d) An award of costs or attorney fees made under this section
2 may be appealed to the superior court.

3 (e) In this section "state agency" means a department, office,
4 agency or other instrumentality of the state, including the University
5 of Alaska.

6 * Sec. 2. This Act applies only to administrative proceedings that are
7 commenced after the effective date of this Act.

8 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

PART IX. JUDGMENT

Rule 54. Judgments—Costs.

(a) **Definition—Form—Preparation and Submission.** “Judgment” as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master or the record of prior proceedings. The procedure for the preparation and submission of forms of judgments and orders shall be governed by Rule 78.

(b) **Judgment Upon Multiple Claims or Involving Multiple Parties.** When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all of the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) **Demand for Judgment.** A default judgment shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a default judgment is entered, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

(d) **Costs.** Except when express provision therefor is made either in a statute of the state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs. The procedure for the taxing of costs by the clerk and review of his action by the court shall be governed by Rule 79. (Amended by Supreme Court Order 258 effective

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

PART IX. JUDGMENT

Rule 54. Judgments—Costs.

(a) Definition—Form—Preparation and Submission. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master or the record of prior proceedings. The procedure for the preparation and submission of forms of judgments and orders shall be governed by Rule 78.

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(d) Costs. Except when express provision therefor is made either in a statute of the state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs. The procedure for the taxing of costs by the clerk and review of his action by the court shall be governed by Rule 79. (Amended by Supreme Court Order 258 effective

such instrument shall be filed with the court, and unless the court otherwise orders, it shall be cancelled by marks and writing upon its face. The clerk shall retain the same in the files unless otherwise directed by the court.

(e) **Computation of Interest.** The party preparing a form of judgment or order shall compute any interest allowed, to and including a specified date. He shall also show in an attached memorandum the amount of daily interest which will accrue if the judgment or order is not signed on the date so specified. (Amended by Supreme Court Order 554 effective April 4, 1983)

(c) **CROSS REFERENCE:** Civ. Form 155

Rule 79. Costs—Taxation and Review.

(a) **Cost Bill — Notice — Waiver.** Within 10 days after the date shown in the clerk's certificate of distribution on the judgment, a party entitled to costs shall serve on each of the other parties to the action or proceeding a cost bill, together with a notice of the date and time of the cost bill hearing at which the clerk will tax costs. The date and time of the hearing shall be scheduled with the clerk's office and shall be not less than 3 nor more than 7 days from the date of the notice. The cost bill shall distinctly set forth each item claimed in order that the nature of the charge can be readily understood. It shall be verified by the oath of the party, or his agent or attorney or of the clerk of such attorney, stating that the items are correct, that the services have been actually and necessarily performed, and that the disbursements have been necessarily incurred in the action or proceeding. Failure of a party to serve a cost bill and notice as required by this subdivision shall be construed as a waiver of his right to recover costs.

(b) **Items Allowed as Costs.** A party entitled to costs may be allowed premiums paid on the expenses of posting, undertakings, bonds or security stipulations, where the same have been furnished by reason of express requirement of law or on order of the court; the necessary expense of taking depositions for use at trial and producing exhibits; and the expense of service

and publication of summons or notices, and postage when the same are served by mail; filing fees and other charges made by the clerk of the court and fees for transcripts required in the trial of a case in the superior court. In addition to the items allowed as costs by law and in these rules, a party shall be allowed any other expenses necessarily incurred in order to enable a party to secure some right accorded him in the action or proceeding.

(c) Taxing of Costs by Clerk.

(1) At the time specified in the notice, any party may present his objections to the cost bill, either orally or in writing. He shall specify each item to which objection is made and the ground of the objection. The parties may file affidavits or other documentary evidence to support their respective positions.

(2) The clerk shall thereupon proceed to tax the costs, and shall allow the items specified in the cost bill which are proper. Within 2 days after the costs have been taxed, the clerk shall insert the amount of the same in a blank space left in the judgment or order for that purpose, and shall make a similar insertion in the copies and docket of the judgment or order. The taxing of costs by the clerk shall be final, unless modified on review as provided in this rule.

(d) Review by Court. The action of the clerk in taxing costs may be reviewed by the court at the instance of any party upon motion and notice served not later than five days after the costs have been taxed by the clerk. When notice is served, the motion shall particularly designate each ruling of the clerk to which objection is made. Matters not so designated will not be considered by the court. The motion will be heard upon the same papers, affidavits and other documentary evidence used before the clerk, and upon such memoranda as the court may require. The court shall promptly rule on the motion. (Amended by Supreme Court Order 258 effective November 15, 1976; and by Supreme Court Order 554 effective April 4, 1983)

(a) CROSS REFERENCE: Civ. Form 156

Rule 82. Attorney's Fees.

(a) Allowance to Prevailing Party.

(1) Unless the court, in its discretion, otherwise directs, the following schedule of attorney's fees will be adhered to in fixing such fees for the party recovering any money judgment therein:

ATTORNEY'S FEES IN AVERAGE CASES			
	<i>Contested</i>	<i>Without Trial</i>	<i>Non-Contested</i>
First \$2,000	25%	20%	15%
Next \$3,000	20%	15%	12.5%
Next \$5,000	15%	12.5%	10%
Over \$10,000	10%	7.5%	5%

Should no recovery be had, attorney's fees for the prevailing party may be fixed by the court in its discretion in a reasonable amount.

(2) In actions where the money judgment is not an accurate criteria for determining the fee to be allowed to the prevailing side, the court shall award a fee commensurate with the amount and value of legal services rendered.

(3) The allowance of attorney's fees by the court in conformance with the foregoing schedule is not to be construed as fixing the fees between attorney and client.

(4) Attorney's fees upon entry of judgment by default shall be determined by the clerk. In all other matters the court shall determine attorney's fees. Awards not pursuant to the schedule set forth in subparagraph (1) of this Rule shall be made only upon motion.

(b) Allowance in Mental Cases. In proceedings under the Mental Health Act, the attorney appointed to represent the patient shall be allowed and paid a fee of \$25.00, unless the judge, in his discretion, orders otherwise. A lay advisor appointed in such proceedings shall be allowed and paid a fee of \$10.00, unless the judge, in his discretion, orders otherwise. (Amended by Supreme Court Order 497 effective January 18, 1982)

SUMMARY OF FISCAL NOTES FOR CS HB 588 (JUD)

<u>Agency/Division</u>	<u>Amount</u>
Limited Entry Comm.	\$ 4.8
DEC	121.5
DCED - Real Estate Comm.	140.0
- Corporations Sec.	20.0
- Occupational Licens.	70.0
- ATC	10.0
DPS	811.3
Labor - Labor Standards	10.0
- Employment Security	24.0
Revenue	indeterminate
Education	<u>indeterminate</u>
TOTAL	\$1211,6 plus

COMPLETE SET

HB 588

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

H12 528

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 588
Title: "Providing for Costs and Attorneys Fees in Administrative Actions"
Sponsor: Tischer
Requestor: Tischer
Date of Request: 3/1/84

FISCAL DETAIL

Agency Affected: Dept. of Fish and Game
Program Category Affected: Natural Resource Management
BRU, Program or Subprogram(s) Affected: Commercial Fisheries (Limited) Entry Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0	4.8	19.6	54.6	93.6	83.6
800 MISCELLANEOUS						
TOTAL OPERATING	0	4.8	19.6	54.6	93.6	83.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	4.8	19.6	54.6	93.6	83.6
FEDERAL FUNDS						
OTHER						
TOTAL	0	4.8	19.6	54.6	93.6	83.6

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

(Not identified by sponsor)

ANALYSIS: Attach a separate page for analysis

Prepared By: Staff

Phone: 465-4081

Division: Commercial Fisheries Entry Commission

Date: 3/8/84

Approved by Commissioner: [Signature]

Date: 3/18/84

Agency: Commercial Fisheries Entry Commission

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS - HB588

Alaska courts in practice have interpreted Rule 82 of the Alaska Rules of Civil Procedure as generally authorizing partial compensation for a prevailing party's costs and fees. See, e.g., Malvo v. J.C. Penny Co., 512 P.2d 575 (Alaska 1973). However, the terms of the rule on its face suggest only that the award be "reasonable" and "commensurate with the amount and nature of legal services rendered." Rather than speculate about the manner in which the discretion of the hearing officer would be exercised under the proposed bill, we have simply reported our rough estimates as to the actual fees and costs for which claims could be made.

Due to the provision that the legislation applies only to actions initiated after the effective date of the act, the full impact of the legislation would not be felt for several years. For this fiscal note it has been assumed that transfer appeals, which are adjudicated quickly, would have a fiscal impact in FY-85; permit revocation actions and fee arrearage adjudications, which take longer, will not enter the picture until FY-86. Due to the backlog of applications adjudications from presently limited fisheries, new applications would not likely complete the adjudication process until FY-87 or FY-88. For this analysis the fiscal impact of adjudications has been phased in at \$35.0 in FY-87 and the full estimated impact of \$74.0 in FY-88.

<u>Permit Revocation Actions</u>		\$11,000
Projected respondents prevailing	2 ^{1/}	
Estimated average recoverable costs	\$1,000 ^{2/}	
Estimated average attorneys fees	\$4,500 ^{3/}	
<u>Fee Arrearage Adjudications</u>		\$ 3,800
Projected respondents prevailing	2 ^{4/}	
Estimated average recoverable costs	\$1,000 ^{5/}	
Estimated average attorneys fees	\$ 900 ^{6/}	
<u>Appeals of Permit Transfer Denials</u>		\$ 4,750
Projected number of transferors prevailing	5 ^{7/}	
Estimated average recoverable costs	\$ 500 ^{8/}	
Estimated average attorneys fees	\$ 450 ^{9/}	

Permit Application Adjudications

Projected number of applicants prevailing	40 <u>10/</u>	\$74,000
Estimated average recoverable costs	\$ 500 <u>11/</u>	
Estimated average attorneys fees	\$1,350 <u>12/</u>	
TOTAL		\$93,500

Footnotes:

1. The actual experience in past years with revocation cases finally adjudicated on their merits has been two out of six respondents prevailed.
2. This estimate covers travel, food, and lodging for the hearing, witness fees and deposition costs.
3. With the assistance of our hearing officer and two private attorneys who practice before the Commission, we estimated attorney time in 11 cases and arrived at an average of approximately 50 hours per case. We used an estimated average hourly rate of \$90.
4. Most respondents notified of fee arrearages pay the amount due without requesting a hearing on the determination. In 1983 two hearings were conducted in fee arrearage cases, and two recommended decisions were issued, both favorable to the respondent.
5. This estimate covers travel, food, and lodging for the hearing, witness fees and deposition costs.
6. To the extent the agency is aware, less than one third of the respondents retain counsel to represent them in fee arrearage cases. Allowing for an increase resulting from enactment of this legislation, we estimate half of the respondents will retain counsel for an average of 20 hours at an average of \$90 per hour.

7. Of the eight written administrative decisions on transfers appeals in 1983, five granted the requested transfer.
8. This estimate covers travel, food, and lodging for the hearing, witness fees and deposition costs.
9. As far as the agency is aware, less than one fourth of the transferors retain counsel to represent them in transfer adjudications. Allowing for an increase resulting from enactment of this legislation, we estimate half of the transferors will retain counsel for an average of 10 hours at an average of \$90 per hour.
10. 40 applicants prevailed through adjudications in 1983.
11. This estimate covers travel, food and lodging for the hearing, witness fees, and deposition costs.
12. Presently, about half of the applicants retain counsel for an estimated average of 30 hours at an average of \$90 per hour.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/20/84

REQUEST

Bill/Resolution No.: CSHB 588 (JUD)
Title: Costs and Attorney fees,
administrative proceedings
Sponsor: Tischer
Requestor: House Finance
Date of Request: _____

FISCAL DETAIL

Agency Affected: ADEC
Program Category Affected: _____
All programs
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES		49.5	50.1	50.7	51.3	
200 TRAVEL		10.0	10.0	12.0	15.0	
300 CONTRACTUAL		8.0	3.0	8.0	8.0	
400 SUPPLIES		1.5	1.5	1.5	1.5	
500 EQUIPMENT		2.5	.5	.5	.5	
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		50.0	75.0	100.0	125.0	
800 MISCELLANEOUS						
TOTAL OPERATING		121.5	140.1	172.7	201.3	

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		121.5	140.1	172.7	201.3	
FEDERAL FUNDS						
OTHER						
TOTAL		121.5	140.1	172.7	201.3	

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor.
If the Bill were amended, the State agency could collect its cost and attorney fees when it prevails thus offsetting the costs when the respondent prevails.

ANALYSIS: Attach a separate page for analysis

Prepared By: Billie Trent Phone: 465-2600
Division: Commissioner's Office Date: 3/20/84

Approved by Commissioner: Richard A. Nere Date: 3/20/84
Agency: Environmental Conservation

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL ANALYSIS

CSHB 588 (Jud)

This legislation, if it becomes law, will create the need for a staff attorney/hearing officer to handle the more sophisticated proceedings which would result from the involvement of attorneys. At the very least, a contract attorney would be required to advise the commissioner.

We further believe it would be necessary to contract the services of court reporters to record the hearings and prepare transcripts which meet the more stringent expectations of an attorney.

Since hearings are requested and granted statewide, travel would be substantial in order to hold the hearings in locations most convenient to the participants.

The claims figures are based on the fact that in 1983, ten hearings were granted, only one of which could result in the reversal of an agency decision, at an estimated cost of \$50,000 for costs and attorney fees.

In estimating future fiscal impact, we have assumed that passage of HB 588 would result in more hearings being requested and granted, with a similar percentage of reversals.

In truth, there is no way to accurately estimate fiscal impact. Each case is unique and could result in complications and costs even greater than anticipated herein.

1.	POSITION TITLE ATTORNEY II				RANGE/STEP 19	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION Permanent	STAFF MONTHS 12	RP NUMBER ----	PCN NUMBER pending	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 99	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2		3						
	PERSONAL SERVICES									
5.	Salary	38,124								
6.	Benefits	6,282								
7.	Supplemental Benefits	2,337								
8.	Fixed Benefits	2,728								
9.	TOTAL PERSONAL SERVICES	01	49.5							
10.	Travel	02	10.0							
11.	Contractual	03	8.0							
12.	Commodities	04	1.5							
13.	Equipment	05	2.5							
14.	Other									
15.	TOTAL COST		71.5							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Hatch 1003								
18.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR B&M USE ONLY									
	4A KEY NUMBER -----									

Should HB 588 become law, this position would be necessary to handle the more sophisticated hearings which would result.

It is also anticipated that there would be an increase in the number of hearings requested, thereby precluding the Commissioner from acting as hearing officer, even if he had the legal expertise to do so.

Since hearings are held statewide, a substantial travel increment would be required. We further believe it would be necessary to contract the recording of the hearings to court reporters rather than simple cassette recordings by persons unfamiliar with formal proceedings.

13 REQUEST FOR
NEW POSITION

AGENCY Environmental Conservation

PROGRAM All

BRU _____

COMPONENT _____

Page 1 of 1

Revised Date 3/20/84

FY 85

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 588
Title: Act providing for the award of attorney fees
Sponsor: Iischer
Requestor: Judiciary & Finance
Date of Request: 02-15-84

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
Program Category Affected: _____
Consumer Protection
BRU, Program or Subprogram(s) Affected: _____
Real Estate Commission, Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	40.0	140.0	150.0	160.0	160.0	160.0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	40.0	140.0	150.0	160.0	160.0	160.0
FEDERAL FUNDS						
OTHER						
TOTAL	40.0	140.0	150.0	160.0	160.0	160.0

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Taxes

ANALYSIS: Attach a sep rate page for analysis

Prepared By: James L. Magowan
Division: Real Estate Commission

Phone: 272-5508
Date: 02-15-84

Approved by Commissioner: Richard A. Lyon
Agency: Commerce & Economic Development

Date: 02-15-84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Director
- Office of Management and Budget
- Insurance Agency (es)

HB 588 - Fiscal Analysis

The fiscal note is based on the assumption that \$2,000.00 would be awarded each time a respondent prevails in a claim against the surety fund. Given a conservative estimate of 70 claims in which the respondent prevails, the fiscal impact would be \$140,000.00. If the bill were amended so that costs and attorney fees were awarded to whichever party prevails, then an additional 30 claims, or \$60,000.00 would be required.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 23, 1984

REQUEST

Bill/Resolution No.: CSHB 588 (Jud)
Title: An Act providing for the award of costs and attorney fees.
Sponsor: Tischer
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce and Economic Dev.
Program Category Affected: Consumer Protection
BRU, Program or Subprogram(s) Affected: Banking, Securities and Corporations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	- 0 -	20.0	21.0	22.1	23.2	24.3
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEDUS						
TOTAL OPERATING	- 0 -	20.0	21.0	22.1	23.2	24.3
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

GENERAL FUND	- 0 -	20.0	21.0	22.1	23.2	24.3
FEDERAL FUNDS						
OTHER						
TOTAL	- 0 -	20.0	21.0	22.1	23.2	24.3

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The above funds would cover estimated recovery of respondent's cost and attorneys' fees in connection to banking matters.

ANALYSIS: Attach a separate page for analysis

Prepared By: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521
Date: March 23, 1984

Approved by Commissioner: Richard A. Lyon
Agency: Commerce and Economic Development

Date: 4/5/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB NO. 588
 Title: "An Act relating to costs and attorney fees."
 Sponsor: Rep. Tischer
 Requestor: Jud & Finance
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: _____
Public Protection
 BRU, Program or Subprogram(s) Affected: _____
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		70.0	73.5	77.2	81.0	85.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	70.0	73.5	77.2	81.0	85.1
CAPITAL						
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	70.0	73.5	77.2	81.0	85.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	70.0	73.5	77.2	81.0	85.1

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the sponsor.

ANALYSIS: Attach a separate page for analysis (See Attached)

Prepared By: Darrell Miller Phone: 465-2535
 Division: Occupational Licensing Date: 3/1/84
 Approved by Commissioner: Richard A. Lyon Date: 3/1/84
 Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS:

Assumptions: This bill, if enacted in its present form, would provide a fiscal impact on the Division of Occupational licensing operations through administrative proceedings for the 22 licensing functions of the division, boards and commission.

In FY '82 the division concluded a total of 76 administrative proceedings, of which at least 17 were concluded in partial, or total, favor of the respondent.

In FY '83 the division concluded a total of 21 administrative proceedings, of which at least 11 were concluded in partial, or total, favor of the respondent.

Under the provisions of this bill, a respondent, as the prevailing party, would be entitled to an award of costs and attorney fees, in full or in part, as the case may be, in an administrative proceeding conducted by the division.

The Alaska Rules of Civil Procedure, Rules 79 and 82, are somewhat flexible in the awarding of costs and attorney fees to a prevailing party.

Each instance would require individual analysis and the estimate of the fiscal impact incurred by the division under this bill can only be an estimate that is unsupported by factual documentation at this time.

No fiscal impact would be incurred for other operating costs of the division under the provisions of this bill.

HOUSE BILL NO. 588

300 CONTRACTUAL (Note: 5% inflation rate projected for future)

The FY '82 and 83 combined total of administrative proceedings concluded in partial or full favor of the respondent was 28, or an average of 14 each year.

Estimate: Average costs and attorney fees for the respondent per proceeding; \$5,000.00.

14 proceedings x \$5,000.00 = \$70,000.00

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: AB 588
 Title: An Act providing for the award of costs & attorney's fees.
 Sponsor: Tischer
 Requestor: _____
 Date of Request: 2/9/84

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: Consumer Protection
 BRU, Program or Subprogram(s) Affected: Alaska Transportation Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		10.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		10.0				
FEDERAL FUNDS		-0-				
OTHER		-0-				
TOTAL		10.0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

If the Bill was amended, the State agency could collect its cost and attorney fees when it prevails thus offsetting the costs when the respondent prevails.

ANALYSIS: Attach a separate page for analysis

Prepared By: Keith H. Miller Phone: 561-4216
 Division: Alaska Transportation Commission Date: 2/16/84

Approved by Commissioner: [Signature] Date: 3/1/84
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

ANALYSIS FOR FISCAL NOTE

It is not possible to accurately predict the future fiscal impact of this bill with any certainty. The problems in predicting is that there is no certainty on the number of proceedings that will occur; there is no way of predicting the number wherein the respondent prevails; and there is no way of predicting the amount of fees that would be awarded.

A review of the 283 ATC proceedings that would appear to be covered by this legislation that were initialed in 1983 indicates that four cases might have justified the awarding of costs and attorney fees to the respondent. It should be noted that some of these proceedings are still open.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 588
Title: An Act providing for the award of costs and attorney fees....
Sponsor: Tischer
Requestor: House Judiciary
Date of Request: 2-9-84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Motor Vehicles/Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		69.2	74.9	79.4	84.2	89.3
200 TRAVEL		6.0	6.4	6.8	7.2	7.6
300 CONTRACTUAL		19.6	20.8	22.0	23.3	24.7
400 SUPPLIES		.4	.4	.4	.4	.5
500 EQUIPMENT		17.7	-0-	-0-	-0-	.5
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		698.4	740.5	784.9	832.0	881.9
800 MISCELLANEOUS						
TOTAL OPERATING		811.3	843.0	893.5	947.1	1,004.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		811.3	843.0	893.5	947.1	1,004.5
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown Phone: 465-4335
Division: Motor Vehicles Date: 2-23-84

Approved by Commissioner: [Signature] Date: 2/28/84
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

HB 588

FISCAL NOTE ANALYSIS

HB - 588

In 1983, the Division of Motor Vehicles held approximately 350 driver's license suspension/revocation hearings (not including November and December DWI hearings), and 180 motor vehicles title revocation and determination hearings. This year we are averaging over 100 driver's license hearings per month as a result of the new DWI law. About 25% of last year's hearings were found in favor of the citizen. Attorney time on driver's license hearings is estimated at 4 hours for each hearing, and for motor vehicle titles at 6 hours each.

Recently some attorneys have been advertising that they will take cases on a contingency basis in which there would be no cost to the client. In the situations addressed in this bill, if the attorney won the case the attorney would be paid by the State. If the case was lost, however, the attorney would collect no fee.

If this bill were to pass, especially with the above type of advertisements, it would have a tendency to increase the number of hearings. It is also felt that if this bill were to pass, regardless of the above-mentioned advertisements, more people would request hearings than in the past. Thus one additional hearing officer and clerical support will be needed.

100 - Personal Service

1 Hearing Office, Range 16 (new Class)	41.0	
1 Clerk IV, Range 9	28.2	
		69.2

200 - Travel

Hearing Officer to various locations to conduct hearings	6.0	6.0
--	-----	-----

300 - Contractual

310 Phones, tolls, postage	1.2	
320 Forms	.3	
330 Space Rental, 300 sq. ft. @2.25	8.1	
360 Equipment Rental	8.0	
1 AJIS terminal		
382 DP Chargeback	2.0	
Programming and maintenance		19.6

400 - Commodities

Normal Office Supplies	.4	.4
------------------------	----	----

500 - Equipment

Office Equipment, 2 employees	3.9	
WANG Word processing station	12.0	
Recording/Transcribing Equipment	1.8	

17.7

700 - Claims

ATTORNEY FEES

A. Driver's License:

1. Limited licenses issued at hearing:
60 per month = 720 annually x 4 hours
each = 2,880 hours x \$125 per hour 360.0
2. Respondent complies with law, thus license
action is rescinded at hearing:
10 per month = 120 annually x 4 hours
each = 480 hours x \$125 per hour 60.0
3. Other driver's license hearings:
10 per month = 120 annually
x 4 hours each = 480 hours x \$125 per
hour 60.0

B. Title & Registration

1. Determination of ownership:
10 per month = 120 annually x 6 hours
each = 144 hours x \$125 per hour 90.0
2. Other
2 per month = 24 annually x 6 hours
each = 144 hours x \$125 per hour 18.0

TOTAL: 588.0

OTHER COSTS

Respondent's transportation, loss of wages,
transcript preparation; etc. 1,104 incidents
@\$100 average per case 110.4
SUBTOTAL 698.4

TOTAL 811.3

ASSUMPTIONS:

Effective date of July 1, 1984. Six percent inflation factor used for FY-86 and subsequent years. Due to uncertain areas involving technical/procedural problems outlined in our bill analysis and position paper, the assumption was made that the respondent was "prevailing" in the situations outlined in those areas, and the State would have to pay costs and attorney fees. Clarification of those areas may change the projected expenditures listed in Line Item 700.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

HB 588

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 588
 Title: "Award of cost and attorney fees to persons..."
 Sponsor: Tischer
 Requestor: Judiciary Comm.
 Date of Request: 2/28/84

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Occupational Safety and Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		10.0	21.2	22.4	23.8	25.2
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	10.0	21.2	22.4	23.8	25.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	10.0	21.2	22.4	23.8	25.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: NO Robert J. Bacolas *R. Bacolas* Phone: 465-4870
 Division: Labor Standards and Safety Date: 2/28/84
 Approved by Commissioner: Jim Robison *Jim Robison* Date: 2/28/84
 Agency: Department of Labor

LEG:A:39

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83