

LEG. FINANCE - BILLS 1985 - 1986 2202

SB 187 cont. - SB 193 2202

1 (17) "commissioner" means the commissioner of health and
2 social services;

3 (18) "state registrar" means the state registrar appointed
4 under AS 18.50.030.

5 * Sec. 3. AS 18.50 is amended by adding new sections to read:

6 ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

7 Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Except as
8 provided in (b) of this section, upon receipt by the state registrar
9 of a request by an adopted person 18 years of age or older for the
10 identity of a biological parent of the adopted person, the state
11 registrar shall provide the adopted person with an uncertified copy of
12 the original birth certificate of the adopted person if

13 (1) a consent to disclosure by a parent named in the origi-
14 nal birth certificate is on file with the state registrar; or

15 (2) within 90 days after notice of the request is sent by
16 certified mail, return receipt requested, to the parent or parents
17 named in the original birth certificate, deliverable to the addressee
18 only, a written objection to disclosure is not received from the
19 biological parent or parents named.

20 (b) The state registrar may not disclose the name and address of
21 an objecting parent, except as required by the court under AS 25.23.-
22 150, if a written objection to disclosure under (a) of this section is
23 received from the parent

24 (1) after the adopted person is at least 17 years of age;
25 or

26 (2) within 90 days after the date notice is mailed under
27 (a) of this section.

28 (c) If a parent named in an original birth certificate agrees to
29 disclosure and the other parent named in the birth certificate objects

1 to disclosure, the state registrar shall remove the name of the ob-
2 jecting parent before providing the birth certificate to an adopted
3 person under (a) of this section.

4 (d) The state registrar shall, at the request of a biological
5 parent of an adopted child, attach the parent's current name and
6 address to the original certificate of birth of the adopted child.
7 The name and address shall be released to the adopted person in accor-
8 dance with (a) of this section.

9 (e) The state registrar shall, at the request of an adopted
10 person over 18 years of age, attach the person's name and address to
11 the person's original certificate of birth for release to the person's
12 biological parent on that parent's request.

13 Sec. 18.50.510. DESCRIPTIVE INFORMATION REGARDING BIOLOGICAL
14 PARENTS. (a) The state registrar shall, at the request of an adop-
15 tive parent of a person adopted on or after January 1, 1986, or of an
16 adopted person 18 years of age or older, release the following infor-
17 mation regarding a biological parent named on the original birth
18 certificate of the adopted person when available from the registrar's
19 records:

20 (1) the age of a biological parent on the birth date of the
21 adopted person;

22 (2) the heritage of a biological parent, to include:

23 (A) national origin;

24 (B) ethnic background; and

25 (C) tribal membership;

26 (3) the health history of a biological parent and of blood
27 relatives of a biological parent;

28 (4) the number of years of school completed by a biological
29 parent by the birth date of the adopted person;

1 (5) a physical description of a biological parent on the
2 birth date of the adopted person including height, weight, and color
3 of hair, eyes and skin;

4 (6) the existence of other children of a biological parent;

5 (7) whether a biological parent was alive at the time of
6 adoption;

7 (8) the religion of a biological parent; and

8 (9) any other information provided by a biological parent
9 for disclosure to the child.

10 (b) Information released under (a) of this section shall be on a
11 standard form prepared by the commissioner. The information may not
12 include the name of a biological parent or other information not
13 listed in (a) of this section.

14 Sec. 18.50.520. ASSISTANCE TO REGISTRAR IN OBTAINING INFORMA-
15 TION. At the request of the state registrar the commissioner shall
16 attempt to obtain information listed under AS 18.50.510 relating to
17 the biological parents of an adopted person regardless of the date of
18 the person's adoption. The disclosure of information requested by the
19 commissioner under this section is not prohibited under AS 25.23.-
20 150(c).

21 * Sec. 4. AS 25.23.060(a) is amended to read:

22 (a) The required consent to adoption shall be executed at any
23 time after the birth of the child in the presence of the court or in
24 the presence of a person authorized to take acknowledgments. The
25 consent is not valid unless

26 (1) the consent form states that the person required to
27 consent to the adoption under AS 25.23.040 has the right to withdraw
28 that consent as provided in AS 25.23.070(b); and

29 (2) the person who signs the consent form acknowledges

1 receipt of a copy.

2 * Sec. 5. AS 25.23.080(c) is amended to read:

3 (c) A certified copy of the birth certificate or verification of
4 the birth record of the person to be adopted, if available, the infor-
5 ation specified in AS 25.23.185(a), if available, and the required
6 consents, relinquishments, and termination orders shall be filed with
7 the clerk.

8 * Sec. 6. AS 25.23.130 is amended by adding a new subsection to read:

9 (c) Nothing in this chapter prohibits an open adoption. In this
10 subsection, "open adoption" means an adoption that allows visitation
11 between the adoptive person and that person's natural parents or other
12 blood relatives.

13 * Sec. 7. AS 25.23.150(b) is repealed and reenacted to read:

14 (b) The papers and records relating to an adoption that are a
15 part of the permanent record of a court are subject to inspection only
16 upon consent of the court. The papers and records relating to an
17 adoption on file with the department, an agency, or an individual are
18 subject to inspection only with consent of all interested persons or
19 by order of a court for good cause shown. Except as provided in this
20 section, adoption records of the Bureau of Vital Statistics are sub-
21 ject to inspection under the provisions of AS 18.50.

22 * Sec. 8. AS 25.23.150(c) is amended to read:

23 (c) Except as otherwise provided by law, or as authorized in
24 writing by the adopted child, if 14 or more years of age, or by the
25 adoptive parent, or upon order of the court for good cause shown [IN
26 EXCEPTIONAL CASES], a [NO] person may not [IS REQUIRED TO] disclose
27 the name or identity of either an adoptive parent or an adopted child.

28 * Sec. 9. AS 25.23 is amended by adding a new section to read:

29 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a

1 petition for adoption is filed with the court the agency or individual
2 placing the person for adoption or, if none, a petitioner shall file
3 with the court for release to the state registrar only the following
4 information, or an explanation of its unavailability, on separate
5 forms provided by the department:

6 (1) the address of each biological parent named on the
7 original birth certificate;

8 (2) background information required under AS 18.50.510;

9 (3) a statement signed by each biological parent named on
10 the original birth certificate acknowledging receipt of a copy of
11 AS 18.50.500 - 18.50.510 and an understanding of those provisions; and

12 (4) a statement signed by each biological parent named on
13 the original birth certificate that indicates whether the parent
14 consents to disclosure of the parent's identity under AS 18.50.500 and
15 acknowledges that a refusal to consent becomes effective under AS 18.-
16 50.500 only if reaffirmed after the adopted person has reached 17
17 years of age.

18 (b) The statement and the information provided under (a) of this
19 section shall be attached to the original certificate of birth of the
20 adopted person upon entry of a decree of adoption.

21 * Sec. 10. This Act takes effect January 1, 1986.

Offered: 4/26/85
Referred: Judiciary and
Finance

Original sponsors: Rodey, P.Fischer,
Sturgulewski and Kerdtula

1 IN THE SENATE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 187 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption; and providing for an
7 effective date."

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

9 * Section 1. AS 18.50.220(b) is amended to read:

10 (b) When a new certificate of birth is established, the actual
11 place and date of birth shall be shown. The new certificate shall be
12 substituted for the original certificate of birth, and

13 (1) thereafter, the original certificate and the evidence
14 of adoption or legitimation are not subject to inspection except upon
15 order of the superior court; however, the state registrar [OR AS
16 PROVIDED BY REGULATION; HOWEVER, THE REGULATION] shall allow inspec-
17 tion by an agent of the state or federal government acting in the
18 performance of the agent's [HIS] official duties;

19 (2) upon receipt of a report that an adoption has been
20 vacated, the original certificate of birth shall be restored to its
21 place in the files and the new certificate and evidence are not sub-
22 ject to inspection except upon order of a superior court.

23 * Sec. 2. AS 18.50.370 is amended by adding new paragraphs to read:

24 (14) "adoptive parent" means a person who has adopted another
25 person under AS 25.23;

26 (15) "biological parent" means a parent named on the origi-
27 nal certificate of birth of an adopted person;

28 (16) "child adoption agency" means a child adoption agency
29 licensed under AS 47.35.100;

1 (17) "commissioner" means the commissioner of health and
2 social services;

3 (18) "state registrar" means the state registrar appointed
4 under AS 18.50.030.

5 * Sec. 3. AS 18.50 is amended by adding new sections to read:

6 ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

7 Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Upon
8 receipt by the state registrar of a request by an adopted person 18
9 years of age or older for the identity of a biological parent of the
10 adopted person, the state registrar shall give notice of the request
11 to the biological parent by certified mail, deliverable to the ad-
12 dressee only. The state registrar shall provide the adopted person
13 with an uncertified copy of the original certificate of birth of the
14 adopted person if a written objection by the biological parent is not
15 received by the state registrar within 90 days after the date notice
16 was mailed. If written objection is received from the biological
17 parent within the 90 days, the state registrar may not disclose the
18 name and address of that biological parent to the person who requested
19 it unless disclosure is ordered by the court under AS 25.23.150.

20 (b) The state registrar shall, at the request of a biological
21 parent of an adopted child, attach the parent's current name and
22 address to the original certificate of birth of the adopted child.
23 The name and address shall be released to the adopted person in accor-
24 dance with (a) of this section.

25 (c) The state registrar shall, at the request of an adopted
26 person over 18 years of age, attach the person's name and address to
27 the person's original certificate of birth for release to the person's
28 biological parent on that parent's request.

29 Sec. 18.50.510. DESCRIPTIVE INFORMATION REGARDING BIOLOGICAL

1 PARENTS. (a) The state registrar shall, at the request of an adop-
2 tive parent of a person adopted on or after January 1, 1986, or of an
3 adopted person 18 years of age or older, release the following infor-
4 mation regarding a biological parent named on the original birth
5 certificate of the adopted person when available from the registrar's
6 records:

7 (1) the age of a biological parent on the birth date of the
8 adopted person;

9 (2) the heritage of a biological parent, to include:

10 (A) national origin;

11 (B) ethnic background; and

12 (C) tribal membership;

13 (3) the health history of a biological parent and of blood
14 relatives of a biological parent;

15 (4) the number of years of school completed by a biological
16 parent by the birth date of the adopted person;

17 (5) a physical description of a biological parent on the
18 birth date of the adopted person including height, weight, and color
19 of hair, eyes and skin;

20 (6) the existence of other children of a biological parent;

21 (7) whether a biological parent was alive at the time of
22 adoption;

23 (8) the religion of a biological parent.

24 (b) Information released under (a) of this section shall be on a
25 standard form prepared by the commissioner. The information may not
26 include the name of a biological parent or other information not
27 listed in (a) of this section.

28 Sec. 18.50.520. ASSISTANCE TO REGISTRAR IN OBTAINING INFORMA-
29 TION. At the request of the state registrar the commissioner shall

1 attempt to obtain information listed under AS 18.50.510 relating to
2 the biological parents of an adopted person regardless of the date of
3 the person's adoption. The disclosure of information requested by the
4 commissioner under this section is not prohibited under AS 25.23.-
5 150(c).

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7 (a) The required consent to adoption shall be executed at any
8 time after the birth of the child in the presence of the court or in
9 the presence of a person authorized to take acknowledgments. The
10 consent is not valid unless

11 (1) the consent form states that the person required to
12 consent to the adoption under AS 25.23.040 has the right to withdraw
13 that consent as provided in AS 25.23.070(b); and

14 (2) the person who signs the consent form acknowledges
15 receipt of a copy.

16 * Sec. 5. AS 25.23.080(c) is amended to read:

17 (c) A certified copy of the birth certificate or verification of
18 the birth record of the person to be adopted, if available, the infor-
19 mation specified in AS 25.23.185(a), if available, and the required
20 consents, relinquishments, and termination orders shall be filed with
21 the clerk.

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23 (c) Nothing in this chapter prohibits an open adoption. In this
24 subsection, "open adoption" means an adoption that allows visitation
25 between the adoptive person and that person's natural parents or other
26 blood relatives.

27 * Sec. 7. AS 25.23.150(b) is repealed and reenacted to read:

28 (b) The papers and records relating to an adoption that are a
29 part of the permanent record of a court are subject to inspection only

1 upon consent of the court. The papers and records relating to an
2 adoption on file with the department, an agency, or an individual are
3 subject to inspection only with consent of all interested persons or
4 by order of a court for good cause shown. Except as provided in this
5 section, adoption records of the Bureau of Vital Statistics are sub-
6 ject to inspection under the provisions of AS 18.50.

7 * Sec. 8. AS 25.23.150(c) is amended to read:

8 (c) Except as otherwise provided by law, or as authorized in
9 writing by the adopted child, if 14 or more years of age, or by the
10 adoptive parent, or upon order of the court for good cause shown [IN
11 EXCEPTIONAL CASES], a [NO] person may not [IS REQUIRED TO] disclose
12 the name or identity of either an adop-tive parent or an adopted child

13 * Sec. 9. AS 25.23 is amended by adding a new section to read:

14 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a
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16 placing the person for adoption or, if none, a petitioner shall file
17 with the court for release to the state registrar only the following
18 information, or an explanation of its unavailability, on separate
19 forms provided by the department:

20 (1) the address of each biological parent named on the
21 original birth certificate;

22 (2) background information required under AS 18.50.510; and

23 (3) a statement signed by each biological parent named on
24 the original birth certificate acknowledging receipt of a copy of
25 AS 18.50.500 - 18.50.510 and an understanding of those provisions.

26 (b) The statement and the information provided under (a) of this
27 section shall be attached to the original certificate of birth of the
28 adopted person upon entry of a decree of adoption.

29 * Sec. 10. This Act takes effect January 1, 1986.

Introduced: 2/22/85
Referred: Health, Education & Social Services
Judiciary

BY RODEY, P.FISCHER
STURGULEWSKI AND KERTTULA

1 IN THE SENATE

2

SENATE BILL NO. 187

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to adoption; and providing for an
7 effective date."

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9 * Section 1. AS 18.50.220(b)(1) is amended to read:

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14 of adoption or legitimation are not subject to inspection except upon
15 order of the superior court; however, the state registrar [OR AS
16 PROVIDED BY REGULATION; HOWEVER, THE REGULATION] shall allow inspec-
17 tion by an agent of the state or federal government acting in the
18 performance of the agent's [HIS] official duties;

19 (2) upon receipt of a report that an adoption has been
20 vacated, the original certificate of birth shall be restored to its
21 place in the files and the new certificate and evidence are not sub-
22 ject to inspection except upon order of a superior court.

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25 Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Upon
26 receipt by the state registrar of a request by an adopted person 18
27 years of age or older for the identity of a biological parent of the
28 adopted person, the state registrar shall give notice of the request
29 to the biological parent by certified mail, deliverable to the

1 addressee only. The state registrar shall disclose the name and
2 address of the biological parent as it appears on the original certifi-
3 cate of birth of the adopted person if a written objection by the
4 biological parent is not received by the state registrar within 90
5 days after the date notice was mailed. If written objection is re-
6 ceived from the biological parent within the 90 days, the state regis-
7 trar may not disclose the name and address of that biological parent
8 to the person who requested it unless disclosure is ordered by the
9 court under AS 25.23.150.

10 (b) The state registrar shall, at the request of a biological
11 parent of an adopted child, attach the parent's current name and
12 address to the original certificate of birth of the adopted child.
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14 dance with (a) of this section.

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23 mation regarding a biological parent named on the original birth
24 certificate of the adopted person when available from the registrar's
25 records:

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27 adopted person;

28 (2) the heritage of a biological parent, to include:

29 (A) national origin;

- 1 (B) ethnic background; and
2 (C) tribal membership;
3 (3) the health history of a biological parent and of blood
4 relatives of a biological parent;
5 (4) the number of years of school completed by a biological
6 parent by the birth date of the adopted person;
7 (5) a physical description of a biological parent on the
8 birth date of the adopted person including height, weight, and color
9 of hair, eyes and skin;
10 (6) the existence of other children of a biological parent;
11 (7) whether a biological parent was alive at the time of
12 adoption;
13 (8) the religion of a biological parent.

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15 standard form prepared by the commissioner. The information may not
16 include the name of a biological parent or other information not
17 listed in (a) of this section.

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19 TION. At the request of the state registrar the commissioner shall
20 attempt to obtain information listed under AS 18.50.510 relating to
21 the biological parents of an adopted person regardless of the date of
22 the person's adoption. The disclosure of information requested by the
23 commissioner under this section is not prohibited under AS 25.23.-
24 150(c).

25 Sec. 18.50.530. DEFINITIONS. In AS 18.50.500 - 18.50.530

26 (1) "adoptive parent" means a person who has adopted another
27 person under AS 25.23;

28 (2) "biological parent" means a parent named on the original
29 certificate of birth of an adopted person;

1 (3) "child adoption agency" means a child adoption agency
2 licensed under AS 47.35.100;

3 (4) "commissioner" means the commissioner of health and
4 social services;

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6 under AS 18.50.030.

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13 consent to the adoption under AS 25.23.040 has the right to withdraw
14 that consent as provided in AS 25.23.070(b); and

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16 receipt of a copy.

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19 the birth record of the person to be adopted, if available, the infor-
20 mation specified in AS 25.23.185(a), if available, and the required
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23 * Sec. 5. AS 25.23.150(b) is repealed and reenacted to read:

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25 part of the permanent record of a court are subject to inspection only
26 upon consent of the court. The papers and records relating to an
27 adoption on file with the department, an agency, or an individual are
28 subject to inspection only with consent of all interested persons or
29 by order of a court for good cause shown. Except as provided in this

1 section, adoption records of the Bureau of Vital Statistics are sub-
2 ject to inspection under the provisions of AS 18.50.

3 * Sec. 6. AS 25.23.150(c) is amended to read:

4 (c) Except as otherwise provided by law, or as authorized in
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6 adoptive parent, or upon order of the court for good cause shown [IN
7 EXCEPTIONAL CASES], a [NO] person may not [IS REQUIRED TO] disclose
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9 * Sec. 7. AS 25.23 is amended by adding a new section to read:

10 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a
11 petition for adoption is filed with the court the agency or individual
12 placing the person for adoption or, if none, a petitioner shall file
13 with the court for release to the state registrar only the following
14 information, or an explanation of its unavailability, on separate
15 forms provided by the department:

16 (1) the address of each biological parent named on the
17 original birth certificate;

18 (2) background information required under AS 18.50.510; and

19 (3) a statement signed by each biological parent named on
20 the original birth certificate acknowledging receipt of a copy of
21 AS 18.50.500 - 18.50.510 and an understanding of those provisions.

22 (b) The statement and the information provided under (a) of this
23 section shall be attached to the original certificate of birth of the
24 adopted person upon entry of a decree of adoption.

25 * Sec. 8. This Act takes effect January 1, 1986.

26

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/25/85

Date: 5-10-85

The Committee on FINANCE has had SSB 190 (Fisc)

"An Act relating to the residential property tax exemption and the
equivalency and reimbursement provisions and providing for its
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 11-1-85

reports it back without recommendation Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Paul Farnsworth

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/12/85

REQUEST

Bill/Resolution No. CS SB 190 (Fid)
 Title: Extending tax exemptions to certain widows & widowers
 Sponsor: p. Fischer, Abood, Eliason
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Senior Citizens/Disabled Veterans Tax Relief
 BRU, Program or Subprogram(s) Affected: Senior Citizens/Disabled Veterans Property Tax Exemption & Rentors Equivalency Rebate

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0					
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0	5.0	5.5	6.0	6.6	7.2
800 MISCELLANEOUS						
TOTAL OPERATING	0	5.0	5.5	6.0	6.6	7.2
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	5.0	5.5	6.0	6.6	7.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	5.0	5.5	6.0	6.6	7.2

POSITIONS:

FULL-TIME	0					
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Position paper attached.

Prepared By: Michael Worley, State Assessor
 Division: Municipal and Regional Assistance

Phone: 465-4735

Date: 4/12/85

Approved by Commissioner: Emil Notti
 Agency: Community and Regional Affairs

Date: 4/12/85

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

7/1/84

Offered: 4/15/85
Referred: Rules

Original sponsors: P.Fischer, Ahood,
Eliason, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 190 (Finance) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

6 For an Act entitled: "An Act relating to the residential property tax
7 exemption and tax equivalency and reimbursement
8 payments; and providing for an effective date."

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

10 * Section 1. AS 29.53.020(e) is amended to read:

11 (e) The real property owned and occupied as a permanent place of
12 abode by a (1) resident 65 years of age or over; (2) [OR BY A] dis-
13 abled veteran; or (3) resident at least 60 years old who is the widow
14 or widower of a person who qualified for an exemption under (1) or (2)
15 of this subsection, is exempt from taxation of the assessed value of
16 the real property. Only one exemption may be granted for the same
17 property and, if two or more persons are eligible for an exemption for
18 the same property, the parties shall decide between or among them-
19 selves which shall receive the benefit of the exemption. Real prop-
20 erty may not be exempted under this subsection if the assessor deter-
21 mines, after notice and hearing to the parties concerned, that the
22 property was conveyed to the applicant primarily for the purpose of
23 obtaining the exemption. The determination of the assessor may be
24 appealed under AS 44.62.560 - 44.62.570.

25 * Sec. 2. AS 29.53.020(g) is amended to read:

26 (g) The state shall reimburse a borough or city, as appropriate,
27 for the real property tax revenues lost to it by the operation of (e)
28 of this section. However, reimbursement will be made to a borough or
29 city for revenue lost to it only to the extent that the loss exceeds

1 an exemption that [WHICH] was granted by the borough or city, or that
2 [WHICH] upon proper application by an individual would have been
3 granted by the borough or city, under AS 29.53.025(a). If appro-
4 priations are not sufficient to fully fund reimbursements under this
5 subsection, the amount available shall be distributed pro rata among
6 eligible municipalities.

7 * Sec. 3. AS 29.73.060(a) is amended to read:

8 (a) A resident of the state [65 YEARS OF AGE OR OLDER OR A
9 DISABLED VETERAN] who rents a permanent place of abode is eligible for
10 a tax equivalency payment from the state through the Department of
11 Community and Regional Affairs if the resident is

12 (1) at least 62 years old;

13 (2) a disabled veteran; or

14 (3) at least 60 years old and the widow or widower of a
15 person who was eligible for a payment under (1) or (2) of this sub-
16 section.

17 * Sec. 4. AS 29.73.060 is amended by adding a new subsection to read:

18 (f) If appropriations are not sufficient to fully fund tax
19 equivalency payments under this section, the amount available shall be
20 distributed pro rata among eligible residents.

21 * Sec. 5. AS 29.73.062(a) is amended to read:

22 (a) A resident of the state [65 YEARS OF AGE OR OLDER OR A
23 DISABLED VETERAN] who rents a permanent place of abode and is other-
24 wise eligible for a reimbursement payment from the state may receive a
25 payment through the Department of Community and Regional Affairs if
26 the abode is located in a municipality that [(1)] does not levy and
27 collect a property tax, [;] and [(2)] levies and collects a sales tax
28 on rents paid for residential property. A resident is eligible for a
29 payment if the resident is

- 1 (1) at least 65 years old;
2 (2) a disabled veteran; or
3 (3) at least 60 years old and the widow or widower of a
4 person who was eligible for a payment under (1) or (2) of this sub-
5 section.

6 * Sec. 6. AS 29.73.062 is amended by adding a new subsection to read:

7 (f) If appropriations are not sufficient to fully fund reim-
8 bursement payments under this section, the amount available shall be
9 distributed pro rata among eligible residents.

10 * Sec. 7. This Act takes effect January 1, 1986.

SECTIONAL ANALYSIS FOR SENATE BILL 190

An Act extending the residential property tax exemption and tax equivalency and reimbursement payments to certain widows and widowers

Section 1

Extends the property tax exemption currently given to senior citizens and disabled veterans to the widows and widowers (must be at least 60 years of age) of a person that was at least 65 years old or of a disabled veteran.

Section 2

Extends the tax equivalency payments for renters to the widows and widowers (must be at least 60 years old) of a person that was at least 65 years old or of a disabled veteran.

Section 3

Extends the reimbursement payment for renters in cities that do not levy a property tax but collect a sales tax on rents to the widows and widowers (must be at least 60 years old) of a person that was at least 65 years old or of a disabled veteran.

Section 4

Effective date of July 1, 1985.

The Senate Community and Regional Affairs Committee adopted an amendment which adds three new sections to the bill. All state that if sufficient funds are not available for reimbursement to municipalities or individuals, those funds shall be distributed pro rata.

In addition, the drafting attorney has recommended that the effective date of this bill be amended to January 1, 1986 because municipalities generally operate on a calendar year basis.

Finally, Senate Bill 190 originally had a \$31,900 fiscal note from the Department of Community and Regional Affairs. Last Friday, they deleted their request for a new clerk typist position, hence the fiscal note now amounts to \$5,000. That would be used to pay the increase in reimbursement claims.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 18, 1985

- POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

POSITION PAPER

RE: SB 190

SPONSORS: Senator P. Fischer, Senator Abood, and Senator Eliason

SB 190 allows for the widow/widower of a person who received: (1) A Property Tax Exemption or (2) A Tax Equivalency (Renter) payment to continue to receive the exemption, if the widow/widower is at least 60 years old or older.

ANALYSIS

The department supports the passage of this bill. We understand the hardship a widow/widower encounters, financially due to the loss of a spouse. We have introduced similar legislation in SB 137, Section 4, which would allow a surviving spouse, age 55 or older to continue receiving the property tax exemption.

In supporting this bill we would like to add an amendment which would address the funding problem. Due to the addition of disabled veterans (Chapter 40, SLA 84), increased numbers of senior citizens, statewide increases in both property taxes and rent's the money required to fully fund these programs has drastically increased. Therefore, we recommend including language which would allow the department to prorate payments in the event of future funding shortages.

in current version of bill

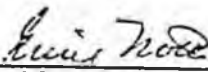
COST ANALYSIS

General fund costs are due to an increase in eligible applicants. This cost is estimated to be \$5,000 and will increase 10% annually due to inflation. Additional costs are attributed to the added position of a clerk typist.

HB 190
March 18, 1985
Page 2

IMPACT ON LOCAL GOVERNMENTS:

Additional work for the local assessor and staff will be required in verifying the eligibility of the widow/widower for this exemption.



Emil Notti, Commissioner

Offered: 4/15/85
Referred: Rules

Original sponsors: P.Fischer, Abood,
Eliason, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 190 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

6 For an Act entitled: "An Act extending the residential property tax exemp-
7 tion and tax equivalency and reimbursement payments
8 to certain widows and widowers; and providing for an
9 effective date."

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

11 * Section 1. AS 29.53.020(e) is amended to read:

12 (e) The real property owned and occupied as a permanent place of
13 abode by a (1) resident 65 years of age or over; (2) [OR BY A] dis-
14 abled veteran; or (3) resident at least 60 years old who is the widow
15 or widower of a person who qualified for an exemption under (1) or (2)
16 of this subsection. is exempt from taxation of the assessed value of
17 the real property. Only one exemption may be granted for the same
18 property and, if two or more persons are eligible for an exemption for
19 the same property, the parties shall decide between or among them-
20 selves which shall receive the benefit of the exemption. Real prop-
21 erty may not be exempted under this subsection if the assessor deter-
22 mines, after notice and hearing to the parties concerned, that the
23 property was conveyed to the applicant primarily for the purpose of
24 obtaining the exemption. The determination of the assessor may be
25 appealed under AS 44.62.560 - 44.62.570.

26 * Sec. 2. AS 29.73.060(a) is amended to read:

27 (a) A resident of the state [65 YEARS OF AGE OR OLDER OR A
28 DISABLED VETERAN] who rents a permanent place of abode is eligible for
29 a tax equivalency payment from the state through the Department of

1 Community and Regional Affairs if the resident is
2 (1) at least 65 years old;
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6 section.

7 * Sec. 3. AS 29.73.062(a) is amended to read:

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17 (2) a disabled veteran; or
18 (3) at least 60 years old and the widow or widower of a
19 person who was eligible for a payment under (1) or (2) of this sub-
20 section.

21 * Sec. 4. This Act takes effect January 1, 1986.

Introduced: 2/26/85
Referred: Community & Regional Affairs
and Finance

BY P.FISCHER, ABOOD,
ELIASON, V.FISCHER,
ZIEGLER, ZHAROFF AND
COGHILL

1 IN THE SENATE

2

SENATE BILL NO. 190

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

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18 (3) at least 60 years old and the widow or widower of a
19 person who was eligible for a payment under (1) or (2) of this sub-
20 section.

21 * Sec. 4. This Act takes effect July 1, 1985.

COMMITTEE REPORT
SENATE

FURTHER:

3/26/85

Date 3/26/85

Mr. President

The Committee on FINANCE considered SB 190

concerning the establishment, support, construction and maintenance of
publicly owned highways (to obtain wider and better road).

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 190 (Fin)
- new title
- same title and recommends "do pass"
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
5.0
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman _____

Chairman recommendation _____

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/12/85

REQUEST

Bill/Resolution No.: SB 190
 Title: Extending tax exemptions to certain widows & widowers
 Sponsor: P. Fischer, Abood, Eliason
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Senior Citizens/Disabled Veterans Tax Relief
 BRU, Program or Subprogram(s) Affected: Senior Citizens/Disabled Veterans Property Tax Exemption & Rentors Equivalency Rebate

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0					
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0	5.0	5.5	6.0	6.6	7.2
800 MISCELLANEOUS						
TOTAL OPERATING	0	5.0	5.5	6.0	6.6	7.2
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	5.0	5.5	6.0	6.6	7.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	5.0	5.5	6.0	6.6	7.2

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0					
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Position paper attached.

Prepared By: Michael Worley, State Assessor
 Division: Municipal and Regional Assistance

Phone: 465-4735

Date: 4/12/85

Approved by Commissioner: Emil Notti
 Agency: Community and Regional Affairs

Date: 4/12/85

Distribution (by Agency preparing fiscal note):

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

7/1/84



From The
**SENATE
FINANCE COMMITTEE**

DATE: 4/15/85
TO: Lynne
SUBJ: CS SB 190 (Fin)

Finance Committee
BY ~~F. FISCHER, ABOOD,
ELIASON, V. FISCHER,
ZIEGLER, ZHAROFF AND
COGHILL~~

Please prepare a Senate Finance Committee Substitute for SB 190, changing the effective date in Sec. 4 to JANUARY 1, 1986, as noted on page 2, line 21.

This bill was reported out of SFC at this morning's meeting and will be read across during the 11:00 a.m. floor session.

Please return to me asap.

Vicki
Cap Bldg, Rm 413
4935

90 (Fin)

STATE OF ALASKA

FIRST SESSION

residential property tax exemp-
ncy and reimbursement payments
widowers; and providing for an

TE OF ALASKA:

to read:

occupied as a permanent place of
e or over; (2) [OR BY A] dis-
t 60 years old who is the widow
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ation of the assessed value of
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Introduced: 2/26/85
Referred: Community & Regional Affairs
and Finance

BY P FISCHER, ABOOD,
ELIASON, V. FISCHER,
ZIEGLER, ZHAROFF AND
COGHILL

1 IN THE SENATE

2

SENATE BILL NO. 190

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

6 For an Act entitled: "An Act extending the residential property tax exemp-
7 tion and tax equivalency and reimbursement payments
8 to certain widows and widowers; and providing for an
9 effective date."

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

11 * Section 1. AS 29.53.020(e) is amended to read:

12 (e) The real property owned and occupied as a permanent place of
13 abode by a (1) resident 65 years of age or over; (2) [OR BY A] dis-
14 abled veteran; or (3) resident at least 60 years old who is the widow
15 or widower of a person who qualified for an exemption under (1) or (2)
16 of this subsection, is exempt from taxation of the assessed value of
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18 property and, if two or more persons are eligible for an exemption for
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17 (2) a disabled veteran; or

18 (3) at least 60 years old and the widow or widower of a
19 person who was eligible for a payment under (1) or (2) of this sub-
20 section.

21 * Sec. 4. This Act takes effect ~~July 1, 1985.~~ ^{January 1, 1986}

Offered: 4/15/85
Referred: Rules

Original sponsors: P.Fischer, Abood,
Eliason, et al

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 190 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
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6 section.

7 * Sec. 3. AS 29.73.062(g) is amended to read:

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11 payment through the Department of Community and Regional Affairs if
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18 (3) at least 60 years old and the widow or widower of a
19 person who was eligible for a payment under (1) or (2) of this sub-
20 section.

21 * Sec. 4. This Act takes effect January 1, 1986.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/15/85

REQUEST

Bill/Resolution No.: SB 190
 Title: Extending tax exemptions to certain widows & widowers
 Sponsor: P. Fischer, Abood, Eliason
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Community and Regional Affairs
 Program Category Affected: Senior Citizens/Disabled Veterans Tax Relief
 BRU, Program or Subprogram(s) Affected: Senior Citizens/Disabled Veterans Property Tax Exemption & Rentors Equivalency Rebate

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES	0	25.4	26.7	28.0	29.4	30.9
200 TRAVEL						
300 CONTRACTUAL	0	.5	.5	.6	.6	.7
400 SUPPLIES	0	.2	.2	.2	.2	.2
500 EQUIPMENT	0	.8	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0	5.0	5.5	6.0	6.6	7.2
800 MISCELLANEOUS						
TOTAL OPERATING	0	31.9	32.9	34.8	36.8	39.0

CAPITAL	0					
---------	---	--	--	--	--	--

REVENUE	0					
---------	---	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	31.9	32.9	34.8	36.8	39.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	31.9	32.9	34.8	36.8	39.0

POSITIONS:

FULL-TIME	0	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Position paper attached.

Prepared By: Michael Worley State Assessor
 Division: Municipal and Regional Assistance

Phone: 465-4735

Date: 3/15/85

Approved by Commissioner: Kevin Nord
 Agency: Community and Regional Affairs

Date: 3/15/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

1.	POSITION TITLE Clerk Typist III for FY 86			RANGE/STEP 08/A	BARG. UNIT GGU	PAGE/LINE	COY.	APPROV.	DISAPP.
2.	TYPE OF POSITION PET	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1		2		3				
	PERSONAL SERVICES								
5.	Salary		19,570						
6.	Benefits		5,871						
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES		01		25,441				
10.	Travel		02		0				
11.	Contractual		03		500				
12.	Commodities		04		200				
13.	Equipment		05		800				
14.	Other								
15.	TOTAL COST				26,941				
	RECEIPT CODE			FUNDING SOURCE					
16.				Federal Receipts 1002					
17.				G.F. Match 1003					
18.				General Funds 1004					
19.				I-A Receipts 1005					
20.				Program Receipts 1028					
21.				Other					
				26.9					
FOR BSM USE ONLY KEY NUMBER _____									

This position will be needed in FY 86 to handle growing workload demands. With the changes in the tax exemption programs, proposed prorating of reimbursements for senior citizen/disabled veterans homeowners tax exemptions and the inclusion of disabled veterans and rural residents in tax relief programs.

**REQUEST FOR
NEW POSITION**

AGENCY Community and Regional Affairs
PROGRAM Community Development
Local Government Assistance
BRU _____
COMPONENT _____

FY 86

Page _____ of _____
Revised Date _____

SECTIONAL ANALYSIS FOR SENATE BILL 190

An Act extending the residential property tax exemption and tax equivalency and reimbursement payments to certain widows and widowers

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Effective date of July 1, 1985.

The Senate Community and Regional Affairs Committee adopted an amendment which adds three new sections to the bill. All state that if sufficient funds are not available for reimbursement to municipalities or individuals, those funds shall be distributed pro rata.

In addition, the drafting attorney has recommended that the effective date of this bill be amended to January 1, 1986 because municipalities generally operate on a calendar year basis.

Finally, Senate Bill 190 originally had a \$31,900 fiscal note from the Department of Community and Regional Affairs. Last Friday, they deleted their request for a new clerk typist position, hence the fiscal note now amounts to \$5,000. That would be used to pay the increase in reimbursement claims.

File w bill

Alaska State Legislature

Senate

Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman
Members
Senator Ferguson, Vice Chairman
Senator Coghill
Senator Sturgulewski
Senator V. Fischer

Pouch V
Juneau, Alaska 99811



Official Business

March 25, 1985

To: Senator Jan Faiks, Co-Chairman
Senate Finance

From: Senator Edna DeVries, Chairman *Edna*
Senate Community/Regional Affairs

Subj: Senate Bill 190

Subject bill has passed out of C&RA and will be read across and referred to Finance tomorrow, March 26. My committee has added one amendment to the bill.

In comments from Legal Services relating to our committee amendment, it was suggested that the effective date of the bill be changed to January 1, 1986; specifically due to the fact that local government generally operates on a calendar year basis.

I agree that the effective date for SB 190 should be changed to January 1, 1986; and request that Finance so amend the bill. This has been discussed with the bill sponsor, Senator Paul Fischer.

cc: Senator Paul Fischer
C&RA Members

P.S. Also note that bill title change is included in our amendment; as per recommendation from Tam Cook, Legal Services.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1985

SUBJECT: Benefits for certain widows and widowers
(Senate Bill 190)

TO: Senator Edna DeVries

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is the amendment that you requested. It adds provisions to authorize payment of prorated portions of the benefits under the three programs dealt with in SB 190 if appropriations are not adequate to fully fund payments to all eligible recipients. Since these additions do not deal with benefits to widows and widowers as such, I have in this amendment, broadened the title of the bill to more accurately reflect the subject as it has been expanded.

In preparing this amendment I noticed that the effective date of this bill is tied to the fiscal year. Since all three programs amended in this bill involve benefits calculated according to rates of municipal taxation, the bill should become effective at the beginning of the tax year to avoid the administrative difficulties of calculating the level of benefits for half a year. I would recommend that the effective date be changed to January 1, 1986.

TBC:ojb
J13/016

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

March 18, 1985

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

POSITION PAPER

RE: SB 190

SPONSORS: Senator P. Fischer, Senator Abood, and Senator Eliason

SB 190 allows for the widow/widower of a person who received: (1) A Property Tax Exemption or (2) A Tax Equivalency (Renter) payment to continue to receive the exemption, if the widow/widower is at least 60 years old or older.

ANALYSIS

The department supports the passage of this bill. We understand the hardship a widow/widower encounters, financially due to the loss of a spouse. We have introduced similar legislation in SB 137, Section 4, which would allow a surviving spouse, age 55 or older to continue receiving the property tax exemption.

In supporting this bill we would like to add an amendment which would address the funding problem. Due to the addition of disabled veterans (Chapter 40, SLA 84), increased numbers of senior citizens, statewide increases in both property taxes and rent's the money required to fully fund these programs has drastically increased. Therefore, we recommend including language which would allow the department to prorate payments in the event of future funding shortages.

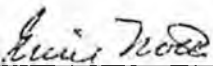
COST ANALYSIS

General fund costs are due to an increase in eligible applicants. This cost is estimated to be \$5,000 and will increase 10% annually due to inflation. Additional costs are attributed to the added position of a clerk typist.

HB 190
March 18, 1985
Page 2

IMPACT ON LOCAL GOVERNMENTS:

Additional work for the local assessor and staff will be required in verifying the eligibility of the widow/widower for this exemption.



Emil Notti, Commissioner

A M E N D M E N T

Offered in the SENATE

By the Community and Regional

TO: SB 190

Affairs Committee

Page 1, line 6:

Delete "extending" and insert "relating to"

Page 1, line 8:

Delete "to certain widows and widowers"

Page 1, after line 25, insert a new bill section to read:

"* Sec. 2. AS 29.53.020(g) is amended to read:

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement will be made to a borough or city for revenue lost to it only to the extent that the loss exceeds an exemption that [WHICH] was granted by the borough or city, or that [WHICH] upon proper application by an individual would have been granted by the borough or city, under AS 29.53.025(a). If appropriations are not sufficient to fully fund reimbursements under this subsection, the amount available shall be distributed pro rata among eligible municipalities."

Renumber the following sections accordingly.

Page 2, after line 6, insert a new bill section to read:

"* Sec. 4. AS 29.73.060 is amended by adding a new subsection to read:

(f) If appropriations are not sufficient to fully fund tax equivalency payments under this section, the amount available shall be distributed pro rata among eligible residents."

Renumber the following sections accordingly.

Page 2, after line 20, insert a new bill section to read:

"* Sec. 6. AS 29.73.062 is amended by adding a new subsection to read:

(f) If appropriations are not sufficient to fully fund reimbursement payments under this section, the amount available shall be distributed pro rata among eligible residents."

Renumber the following section accordingly.

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

2/26/85

Date March 21 1985

Mr. President

The Committee on C&RA considered SB 190

extending the residential property tax exemption and tax equivalency and reimbursement payments to certain widows and widowers; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment
- replace with/or adopt CS for _____
new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

John Staszulski
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edna McVies
Chairman

No Pass
Chairman recommendation

COMMITTEE REPORT
HOUSE

(111)

3127765

FURTHER:

Date: 3/1/66

The Committee on TAMM has had 195

"The bill provides for the creation of two new judges; and provides 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
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Chairman
CHAIRMAN

Introduced: 2/26/85
Referred: Health, Education & Social Services
and Finance

1 IN THE SENATE

BY ELIASON

2

SENATE BILL NO, 192

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act waiving restrictions on use of sick leave
banks; and providing for an effective date."

7

8

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

9

* Section 1. AS 14.14.105 is amended to read:

10

Sec. 14.14.105. SICK LEAVE BANK. A [LOCAL] school [DISTRICT]

11

board [, OR THE BOARD OF A REGIONAL EDUCATIONAL ATTENDANCE AREA] may

12

establish a sick leave bank to enable a teacher, because of unusual

13

circumstances, to draw not more than twice the number of days of sick

14

leave the teacher has accumulated before the first day of school in

15

any school year, or 24 days, whichever is greater. However, in a case

16

of severe illness or extreme hardship the board may permit a teacher

17

to draw more leave. The board may establish and administer the sick

18

leave bank independently or jointly with teachers.

19

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

20

10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB-192
 Title : ...use of sick leave banks...

 Sponsor : Senator Eliason
 Requestor : Senate HESS
 Date of Request : January 29, 1986

FISCAL DETAIL

Agency Affected : Education
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Steve Hole
 Division : Commissioner's Office

Phone : 465-2800
 Date : 1/29/86

Approved by Commissioner : Harold Reynolds, Jr.
 Agency : Education

Date : 1/29/86

Distribution (by Agency preparing fiscal note) :

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



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

Handwritten signature or initials

ANCHORAGE REGIONAL OFFICE

1411 W. 33RD
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE

147 S. FRANKLIN #207
JUNEAU, ALASKA 99801
(907) 586-3090

FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

April 24, 1985

TO: Representatives Niilo Koponen and Max Gruenberg, Co-Chairs
Members, House HESS Committee

FROM: NEA-Alaska

RE: SB 192 An act relating to sick leave banks.

NEA-Alaska urges the passage of SB 192.

This amendment to the Sick Leave Bank Law is needed to make it possible for a school board to help a teacher avoid total financial disaster due to illness in the family.

Currently the law limits the use of the Sick Leave Bank to 24 days for anyone who does not already have more than 12 days sick leave accumulated at the time of the illness. While this provision is usually adequate, it leaves a teacher without income and possibly without a job should he or she need more time.

A specific for instance occurred last fall when a teacher's spouse was found to have cancer and was given only a month or so to live. The teacher needed to and did, in fact, stay with and care for the terminally ill spouse.

Being a new teacher, she had accumulated only a very limited amount of sick leave, and therefore was bound by the 24 day limit in the sick leave bank law. The District wanted to help but was unable to do so because of the current law. The teacher had to go without income during those final days of caring for her husband. In the meantime her financial obligations continued to accumulate.

We support this amendment because it would allow a school board to deal with an exceptional situation which might otherwise be disastrous for one of its employees.

Respectfully submitted:

Gayle Pierce
Gayle Pierce
President

L85:13

*24 days
is in fact
the max
allowed -
see 14.14.103*

March 15, 1985

Richard Eliason, Senator from Sitka

Dear Sir:

The Sick-leave Bank problem in Sitka is as follows:

Around Thanksgiving, a first year teacher at the high school received word that her husband was dying of cancer, and the doctor advised that he spend his last days at home. The teacher was granted family emergency leave which was taken from her sick leave days. When she ran out of sick leave days, she applied to the local sick leave bank, and was granted the maximum of 24 days as is presently allowed by law. The husband was expected to die before New Years, but lingered on into February. Sometime into January, the teacher ran out of all sick leave, personal leave, and sick leave bank days allowed her by law, and was forced to take leave without pay (30 days). Finally the idea came about and was approved by the administration to allow teachers to cash in ^{personal} leave days, substitute for themselves, and have the total substitute pay go into one check to the affected teacher. Other teachers made money donations. The 30 days leave without pay was totally covered in this way.

The fact of this incident is that the circumstances merited action by the school board to grant more sick leave bank days, but present law didn't allow it. The change in the law would allow school boards to show special compassion when needed, and also to protect from abusing the sick leave bank.

Thank you for your work in this area,

Tom Smircich
Tom Smircich, president

NEA- Sitka

Introduced: 2/26/85
Referred: Health, Education & Social Services
and Finance

1 IN THE SENATE

BY ELIASON

2

SENATE BILL NO. 192

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act waiving restrictions on use of sick leave
banks; and providing for an effective date."

7

8

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

9

* Section 1. AS 14.14.105 is amended to read:

10

Sec. 14.14.105. SICK LEAVE BANK. A [LOCAL] school [DISTRICT]

11

board [, OR THE BOARD OF A REGIONAL EDUCATIONAL ATTENDANCE AREA] may

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establish a sick leave bank to enable a teacher, because of unusual

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circumstances, to draw not more than twice the number of days of sick

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leave the teacher has accumulated before the first day of school in

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any school year, or 24 days, whichever is greater. However, in a case

16

of severe illness or extreme hardship the board may permit a teacher

17

to draw more leave. The board may establish and administer the sick

18

leave bank independently or jointly with teachers.

19

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

20

10.070(c).

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

2/26/85

Date

3-21-85

Mr. President

The Committee on HESS considered SB 192
waiving restrictions on use of sick leave banks - efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edna McVies
Paul Grick
Joe Josephson
Curtis Sturgis

Lettye Fabrenkamp
 Chairman
Do Pass
 Chairman recommendation

COMMITTEE REPORT
SENATE

SB 193
Committee
5/7/85
T. A. [unclear]

FURTHER:

5/7/85

Date _____

Mr. President

The Committee on FINANCE considered SB 193

power of eminent domain; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

4/11/85

Date 5-7-85

Mr. President

The Committee on JUDICIARY considered SB 193
power of eminent domain; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s) Trop CS
- replace with/or adopt CS for SB193 (Trop)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature] NO REC
[Signature] No Rec

[Signature]
 Chairman
DO PASS
 Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

2/26/85

Date _____

Mr. President

The Committee on TRANSPORTATION considered SB 193
power of eminent domain; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with or adopt CS for SB 193 (TRANSP)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

[Signature]
3 Paul Frick (No Rec)

[Signature]
Chairman
Do Not Pass
Chairman recommendation

Offered: 4/11/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 193 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain; and
7 providing for an effective date."

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

9 * Section 1. AS 09.55.270 is amended by adding a new subsection to
10 read:

11 (b) If the property is to be taken by a declaration of taking
12 filed under AS 09.55.440, the state or the municipality shall prepare
13 a decisional document that (1) states that the property is taken in a
14 manner compatible with the greatest public good and least private
15 injury, (2) summarizes the major facts supporting that decision, and
16 (3) identifies any reports, studies, or statements relied upon for the
17 decision.

18 * Sec. 2. AS 09.55.300(a) is amended to read:

19 (a) The court has power

20 (1) to regulate and determine the place and manner of
21 making the connections and crossings or of enjoying the common uses
22 mentioned in AS 09.55.260(5), and of the occupying of canyons, passes,
23 and defiles for railroad purposes, as permitted and regulated by law;

24 (2) to limit the amount of property sought to be condemned
25 if, in its opinion, the quantity sought to be condemned is not neces-
26 sary;

27 (3) to determine whether the property is taken by necessity
28 for a public use or purpose in a manner compatible with the greatest
29 public good and least private injury, based upon the decisional
30

1 document required by AS 09.55.270 and the evidence allowed by AS 09.-
2 55.460(d), if the taking is accomplished by a declaration of taking
3 filed by the state or a municipality under AS 09.55.440.

4 * Sec. 3. AS 09.55.410 is amended to read:

5 Sec. 09.55.410. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The
6 money deposited in the court, or a part of it, may be withdrawn by a
7 party in interest in the manner provided in AS 09.55.440. The [. AND
8 THE] court may [SHALL HAVE THE POWER TO] direct the payment of delin-
9 quent taxes and special assessments out of the amount determined to be
10 just compensation and to make orders with respect to encumbrances,
11 liens, rents, insurance, and other charges as are just and equitable.
12 The withdrawal of any part of the deposit by a party in interest is a
13 waiver of all issues concerning the taking of the property, except the
14 amount of just compensation.

15 * Sec. 4. AS 09.55.430 is amended to read:

16 Sec. 09.55.430. CONTENTS OF DECLARATION OF TAKING. The declara-
17 tion of taking must [SHALL] contain

18 (1) a statement of the authority under which the property
19 or an interest in it is taken;

20 (2) a statement of the public use for which the property or
21 an interest in it is taken;

22 (3) a description of the property sufficient for the iden-
23 tification of it;

24 (4) a statement of the estate or interest in the property;

25 (5) a map or plat showing the location of the property;

26 (6) a statement of the amount of money estimated by the
27 plaintiff to be just compensation for the property or the interest in
28 it;

29 (7) a statement that the property is taken by necessity for

1 a project located in a manner which is most compatible with the great-
2 est public good and the least private injury;

3 (8) a decisional document as described in AS 09.55.270(b).

4 * Sec. 5. AS 09.55.440(a) is amended to read:

5 (a) Upon the filing of the declaration of taking, and the depos-
6 it with the court of the amount of the estimated compensation stated
7 in the declaration, title to the estate as specified in the declara-
8 tion vests in the plaintiff, and that property is condemned and taken
9 for [FROM] the use of the plaintiff, and the right to just compensa-
10 tion for it vests in the persons entitled to it. The compensation
11 shall be ascertained and awarded in the proceeding and established by
12 judgment. The judgment must [SHALL] include interest at the lawful
13 interest rate set out in AS 45.45.010(4) [RATE OF SIX PER CENT PER
14 YEAR] on the amount finally awarded which exceeds the amount paid into
15 court under the declaration of taking. The interest runs from the
16 date title vests to the date of payment of the judgment.

17 * Sec. 6. AS 09.55.450(a) is amended to read:

18 (a) Upon the filing of the declaration of taking and the deposit
19 of the estimated compensation, the court may, upon motion, fix the
20 time during which and the terms upon which the parties in possession
21 are required to surrender possession to the petitioner. However, the
22 right of entry may [SHALL] not be granted the plaintiff until after
23 the running of the time for the defendant to file an objection to the
24 declaration of taking or until after the hearing on any objection to
25 the declaration of taking if the objection is filed [MADE] in the time
26 allowed by Rule 72, Rules of Civil Procedure. If an objection to the
27 declaration of taking is filed in the time allowed, a hearing for the
28 review of the taking shall be held as soon as the court calendar
29 allows to establish the validity of any objections. If no objection

1 to the declaration of taking is filed in the time allowed, the defen-
2 dant has waived all defenses and objections, and the plaintiff has a
3 right of entry onto the property without further action by the court.
4 If [LAW. WHERE] the party in possession withdraws any part of the
5 award and remains in possession, the court may fix a reasonable rental
6 for the premises to be paid by that party to the plaintiff during the
7 [SUCH] possession.

8 * Sec. 7. AS 09.55.460 is amended by adding new subsections to read:

9 (c) The taking of property is necessary for a public use or
10 purpose in a manner compatible with the greatest public good or least
11 private injury unless the defendant establishes by a preponderance of
12 the evidence that the plaintiff's decision to condemn is arbitrary,
13 capricious, or an abuse of discretion.

14 (d) The court, when making its finding under this section, shall
15 consider the decisional document prepared by the plaintiff; supporting
16 reports, studies, or statements; sworn affidavits submitted by the
17 parties, their officers, or employees; and depositions taken by the
18 parties. The court, in the exercise of its discretion, may allow the
19 parties to submit additional necessary evidence.

20 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).
22
23
24
25
26
27
28
29

Introduced: 2/26/85
Referred: Transportation, Judiciary
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain; and
7 providing for an effective date."

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

9 * Section 1. AS 09.55.270 is amended by adding a new subsection to
10 read:

11 (b) If the property is to be taken by a declaration of taking
12 filed under AS 09.55.440, the state or the municipality shall prepare
13 a decisional document that (1) states that the property is taken in a
14 manner compatible with the greatest public good and least private
15 injury, (2) summarizes the major facts supporting that decision, and
16 (3) identifies any reports, studies, or statements relied upon for the
17 decision.

18 * Sec. 2. AS 09.55.300(a) is amended to read:

19 (a) The court has power

20 (1) to regulate and determine the place and manner of
21 making the connections and crossings or of enjoying the common uses
22 mentioned in AS 09.55.260(5), and of the occupying of canyons, passes,
23 and defiles for railroad purposes, as permitted and regulated by law;

24 (2) to limit the amount of property sought to be condemned
25 if, in its opinion, the quantity sought to be condemned is not neces-
26 sary;

27 (3) to determine whether the property is taken by necessity
28 for a public use or purpose in a manner compatible with the greatest
29 public good and least private injury, based upon the decisional
S

1 document required by AS 09.55.270 and the evidence allowed by AS 09.-
2 55.460(d), if the taking is accomplished by a declaration of taking
3 filed by the state or a municipality under the provisions of AS 09.-
4 55.440.

5 * Sec. 3. AS 09.55.410 is amended to read:

6 Sec. 09.55.410. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The
7 money deposited in the court, or a part of it, may be withdrawn by a
8 party in interest in the manner provided in AS 09.55.440. The[, AND
9 THE] court may [SHALL HAVE THE POWER TO] direct the payment of delin-
10 quent taxes and special assessments out of the amount determined to be
11 just compensation and to make orders with respect to encumbrances,
12 liens, rents, insurance, and other charges as are just and equitable.
13 The withdrawal of any part of the deposit by a party in interest is a
14 waiver of all issues concerning the taking of the property, except the
15 amount of just compensation.

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17 Sec. 09.55.430. CONTENTS OF DECLARATION OF TAKING. The declara-
18 tion of taking must [SHALL] contain

19 (1) a statement of the authority under which the property
20 or an interest in it is taken;

21 (2) a statement of the public use for which the property or
22 an interest in it is taken;

23 (3) a description of the property sufficient for the iden-
24 tification of it;

25 (4) a statement of the estate or interest in the property;

26 (5) a map or plat showing the location of the property;

27 (6) a statement of the amount of money estimated by the
28 plaintiff to be just compensation for the property or the interest in
29 it;

1 (7) a statement that the property is taken by necessity for
2 a project located in a manner which is most compatible with the great-
3 est public good and the least private injury;

4 (8) a decisional document as described in AS 09.55.270(b).

5 * Sec. 5. AS 09.55.440(a) is amended to read:

6 (a) Upon the filing of the declaration of taking, and the depos-
7 it with the court of the amount of the estimated compensation stated
8 in the declaration, title to the estate as specified in the declara-
9 tion vests in the plaintiff, and that property is condemned and taken
10 from the use of the plaintiff, and the right to just compensation for
11 it vests in the persons entitled to it. The compensation must [SHALL]
12 be ascertained and awarded in the proceeding and established by judg-
13 ment. The judgment must [SHALL] include interest at the lawful inter-
14 est rate set out in AS 45.45.010(a) [THE RATE OF SIX PER CENT PER
15 YEAR] on the amount finally awarded which exceeds the amount paid into
16 court under the declaration of taking. The interest runs from the
17 date title vests to the date of payment of the judgment.

18 * Sec. 6. AS 09.55.450(a) is amended to read:

19 (a) Upon the filing of the declaration of taking and the deposit
20 of the estimated compensation, the court may, upon motion, fix the
21 time during which and the terms upon which the parties in possession
22 are required to surrender possession to the petitioner. However, the
23 right of entry may [SHALL] not be granted the plaintiff until after
24 the running of the time for the defendant to file an objection to the
25 declaration of taking or until after the hearing on any objection to
26 the declaration of taking if the objection is filed [MADE] in the time
27 allowed by Rule 72, Rules of Civil Procedure [LAW]. If an objection
28 to the declaration of taking is filed in the time allowed, a hearing
29 for the review of the taking must be held within 30 days after the

1 filing, or as soon after that as possible, to establish the validity
2 of any objections. If no objection to the declaration of taking is
3 filed in the time allowed, the defendant has waived all defenses and
4 objections, and the plaintiff has a right of entry onto the property
5 without further action by the court. If [WHERE] the party in posses-
6 sion withdraws any part of the award and remains in possession, the
7 court may fix a reasonable rental for the premises to be paid by that
8 party to the plaintiff during the [SUCH] possession.

9 * Sec. 7. AS 09.55.460 is amended by adding new subsections to read:

10 (c) The taking of property is necessary for a public use or
11 purpose in a manner compatible with the greatest public good or least
12 private injury unless the defendant establishes by clear and convinc-
13 ing evidence that the plaintiff's decision to condemn is arbitrary,
14 capricious, or an abuse of discretion.

15 (d) The court, when making its finding under this section, shall
16 consider the decisional document prepared by the plaintiff; supporting
17 reports, studies, or statements; affidavits submitted by the parties,
18 their officers, or employees; and depositions taken by the parties.
19 The court, in the exercise of its discretion, may allow the parties to
20 submit additional necessary evidence.

21 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).
23
24
25
26
27
28
29

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: SB 193
Title: _____

FISCAL DETAIL
Agency Affected: Transportation & Public Facilities
Program Category Affected: Capital Projects

Sponsor: Rules Committee
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Right of Way & Land Acquisition

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although a dollar amount cannot be identified in this fiscal note, this bill should definitely provide a savings to the State. It will alleviate problems that have developed in regard to eminent domain procedures which have the potential to seriously delay badly needed public work projects. This bill should improve eminent domain procedures without prejudicing property owners' rights.

Prepared By: Milton H. Lentz, Chief, R/W & Land Acq. Phone: 465-2985
Division: Standards & Technical Services/HU Date: 2/13/85

Approved by Commissioner:  Date: 2/14/85
Agency: Dept. of Transportation & Public Facilities

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

7/1/84

ANALYSIS OF FISCAL NOTE

"An Act relating to the power of eminent domain; and providing for an effective date"

This bill recognizes recent development in the law and contains provisions that should streamline eminent domain procedures without prejudicing property owner's rights.

First, this would require the court to schedule a hearing for the review of the taking within 30 days after the filing of any objections to the declaration of taking or as soon after that as possible. This particular amendment does not create a priority over other matters on the court's calendar, but does place a requirement upon the Superior Court to deal expeditiously with hearings on objections to the authority and necessity for the taking.

This bill would amend AS 09-55-410 by clearly stating that, if any money on deposit is withdrawn by a party in interest, the withdrawal operates as a waiver of all issues except the amount of just compensation. This would require the property owner early on to make a choice between attempting to stop the project or only litigating the issue of compensation. This bill would also raise the statutory interest allowed under the declaration of taking procedure to the lawful interest rate.

This bill would clearly state that if a defendant does not make his objections in a timely manner, he has waived his objection and defense to the taking.

It is concluded that legislation that leaves a property owner's substantive rights intact, but that changes the procedural aspects of the litigation to a more effective and timely manner so that capital projects are not delayed is in the best interest of the public.

Although a dollar amount cannot be identified, this bill should provide a savings to the State, since it will alleviate problems that have developed in regard to eminent domain procedure which have the potential to seriously delay badly needed public work project.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

06-193

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making several changes in the exercise of the power of eminent domain under AS 09.55.240 -- 09.55.460. This bill recognizes recent developments in the law and contains provisions that should streamline eminent domain procedures without prejudicing landowners' rights. The result will alleviate delays that public works projects can experience. The public is well served by the amendments because it will get the use of its public works projects sooner and at lower public expense.

Section 1 of the bill amends AS 09.55.270 by requiring the condemning authority, before the taking of real property by a "declaration of taking," to prepare a decisional document summarizing the decision. Section 4 amends AS 09.55.430 by requiring that the decisional document be part of the declaration of taking. These two amendments codify and implement the holding in Ship Creek Hydraulic Syndicate v. State, 685 P.2d 715 (Alaska 1984).

Section 2 amends AS 09.55.300(a) by clearly specifying the power of the superior court when considering the requirement that a taking be made in a manner compatible with the greatest public good and least private injury. The court is to make its analysis based upon a review of the decisional document required by sec. 1 and on appropriate evidence as set out in sec. 7 of the bill.

Section 3 amends AS 09.55.410 by clearly stating the proposition that, if any money on deposit is withdrawn by a party in interest, the withdrawal operates as a waiver of all issues, except the amount of just compensation. This amendment codifies existing practice. We believe that it is reasonable because it requires the property owner early

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on to make a choice between attempting to stop the project or only litigating the issue of compensation.

Section 5 amends AS 09.55.440(a) by raising the statutory interest allowed under the declaration-of-taking procedure to the lawful interest rate. Under AS 45.45.010, that interest rate is currently 10.5 percent. Under the existing language of AS 09.55.440(a), a property owner is entitled to interest at the rate of six percent on the amount finally awarded that is in excess of the initial deposit. This interest rate was found unconstitutional in City of Valdez v. 18.99 Acres, 686 P.2d 682 (Alaska 1984), where the court held that condemning authorities are required to pay lawful interest.

Section 6 provides a number of amendments to AS 09.55.450(a) that will streamline the procedure in the superior court. First, the court is required to schedule a hearing for the review of the taking within 30 days after the filing of any objections to the declaration of taking or as soon after that as possible. This particular amendment does not create a priority over other matters on the court's calendar, but does place a requirement upon the superior court to deal expeditiously with hearings on objections to the authority and necessity for the taking. When combined with the changed nature of that hearing under the amendments contained in sec. 7, the scheduling of a hearing on any objections to the declaration of taking should be greatly expedited.

Section 6 also contains amendments that clearly state that if a defendant does not make his objections in a timely fashion, he has waived his objections and defenses to the taking. This amendment parallels the existing law found in Civil Rule 72(e)(4). We believe that the amendment is necessary to avoid situations such as those that arose in Stewart v. State, Op. No. 2895 (Alaska, December 28, 1984).

In that case, the state filed its declaration of taking, and the property owners filed no objection to the taking. The project went out to bid and the contract was awarded. Six months after the action was filed and two months after the award of the contract, the property owners entered an objection to the taking and the superior court allowed the objections. Rather than litigate the propriety of the taking, the state dismissed its declaration of taking and redesigned its project. This resulted in higher construction costs. Section 6's amendment, absent extraordinary circumstances that the superior court may in the interest

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of justice address, is not prejudicial to a defendant's rights; it places him in no worse position than any other civil litigant; i.e., objections or defenses that are not made are waived.

Section 7 contains amendments that are a departure from the existing law and practice. Existing AS 09.55.460 requires an analysis by the superior court to determine whether the taking was accomplished in a manner compatible with the greatest public good and least private injury. If the court finds that the taking was not made in that manner, the state is divested of the title it has acquired with its declaration of taking. The difficulty with the current statute is that no procedural standards are given for the analysis, and no burden of proof is assigned to the parties. The result, in practice, of this lack of clarity in the statute has been generally to assign to the defendant the burden of proof that the taking was not made in a manner compatible with the greatest public good and least private injury, and a "mini-trial" was necessary for the taking of the parties' evidence.

Court calendars are quite crowded and, when coupled with the "mini-trial" practice, the effect has been to delay the hearing until a significant block of the court's calendar can be set aside. One recent Supreme Court case, Ship Creek Hydraulic Syndicate v. State, cited above, produced a hearing in the trial court which lasted nearly five days, during which expert testimony was presented by both sides. While the trial court did ultimately confirm the taking, time that could have been devoted to the project was lost. It should also be noted that the requirement for a decisional document, which is set out in sec. 1, is a product of this case.

The language proposed in AS 09.55.460(c) assigns the burden to the defendant to prove by clear and convincing evidence that the decision to condemn was arbitrary, capricious, or an abuse of discretion. We believe that this language is a codification of the holdings in State v. 0.644 Acres, 613 P.2d 829 (Alaska 1980) and State v. 2.072 Acres, 652 P.2d 465 (Alaska 1982), and only represents a departure from existing statutory language in that the appropriate review standards are clearly and succinctly stated.

The language proposed in AS 09.55.450(d) is a departure from existing practice, but, when combined with the amendments regarding decisional documents, should streamline the procedure in the superior court without prejudicing

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the property owners' rights. Under this language, the superior court will consider the decisional document, any supporting reports, studies, or statements relied upon in reaching the decision to condemn, and any affidavits the parties might submit, as well as depositions taken by the parties. There is no provision for the taking of evidence by the court except in situations in which the court allows the presentation of additional evidence. This proposed language provides for a review process by the superior court which is analogous to the function it serves when reviewing decisions of the district court and administrative agencies under AS 22.15.240 and Appellate Rule 609.

Under the cited statute and rule, the superior court reviews cases involving significant liberty and property interests that have been adjudicated by the district court and a variety of administrative agencies. These appeals are all upon the record without the taking of additional evidence, except as provided by statute and rule in extraordinary circumstances.

There are significant differences between the record in an appeal from the district court or an administrative agency and the decisional document envisioned in sec. 1 of this bill. The most important is that the aggrieved party will have presented his case before the matter is in the superior court. We believe that allowing the parties to submit affidavits and depositions in response to, or to support objections to, the taking is a reasonable substitute. We reach this conclusion because of the extensive nature of the background analysis that is performed in the course of developing a public works project. Typically, location and design studies and, in many instances, environmental impact studies are prepared. An additional component of the planning and design of a public works project is a public hearing process during which comments are solicited from the public. Furthermore, AS 35.30.010 requires approval by local planning and zoning commissions. An analogous approval is required under AS 09.55.275 for any replatting which is necessary to accommodate the project. By the time an eminent domain action is filed, the project is a well-known entity and well defined, and has been the subject of local political decisions and adjudication procedures under AS 35.30.010 and AS 09.55.275.

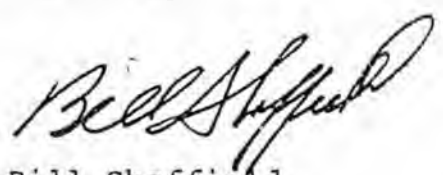
With this extensive administrative background, we believe that augmenting the evidence before the court with depositions and affidavits provides the superior court an adequate basis to review the appropriateness of the taking.

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Under the amendments in this bill, the superior court has the discretion to allow the presentation of additional evidence as it does in its appellate jurisdiction.

I urge your favorable action on this measure, so that our eminent domain code accurately reflects the law, and so that the public's business is handled in an expeditious and fair manner for all concerned.

Sincerely,



Bill Sheffield
Governor

ALASKA STATE LEGISLATURE

14TH Legislature FINN Session

SENATE BILL NO. 103

By THE FINN COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to the power of eminent domain; and providing for an effective date."

Introduced in the Senate 2/26, 1985

HISTORY IN THE SENATE

1985 Read first time and referred to Committee on

2 26 TRSP, JUDICIARY AND FINANCE
 4 11 Reported back with recommendation that *replace w/cs (Trsp) new title, 1 do pass 2 do not pass, 1 no rec to Jud.*
 5 7 *Trsp: 3 do pass 2 do not pass*

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
 Signed by President
 Sent to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19 Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
 Signed by Speaker
 Returned to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19 Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Gov. letter
Zero F-note w/analysis

Offered: 4/11/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 193 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the power of eminent domain; and
7 providing for an effective date."

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

9 * Section 1. AS 09.55.270 is amended by adding a new subsection to
10 read:

11 (b) If the property is to be taken by a declaration of taking
12 filed under AS 09.55.440, the state or the municipality shall prepare
13 a decisional document that (1) states that the property is taken in a
14 manner compatible with the greatest public good and least private
15 injury, (2) summarizes the major facts supporting that decision, and
16 (3) identifies any reports, studies, or statements relied upon for the
17 decision.

18 * Sec. 2. AS 09.55.300(a) is amended to read:

19 (a) The court has power

20 (1) to regulate and determine the place and manner of
21 making the connections and crossings or of enjoying the common uses
22 mentioned in AS 09.55.260(5), and of the occupying of canyons, passes,
23 and defiles for railroad purposes, as permitted and regulated by law;

24 (2) to limit the amount of property sought to be condemned
25 if, in its opinion, the quantity sought to be condemned is not neces-
26 sary;

27 (3) to determine whether the property is taken by necessity
28 for a public use or purpose in a manner compatible with the greatest
29 public good and least private injury, based upon the decisional

1 document required by AS 09.55.270 and the evidence allowed by AS 09.-
2 55.460(d), if the taking is accomplished by a declaration of taking
3 filed by the state or a municipality under AS 09.55.440.

4 * Sec. 3. AS 09.55.410 is amended to read:

5 Sec. 09.55.410. WITHDRAWAL OF FUNDS BY PARTY IN INTEREST. The
6 money deposited in the court, or a part of it, may be withdrawn by a
7 party in interest in the manner provided in AS 09.55.440. The [, AND
8 THE] court may [SHALL HAVE THE POWER TO] direct the payment of delin-
9 quent taxes and special assessments out of the amount determined to be
10 just compensation and to make orders with respect to encumbrances,
11 liens, rents, insurance, and other charges as are just and equitable.
12 The withdrawal of any part of the deposit by a party in interest is a
13 waiver of all issues concerning the taking of the property, except the
14 amount of just compensation.

15 * Sec. 4. AS 09.55.430 is amended to read:

16 Sec. 09.55.430. CONTENTS OF DECLARATION OF TAKING. The declara-
17 tion of taking must [SHALL] contain

18 (1) a statement of the authority under which the property
19 or an interest in it is taken;

20 (2) a statement of the public use for which the property or
21 an interest in it is taken;

22 (3) a description of the property sufficient for the iden-
23 tification of it;

24 (4) a statement of the estate or interest in the property;

25 (5) a map or plat showing the location of the property;

26 (6) a statement of the amount of money estimated by the
27 plaintiff to be just compensation for the property or the interest in
28 it;

29 (7) a statement that the property is taken by necessity for

1 a project located in a manner which is most compatible with the great-
2 est public good and the least private injury;

3 (8) a decisional document as described in AS 09.55.270(b).

4 * Sec. 5. AS 09.55.440(a) is amended to read:

5 (a) Upon the filing of the declaration of taking, and the depos-
6 it with the court of the amount of the estimated compensation stated
7 in the declaration, title to the estate as specified in the declara-
8 tion vests in the plaintiff, and that property is condemned and taken
9 for [FROM] the use of the plaintiff, and the right to just compensa-
10 tion for it vests in the persons entitled to it. The compensation
11 shall be ascertained and awarded in the proceeding and established by
12 judgment. The judgment must [SHALL] include interest at the lawful
13 interest rate set out in AS 45.45.010(a) [RATE OF SIX PER CENT PER
14 YEAR] on the amount finally awarded which exceeds the amount paid into
15 court under the declaration of taking. The interest runs from the
16 date title vests to the date of payment of the judgment.

17 * Sec. 6. AS 09.55.450(a) is amended to read:

18 (a) Upon the filing of the declaration of taking and the deposit
19 of the estimated compensation, the court may, upon motion, fix the
20 time during which and the terms upon which the parties in possession
21 are required to surrender possession to the petitioner. However, the
22 right of entry may [SHALL] not be granted the plaintiff until after
23 the running of the time for the defendant to file an objection to the
24 declaration of taking or until after the hearing on any objection to
25 the declaration of taking if the objection is filed [MADE] in the time
26 allowed by Rule 72, Rules of Civil Procedure. If an objection to the
27 declaration of taking is filed in the time allowed, a hearing for the
28 review of the taking shall be held as soon as the court calendar
29 allows to establish the validity of any objections. If no objection