

ALASKA LEGISLATURE

2378

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

1 address underfunding: and

2 (2) may not increase the salaries of its employees, employ additional
3 employees, or expend money or incur obligations except in accordance with law and
4 properly approved operations plan.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

April 19, 2001

TONY KNOWLES, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
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The Honorable Dave Donley, Co-Chair
The Honorable Pete Kelly, Co-Chair
The Honorable Jerry Ward, Vice-Chair
Senate Finance Committee
State Capitol, Room 508, 518 and 423
Juneau, AK 99801-1182

Dear Senators Donley, Kelly and Ward:

The Senate Finance Committee has introduced Senate Bill 182. This bill would require the State to make pro rata reductions in "benefit program" payments to individuals when a program faces a shortfall – including shortfalls caused by legislative underfunding, increased benefit rolls, or unforeseen circumstances. For instance, if a program is hit with an unexpectedly high caseload during a fiscal year, under SB 182 the State would be required to reduce payments to all beneficiaries.

This bill has the potential to reduce the benefits that vulnerable Alaskans rely on to meet basic needs, work toward self-sufficiency, and continue to live in dignity in our communities. I am writing to summarize the bill's potential effects:

- Reducing benefits to which Alaskans are entitled;
- Creating implementation problems;
- Providing competing statutory guidance;
- Delegating legislative authority;
- Destabilizing benefit programs.

SB 182 could have very real and devastating impact on Alaskans who depend on benefit programs. The body of this letter explains these potential effects in more detail, for your consideration.

Reducing Benefits to which Alaskans are Entitled

The most troubling aspect of this bill is that it threatens the income of people who have few or no resources to draw on except for the benefit programs that the bill attacks. SB 182 could result in fluctuating benefit levels in programs serving thousands of people who because of age or disability are unable to support themselves through full-time paid work. About 5000 of these Alaskans are elderly homemakers who did not work outside the home, or seniors who worked in our resource economy and retired without a pension. Others (9,700) are disabled Alaskans, who are so disabled that they cannot earn enough money to support themselves. Under a pro rata system, they wouldn't know from month to month what the amount of their benefits would be. These are people who by definition cannot compensate for fluctuating benefit levels by going out and getting a job. SB 182 destabilizes the support that these people must count on in order to be able to live with dignity.

SB 182 also threatens to reduce payments to foster parents who care for children who have been physically abused, neglected, or sexually abused and cannot be safely maintained in their own homes. Unlike the elderly poor and the disabled, foster parents can compensate for the damage caused by SB 182 -- by leaving the foster care program. This would reduce the number of safe homes we have available to care for kids who need help.

Creating Implementation Problems

If SB 182 becomes law, it will destabilize the department's process for setting benefit levels. Benefit levels that are not set or changed in statute must be set or changed through regulation. This process would continue under SB 182. In fact, under SB 182, if a program is underfunded, the frequency of changes to regulations would greatly increase.

The attached documents (a timeline and chart, both describing the same scenario) show the regulatory confusion that would ensue should this bill become law. This scenario assumes that DHSS requests funding for Adult Public Assistance at the amount needed to serve all beneficiaries at the levels to which they are entitled by statute, but the program is funded at 5 percent less than requested. DHSS would immediately begin the normal regulation-writing process, as the shortfall would not fit the criteria to justify emergency regulations. The regulation-writing process could be anticipated to end in August, with regulations taking effect in September. The actual pro rata cut to benefits would be 6 percent rather than 5 percent, because the shortfall would have to be made up over the eight months remaining in the fiscal year, rather than over twelve months.

At this point, assume that in December the caseload unexpectedly increases by 3 percent. Caseloads are almost impossible to accurately predict at the beginning of a fiscal year, so this assumption is reasonable. To compensate for the increased caseload, DHSS would have to begin writing another set of regulations. As the regulations moved through the process, the Governor would be likely to request supplemental funding for Adult Public Assistance to make up the budget shortfall. Both the regulations, and the supplemental funding, would move through their respective processes. The regulations would be filed in March and take effect in April, reducing the benefit by 13 percent as compared to the prior fiscal year. In the meantime, if supplemental funding were approved late in the legislative session, it would have no effect on benefits. This is true because the regulatory process needed to pro rate benefits for a third time in the fiscal year could not be completed in time to spend the supplemental funding before the fiscal year ended.

This reasonable scenario shows that the regulatory process needed to support a pro rata system would be administratively burdensome and expensive, and could result in confusing and fluctuating benefit levels. This explains why the current system of setting benefit levels through statute rather than through the budget process is far preferable to the pro rata system proposed in SB 182.

Providing Competing Statutory Guidance

SB 182 enacts a general pro rata system for reducing benefit levels in benefit programs in times of budget shortfall. Benefit levels are currently set out in specific statutes for each benefit program. SB 182 and existing statutes provide competing guidance about how the Department should respond when a program's budget is not sufficient to pay benefits at a level to which beneficiaries are entitled by law. Under existing statutes and regulations, when a benefit program's budget falls short, the Department

would request supplemental funding while benefit levels remain stable. Under SB 182, the Department would be required to pro rate benefits without counting on supplemental funding. These are competing responses to the same situation. Does SB 182 repeal existing statute by implication?

Delegating Legislative Authority

We would point out that SB 182 may have the unintended affect of delegating to the Executive Branch authority that currently rests with the Legislature -- the authority to set benefit levels through statute. Under a pro rata system, state departments such as ours would set benefit levels, based on our calculations of a program's budget and caseload.

We would also point out that SB 182 has the effect of delegating to a legislative budget subcommittee the authority that currently rests with various committees of the legislature with oversight responsibilities for benefit programs. The Health and Social Services committees would normally be the ones to consider statutory revisions to benefit levels. Under a pro rata system, benefit levels would de facto be set by a budget subcommittee.

Destabilizing Benefit Programs

The language in Senate Bill 182 does not specify which programs and individuals it is intended to affect except for providing an exemption to the Subsidized Adoption and Guardianship program (AS 25.23.190-25.23.240). The bill's vagueness makes it difficult to determine if a specific program would be affected. We assume the legislation definitely applies to the following programs:

- Alaska Temporary Assistance Program (ATAP)
- Adult Public Assistance (APA)
- Foster Care—including the Foster Care Base Rate, Foster Care Special Needs, and Foster Care Augmentation components

Because SB 182 does not provide clear guidance about which programs it is intended to affect, at this time we are unclear about whether and how a pro rata system would apply to:

- Medicaid
- General Relief Assistance (GRA)
- Chronic Acute Medical Assistance (CAMA)

It is important to note that impacts to benefit programs would be cumulative over time. For example, assume that in the first year a particular program is funded by 5 percent less than the amount needed to serve all beneficiaries at the levels to which they are entitled by statute. This cut would be passed to beneficiaries through the pro rata system imposed by SB 182. In the second year, it is reasonable to assume that either program funding would remain stable compared to year one (thereby institutionalizing the 5 percent reduction), or another cut would be proposed (on top of the previous 5 percent reduction). To do otherwise -- for two -- to fully fund the program at the amount needed to serve all beneficiaries at the levels to which they are entitled by statute -- would look like a budget increase compared to year one.

Thus, the pro rata system allows cumulative reduction of benefits over time, disguised as level funding or fiscal belt-tightening. It does so without changing the statutes that give beneficiaries a vested right to receive payment to the full extent provided by law.

Compensating for a budget shortfall on a pro rata basis, rather than through supplemental funding, will negatively affect the lives of people who receive support through the programs described in the following sections.

Alaska Temporary Assistance Program (ATAP)

The Alaska Temporary Assistance Program was established by statute in 1997 (AS 47.27.005). The focus of the Alaska Temporary Assistance Program is to provide temporary financial assistance to poor families and to help those families off assistance, out of poverty and toward self-sufficiency through employment. Assistance payments are intended to help poor families with their basic living expenses (such as rent, and self-sufficiency services) while they take steps to move off assistance.

Payments for recipients are specified in AS.47.27.025(B); for example, the payment for a family of three is \$923 a month, a pregnant woman receives \$514 per month, and a child in a relative's care receives \$452 per month. A typical Temporary Assistance family consists of a single mother with two children, and little or no other source of monthly income. In the past, we have been advised by the Department of Law that a reduction in these benefits would require a change in the ATAP statute.

In FY 02, we project an average of 7,400 families will need Temporary Assistance each month. Of these, approximately 5,550 will be single parent families, 1,110 will be two parent families, and 740 will be children in a relative's care.

Should the Division of Public Assistance be required to prorate Temporary Assistance payments if the program were underfunded, the consequences would be as follows:

- When families are unable to meet their basic needs (rent, utilities, transportation), it greatly decreases their chances of succeeding in employment or taking other steps toward self-sufficiency.
- Reducing benefits could reduce the number of hours we can legally assign individuals to community service work activities. This could adversely affect our ability to meet federal work participation rates.
- Our TANF Block Grant requires that we maintain State expenditures at 80 percent of our 1994 level (MOE). The Governor's FY 02 budget for ATAP includes only the amount of General Funds necessary to meet the MOE requirement. Any reduction to the General Fund amount in this program will result in significant financial penalties.

Adult Public Assistance (APA)

The Adult Public Assistance Program (APA) was established by statute in 1982 (AS 47.25.30 – 47.25.615) with the purpose of furnishing financial assistance to needy aged, blind and disabled persons to cover basic living expenses such as shelter, clothing and food. People who receive APA financial assistance have severe and long-term physical and mental disabilities that prohibit them from working to earn a living.

In FY 02, we project the APA program will serve 14,617 individuals with an average monthly benefit of \$316. This amount (along with the monthly Social Security benefit) adds up to \$892 per month, which maintains the individual at just below the federal poverty level guideline.

Should the Division of Public Assistance be required to prorate APA payments if the program were underfunded, the unintended consequences would be as follows:

- About 4,872 elderly and 9,745 disabled poor – the State's most vulnerable citizens - could suddenly lose a significant portion of income. With few options to improve or even maintain their quality of life, these citizens tend to depend heavily upon State assistance to provide basic necessities. Any reduction in the APA benefit takes away from the income around which these Alaskans have structured their lives.
- A reduction in APA benefits could destabilize the living arrangements of a poor disabled or elderly person who is living independently, forcing them into institutional care at greater public expense, or into homelessness. Individual APA benefits have been frozen -- program budget increases have occurred because new eligibles have entered the system -- not because APA payments to individuals have increased.

Foster Care

There are currently over 1,100 full time equivalents in foster care. The department is required by State law to take care of these children in its custody. AS 47.14.100, "Powers and duties of department over care of child," stipulates that:

(a) Subject to (e), (f), (i), and (j) of this section, the department shall arrange for the care of every child committed to its custody by placing the child in a foster home or in the care of an agency or institution providing care for children inside or outside the state.

When a child who has been physically abused, neglected, or sexually abused cannot be safely maintained in the child's own home and must be placed in out-of-home care, placement in a foster home is always the first preference. The foster care base rate component provides payments to foster parents on behalf of these children. The rate paid is established by the regulations necessary for the implementation of this State law. Consistency in the amount paid for the care of a child is an essential factor in ensuring the availability of foster homes. In order to maintain a consistent level of support for foster children, the standard daily rate is specified in 7 AAC 53.030. A provision of this regulation allows, but does not require, a pro-rated reduction of foster care benefits given a funding shortage.

7 AAC 53.030 (e) Standard Rates and Rate Adjustments, provides that

If appropriations are insufficient, if the number of children needing foster care increases, or if appropriations are withdrawn, reduced, or limited in any way for payment of standard rates for foster care under the formula described in (b) of this section, the division will, in its discretion, reduce rates on a pro rata basis. If a reduction becomes necessary, the division will notify foster parents, in advance and in writing, of the amount of the reduction.

The ultimate result of a rate reduction in foster care payments could actually be cost increases to the State, rather than savings. Because fewer foster homes would be available for the children who will still be taken into State custody, more children will be placed in much more expensive institutional care.

Medicaid

The Medicaid Program serves approximately 92,000 low income Alaskans by reimbursing health care providers for the cost of medical care received. Medicaid is a federal and State jointly-funded entitlement program operated by the State under federal rules and financed by both. In FY 00, the federal government contributed about 65 percent of the total cost of the program, or \$307.5 million. Entitlement is determined by a combination of federally mandated requirements and optional requirements chosen by the State.

Children account for over one-half of Medicaid recipients but only 34 percent of the expenditures; the elderly represent 6 percent of the eligibles and 16 percent of the expenditures; the disabled account for 10 percent of the Medicaid population and 35 percent of the cost; home and community based waivers represents 1 percent of the population and 9 percent of the cost. Other adults, including parents of children and pregnant women account for the remaining expenditures.

More than 7,000 medical providers are enrolled in Medicaid. Payments for services are received by participating providers in the following proportions: 21 percent by hospitals, 16 percent by physicians, 9 percent by nursing homes, 5 percent by psychiatric hospitals and residential treatment centers, 10 percent by pharmacies, and 3 percent by transportation providers. The remainder of the expenditures are received by all other provider types including dentists, medical equipment suppliers, personal care attendants, laboratories and drug abuse treatment centers.

Federal law requires reimbursement to providers to be adequate to secure access to health services for all program recipients. AS 47.07.070 requires a fair rate of compensation for reasonable costs incurred by a facility. Reimbursement for health care services is complicated, and for facilities, has a significant case law history with the department. All reimbursement changes must be accomplished by regulation and cannot be completed quickly without legislative authority for emergency regulations. Any reimbursement reduction intended to be implemented through pro-rata payment reductions would be enlarged in their effect due to the length of the regulatory process. Significant decreases may place federal funding for the Medicaid program at risk.

It is not clear how, or if, the Legislature intends SB 182 to apply to the Medicaid program. The amendment is specific in its requirement to "reduce the amount of payments to eligible individuals...". Medicaid does not make payments to eligible individuals but to providers who have rendered services to eligible individuals. Medicare premium payments, required by federal law, are the only payments that benefit individuals directly. The cost of Medicare premiums in FY 2000 was about \$7.5 million.

SB 182 also specifically states, "this paragraph does not apply to payments under AS 25.23.190 – 25.23.240, loan programs, State employee retirement benefit programs, or programs for which other provisions of law address underfunding." The Medicaid program is directed by State law (AS 47.07.035) as to how program funding is to be managed in the event funding is insufficient to cover program costs. This law lists optional services and groups of people to be eliminated from the program in a priority order. How this statute would interrelate with the provisions of SB 182 is not clear. By statute, funds are to be managed by the elimination of services and eligible groups, whereas, SB 182 requires funds be managed by reducing payments to individuals.

General Relief Assistance (GRA)

The General Relief Assistance program offers two types of assistance: General Relief cash assistance (GRA), and General Relief Burials. Both are emergency assistance programs designed to meet the

immediate and basic needs of Alaskans experiencing extreme financial problems. These basic needs include shelter, utilities, food, and clothing. In addition, GRA may provide limited funds for cremation or a burial of a needy person. Approximately 200 GRA cases are approved each month. Over 75 percent of these cases receive rental assistance.

The GRA program is 100 percent State funded, and because funds are limited, the program is to be used as a last resort in providing basic needs to an individual or household. GRA can only be authorized when the household cannot qualify for other assistance programs. Applicants must reapply during each month of urgent need to be considered to receive assistance.

AS 47.25.130 specifies that the amount of GRA payments shall be determined by the department and may not exceed \$120 a person per calendar month.

The General Relief Burial program provides burial assistance for indigent persons. Assistance is granted only if the family has no other resource to pay the burial costs. The maximum payment for burial expenses under GA cannot exceed \$1,250, plus the cost of a burial plot, opening and closing of the grave, or cremation. The average monthly payment for burial services is \$1,500.

The GRA program serves as the last safety net for some of Alaska's most impoverished citizens. GRA benefits already represent the minimum payment for services that most vendors will tolerate. A pro rata reduction in benefits would further discourage participation by vendors and make it difficult, if not impossible, for the program to meet the emergency needs of applicants.

Chronic and Acute Medical Assistance (CAMA)

The CAMA program covers over 1,100 extremely poor and sick Alaskans each year who are not eligible for Medicaid. In order to qualify for coverage, a person must have income under \$300 per month, resources of less than \$500, and experience a significant chronic or acute illness such as cancer, a seizure disorder, diabetes, or other terminal condition. Recipients must apply monthly for eligibility, and the covered services are extremely limited.

CAMA reimbursement generally follows Medicaid provider reimbursement rules, except that hospitals are presently reimbursed at 28.7 percent of their Medicaid rate due to limited funding. Even though the CAMA program is totally general fund dollars, any savings realized by pro rating benefits would be limited, due to the small size of the program's budget. Payment reductions for CAMA providers could affect the availability of care for program participants, as it could for Medicaid.

The amendment proposed in SB 182 specifically states: "this paragraph does not apply to payments under AS 25.23.190 – 25.23.240, loan programs, State employee retirement benefit programs, or programs for which other provisions of law address underfunding." Under AS 47.08.150 "if the Department of Health and Social Services finds that the cost of assistance for all persons eligible under this section will exceed the amount allocated for assistance during the fiscal year, the Department of Health and Social Services may limit coverage for certain medical services by regulation in order to provide the most critical care within the available appropriations." SB 182 is not clear as to the statutory requirement of limiting coverage by regulation vs. reducing payments to individuals.

Summary

In summary, the department opposes this bill for many reasons. SB 182 could have very real and

devastating impact on Alaskans who depend on these benefit payments. It represents a potentially unconstitutional delegation of legislative authority without proper guidance for implementation. The bill's passage would result in a complicated process of changing regulations for all of the major programs that we administer—perhaps several times during a year—a costly and disruptive situation for all concerned. It would place us in the position of losing substantial federal revenue because of our inability to meet federal requirements. The irregularity of payments throughout the year and among individuals with like eligibility and like needs would result in legal challenges on behalf of those individuals and a variety of groups.

We encourage you to reconsider this legislation.

Sincerely,



Karen Perdue
Commissioner

cc: Senator Alan Austerman, Capitol Building, Room 417
Senator Lyda Green, Capitol Building, Room 125
Senator Lyman Hoffman, Capitol Building, Room 7
Senator Loren Leman, Capitol Building, Room 516
Senator Donald Olson, Capitol Building, Room 510
Senator Gary Wilken, Capitol Building, Room 514
Elmer Lindstrom, Special Assistant
Janet Clarke, Director, DAS
Bob Labbe, Director, DMA
Jim Nordlund, Director, DPA
Theresa Tanoury, Director, DFYS
Laura Baker, Chief Budget Analyst, DAS

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

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We encourage you to reconsider this legislation.

Sincerely,



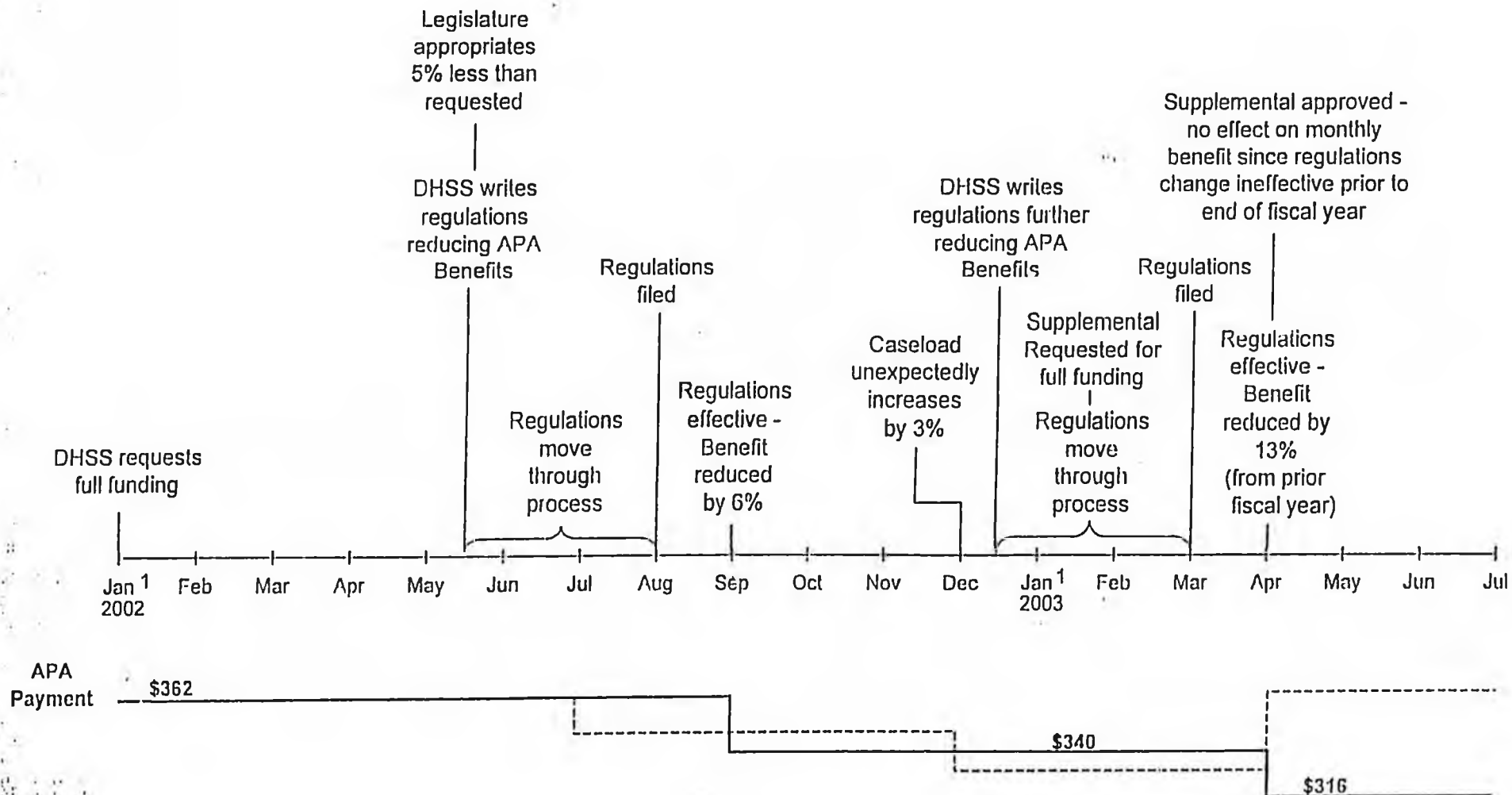
Karen Perdue
Commissioner

cc: Senator Alan Austerman, Capitol Building, Room 417
Senator Lyda Green, Capitol Building, Room 125
Senator Lyman Hoffman, Capitol Building, Room 7
Senator Loren Leman, Capitol Building, Room 516
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Theresa Tanoury, Director, DFYS
Laura Baker, Chief Budget Analyst, DAS

Scenario – Adult Public Assistance Prorated Reduction due to SB 182

Month	Action	Monthly APA Payment
January	DHSS requests full funding	\$362
May	Legislature appropriates 5% less than requested	
May	DHSS writes regulations reducing APA Benefits	
June	Regulations move through process	
July		
August	Regulations filed	
September	Regulations effective – Benefit reduced by 6%	\$340
December	Caseload unexpectedly increases by 3% DHSS writes regulations further reducing APA benefits	
January	Regulations move through process	
February	Supplemental requested	
March	Regulations Filed	
April	Regulations effective – Benefit reduced by 13% (from prior fiscal year)	\$316
	Supplemental approved – no effect on monthly benefit as cannot affect a regulations change prior to end of fiscal year	

Scenario - Adult Public Assistance Prorated Reduction due to SB 182



Attachment 1 -- Supplemental Information

In coming years, SB 182 will reduce benefits to Alaskans. Here are a few specific examples of the potential impacts that might result if SB 182 becomes law:

Alaska Temporary Assistance Program

The Alaska Temporary Assistance Program (formerly AFDC) provides temporary financial assistance to poor families and helps those families work their way out of poverty and into self-sufficiency. During the coming fiscal year, the state expects that an average of 7,400 families will need temporary assistance each month.

- Since it was implemented, welfare reform has saved \$51 million in state and federal benefit payments. Many more recipients are now working, and the average monthly benefit payment has declined 16 percent – from \$794 in FY 97 to an estimated \$667 in FY00.
- If the ATAP program is forced to make pro-rated reductions in individual benefits, families will have a much harder time meeting basic needs (rent, utilities, transportation, etc.). This, in turn, will cripple some families' ability to hold down jobs or take other steps toward self-sufficiency – and ultimately lead to more people on welfare.
- Such reductions would put the state out of compliance with federal "maintenance of effort" (MOE) requirements. Under the federal Temporary Assistance for Needy Families program, states are required to contribute at least 80 percent of their historic expenditures. Alaska is already at its MOE "floor" and a reduction in payments would result penalties. No state has violated its MOE.

Adult Public Assistance

The Adult Public Assistance (APA) program, in existence since 1982, helps needy blind, disabled and elderly people cover basic living expenses such as food, clothing and shelter (see the attached APA Fact Sheet). The program helps the elderly and people with disabilities live with dignity in the community.

The state projects this program will provide monthly benefits averaging \$312 to almost 14,000 individuals (4,682 elderly, 9,207 are disabled) during the coming fiscal year. Pro-rated reductions over the coming years, as envisioned under SB 182, would mean that an individual elderly or disabled person currently receiving supports that maintained them at 99.7% of the federal poverty guideline could expect to see their benefits erode to just 87.8% of the federal poverty guideline in the next five years. This erosion of benefits could force some elderly or disabled people who are currently able to live on their own into more expensive institutional care, or even homelessness.

An important fact to note: state spending on Adult Public Assistance has exceeded the Legislature's appropriation in 11 of the last 12 years. In other words, had SB 182 been in place, thousands of vested beneficiaries would have received reduced payments.

SB 182 would directly jeopardize the safety of Alaska's most vulnerable and at-risk adults who are under the oversight of Adult Protective Services. If the General Relief Program administered by Senior Services and Adult Public Assistance benefits were prorated, Adult Protective Services would be unable to meet the payment levels for assisted living care for these needy Alaskans as implemented with the passage of SB 73 last session. This would create a crisis in care for these Alaskans (most of whom experience high medical needs and also are older) and for their assisted living providers.

Foster Care

Alaska currently has more than 2,000 children in out-of-home care – children who could not remain in their own home, typically because they have been abused or neglected by a family member. That number is expected to keep climbing as the state continues to bolster its child protection system.

The state uses a foster care "base rate" to calculate its reimbursements to individual foster parents. That rate is established in regulation. SB 182, however, would supercede that regulation and force the state to reduce payments to foster parents. Such a rate reduction could severely hamper the state's effort to recruit additional foster homes and would likely prompt some foster parents to quit.

The ultimate result of SB 182 would be fewer foster homes. In some instances, the bill could have the opposite of its intended effect – forcing the state to place children in more expensive institutional care due to a lack of available foster care beds.

Longevity Bonus

If the Legislature fails to provide full funding for the state's Longevity Bonus program, the Department of Administration would be forced under SB 182 to reduce payments to all recipients. Accurately forecasting Longevity Bonus projections is difficult. Benefits could be reduced if the estimates for program funding are not accurate.

ATTACHMENT 2 – ADULT PUBLIC ASSISTANCE FACT SHEET

Eligibility:

- Disabled or blind individuals at least age 18; elderly individuals at least age 65.
- Income of less than \$984 per month, and assets of no more than \$2000 for an individual, \$3000 for a couple.

Benefit:

- The maximum benefit for most individuals is \$362 per month; average payment is \$312. Combined with social security benefits, an individual's maximum countable monthly income is \$892 per month.

Number of recipients:

- 13,889 Total -- 9207 are disabled or blind; 4682 are elderly.

Service Area	Number	Percent Caseload
Nome	290	2.1%
Bethel	1023	7.4%
Kenai	1161	8.4%
Kotzebue	192	1.4%
Kodiak	210	1.5%
Aleutians	47	0.3%
Bristol Bay	231	1.7%
Valdez-Cordova	158	1.1%
Inter Southeast	267	1.9%
Juneau	580	4.2%
Sitka	145	1.0%
Ketchikan	351	2.5%
Prince of Wales	102	0.7%
Metlakatla	41	0.3%
Northern	584	4.2%
Fairbanks NSB	1379	9.9%
Anchorage	5799	41.8%
Mat-Su	1329	9.6%
Total	13,889	
Age Range		
18 – 25	712	5.4%
26 – 35	1,477	11.2%
36 – 45	2,400	18.2%
46 – 55	2,044	15.5%
56 – 65	1,991	15.1%
66 – 75	2,769	21.0%
76 – 85	1,424	10.8%
86 – 95	343	2.6%
96+	26	0.2%
Major Disability Diagnosis (disabled recipients only)		
Mental disorder	3,007	33%
Developmental disability	1,367	15%
Musculoskeletal system	1,002	11%
Nervous system & sense organs	820	9%
Injury	365	4%

SB 182 Benefit Reduction Scenarios

Total Income (SSI and APA) \$892

Estimated Expenses:

Rent	\$300
Food	\$160
Utilities	\$150
Basic living needs (clothing, personal care, transportation)	<u>\$125</u>
TOTAL	\$735

Amount left for other expenses – uncovered medical services and supplies, eyeglasses, dental, over-the-counter drugs, emergencies, etc. \$127

The effect of SB 182 on APA recipients:

5% Reduction

Current amount available for other expenses	\$127
less 5% reduction	<u>- 16</u>
New amount available for other expenses	\$111

10% Reduction

Current amount available for other expenses	\$127
Less 10% reduction	<u>- 32</u>
New amount available for other expenses	\$95

27.5% Reduction (1983 benefit level)

Current amount available for other expenses	\$127
Less 27.5% reduction	<u>- 87</u>
New amount available for other expenses	\$40



Alaska Commission on Aging

Resolution 2002-07

Relating to SB182
In opposition to pro-rating Basic Supports

Whereas, basic supports are forms of financial and medical assistance that are provided to Alaskans who apply for and meet specific qualifying criteria and include programs such as, Longevity Bonus, Alaska Temporary Assistance Program (ATAP), Adult Public Assistance (APA), Foster Care and General Relief, and

Whereas, the primary role of basic supports for many Alaskans is to provide a consistent means to meet fundamental living expenses such as food, shelter, clothing, medical care and transportation, whether long term or transitional in nature, and

Whereas, basic supports allow Alaskans to live as independently as possible and with dignity in the communities of their choice, and

Whereas, basic supports also serve our communities by helping many Alaskans avert problems such as homelessness and also minimize higher costs and needs for more restrictive settings, including hospitalization, nursing home placement and incarceration, and

Whereas, the Commission wishes to renew its opposition to this bill,

Now, therefore be it resolved, that the Alaska Commission on Aging expresses its support for the continuity of Alaska's Basic Supports and opposes efforts to pro-rate these essential programs.

Adopted this 5th day of March, 2002

A handwritten signature in cursive script that reads "Marjorie J. Flays".

Marjorie J. Flays, Chair

SB 182-PRO RATA REDUCTIONS IN BENEFIT PROGRAMS
SENATE FINANCE COMMITTEE

SIGN-IN

✓ NAME: ~~Alison M. Flager~~ Subject/Bill No: SB 182
Co./Dept./Title: DoA Phone: 465-2200
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: ~~Marie Harlin~~ Subject/Bill No: SB 182
Co./Dept./Title: AARP Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓ NAME: ~~Paul Grossi~~ Subject/Bill No: SB 182
Co./Dept./Title: DOJ W Comp Director Phone: 465-2790
Address: Dept of Labor Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓ NAME: ~~Elmer Hundstrom~~ Subject/Bill No: SB 182
Co./Dept./Title: DHSS Deputy Comm. Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

[Handwritten signature]

NAME: William Rain Subject/Bill No: 182
Co./Dept./Title: _____ Phone: 767-5917
Address: 613 Degroot St. Zip: 99835
Do you wish to testify? Yes No Respond To Questions

NAME: Robert W. Kelly Sr. Subject/Bill No: SB 182
Co./Dept./Title: ANB & Land (AM) R-H Phone: 586-2062
Address: PO Box 21713, Juneau Zip: 99802
Do you wish to testify? Yes No Respond To Questions

NAME: Frank P. Thibault Sr. Subject/Bill No: SB 182
Co./Dept./Title: ANB Corp. H-2 Phone: 586-0147
Address: PO Box 21713 Juneau Zip: 99802
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: FAIRBANKS LIO

COMMITTEE: (S) FINANCE

DATE: 03/01/02

SUBJECT OF MEETING:

SB 182

UPDATE #: 3



P R I N T YOUR NAME

DO YOU WANT

ADDRESS (MAILING & ZIP)

REPRESENTING

TO TESTIFY?

Y or N

✓ Pam Karalunas		Arctic Alliance	Y
	Email address:		
✓ Taber Rehbaum		Arctic Alliance	Y
	Email address:		
✓ Jeannette Grasto		Arctic Alliance	Y
	Email address:		
	Email address:		
	Email address:		
	Email address:		
	Email address:		

SITE: ANCHORAGE LIO

COMMITTEE:

Senate Finance

DATE: 3-1-02

SUBJECT OF MEETING:

SB 182

UPDATE #: 2



DO YOU WANT

PRINT YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

TO TESTIFY?

Y or N

✓ Lynne Koral		AK Independ. Blind	Y-SB 182
Email address:			
✓ Lael Venta		People First	Y-SB 182
Email address:			
✓ Catherine Burgess		Parents, Inc.	Y-SB 182
Email address:			
→ Phyllis Hart		Parents, Inc.	Y-SB 182
Email address:			
Email address:			
Email address:			

SB

183

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 23 2001

SENATE FINANCE
COMMITTEE

DATE: April 9, 2001

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 23 April 01

Finance Committee considered SENATE BILL NO. 183

ATTY FEES: APPORTIONMENT/PUBLIC INTEREST LITIGANT

"An Act relating to public interest litigants and to attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Law	4/17/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			X	
<i>[Signature]</i>			⊗	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	

APR 23 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 183
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to public interest litigants and to BRU Civil Division
attorney fees; and amending Rule 82, ... Rules of Civil Procedure." Component Deputy Attorney General's Office
Sponsor Senate Finance Committee
Requester Senate Finance Committee Component No. 2205

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Under Rule 82, Alaska Rules of Civil Procedure, attorney's fees are awarded to the prevailing party. By rule, the attorney's fee awards are limited to a percentage of the actual fees depending on a number of factors, including whether the case is contested or goes to trial, and whether or not a money judgment is received. The complexity of the case and length of trial are among a list of other factors that may be used by the court to vary the size of the award. In contrast, under current Alaska case law public interest litigants may receive full attorney fees when they prevail, with no apportionment by issue, and are not liable for opposing party's fees when they lose their case.

SB 183 requires that attorney fee awards to or against a public interest litigant follow the same court rule as non-public interest litigants. The bill further requires that if a court increases the award from the percentages set out in (b)(1) or (b)(2) of the rule, it must apportion the attorney's fee by issue, and absent exceptional circumstances, can only award the increased fee for an issue the party prevailed upon.

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 4/17/01 11:00 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/17/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SB 183

ANALYSIS CONTINUATION

Passage of this legislation will have no impact on the Department of Law's operating budget. However, each year the department seeks supplemental funding to pay judgments and claims against the state, including public interest litigant attorney's fee awards. Total attorney's fee awards under the public interest litigant exception to Rule 82 included in judgments against the state for the last five years are as follows: FY96, \$143.1; FY97, \$134.3; FY98, \$186.4; FY99, \$413.9; FY00, \$34.7. (These numbers represent fees only, and do not include costs, pre-judgment or post-judgment interest.)

Passage of this legislation would lower, but not eliminate these awards in the future, thereby reducing the amount of supplemental requests. Public interest litigants would still be allowed to recover fees under Rule 82. Thus, the extent to which the fee awards would be reduced under this legislation would depend on the application of Rule 82 schedules to public interest litigation. In turn, this depends on the nature of the litigation and the extent to which the courts vary the award under the provisions Rule 82(b)(3).

Most public interest litigation does not involve recovery of a money judgment. When there is no money judgment, Rule 82 provides that the prevailing party can receive 30 percent of their reasonable attorney's fees if the case goes to trial, and 20 percent if it does not. This starting amount can be changed by the court after considering a list of eleven factors contained in Rule 82(b)(3), including case complexity, length of trial, reasonableness of the claims and defenses, relationship of the amount of work, the significance of the matters at stake, etc. The Judicial Council study noted in the following paragraph found that variances to the Rule 82 schedule were relatively rare for the types of civil cases the study examined. (See p. 61.) However, we have no way of knowing if the same would be true for public interest cases. At the most, assuming that all cases were non-monetary, did not go to trial, and contained no factors listed under Rule 82(b)(3), the awards would be reduced 80 percent from the amounts that would be granted under existing law. The actual reduction would almost certainly be less.

The Alaska Judicial Council, in its October 1995 report, *Alaska's English Rule: Attorney's Fee Shifting in Civil Cases*, discusses the development in Alaska of Rule 82 and the public interest exception. (<http://www.ajc.state.ak.us/Reports/atyfee.pdf>) The cases cited in the report indicate the Supreme Court intended to encourage public interest litigation by making it more financially feasible for people to litigate questions of general public concern through full reimbursement of their legal costs if they win, and by not making them pay any of the prevailing party's legal costs if they lose. (See pp. 73-77.) We have been unable to find objective data to indicate whether or not the public interest exception is a primary motivation for parties to litigate public interest issues. However, anecdotal evidence found in the Judicial Council report (pp. 129-131) suggests that the public interest exception has the effect of encouraging public interest litigation, and thus there may be fewer public interest litigation cases in the future if SB 183 passes.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

SENATE BILL 183

"An Act relating to public interest litigants and attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure"

SB 183 makes public interest litigants subject to Court Civil Rule 82 regarding judgments for attorneys' fees, thus adopting a uniform standard for all litigants. Courts would continue to have the authority to award higher or full attorney fees when a court felt exceptional circumstances justified a higher award.

Through Alaska Supreme Court decisions, a doctrine known as the *Public Interest Litigant Doctrine* (PILD) has been established. This doctrine is not codified in law or set out in any court procedure. The courts apparently created the PILD as social policy to encourage private plaintiffs to advocate for issues that are deemed by the court to be "in the public interest."

Civil Rule 82 sets out a formula for the reimbursement of attorney fees to be collected by a prevailing party in a legal action. Court Civil Rule 82 limits attorney's fees recovery by prevailing litigants to 20 percent of the litigant's reasonable actual attorney's fees incurred on a case resolved without trial and 30 percent for those cases that go to trial.

PILD creates an exception to Civil Rule 82 by allowing the courts to classify a party as a "public interest litigant", thus allowing said party to collect **full**, reasonable, actual attorney fees if they prevail. And if they lose, the public interest litigant pays **none** of the prevailing party's attorney fees. Not even the innocent victims of violent crime who bring subsequent civil suit against criminals are allowed such generous attorney fees.

Additionally, SB 183 prevents legal fees being awarded to a litigant for claims on which they did not prevail. Such awards serve to promote spurious lawsuits, since plaintiffs know they will receive compensation for all costs even if they only win on one of several points. This problem was created by the recent Alaska Supreme Court Decision *Dansereau v. Ulmer* 955 P.2d 916 1998. Prior to *Dansereau v. Ulmer* lawyer fees for public interest litigants were only awarded for issues on which they prevailed. *Dansereau v. Ulmer* sets a precedent that allows courts to award the lawyer fees for all contested points even if the public interest litigants only prevailed on one point.

SB 183 includes a provision that gives the courts the flexibility to continue to follow the *Dansereau* case and/or award higher or full attorney fees when the court finds exceptional circumstances to justify a higher award.

SB 183 seeks to prevent awards of lawyer fees of \$150 or more an hour to special interest litigating organizations that have staff attorney's on salary for \$30 - \$40 per hour. When organizations are awarded such unnecessarily high lawyer fees they are able to utilize the embellished award to not only pay their in house lawyers but to also finance political and advocacy operations. It is wrong that the current system is being exploited in this way.

The Senate Finance Committee introduced SB 183 to make "public interest litigants" equally accountable for their lawsuits and to protect the state from having to pay excessive lawyer fees for frivolous public litigant cases. Based on claims paid in recent years this legislation could save the state hundreds of thousands of dollars annually.

A similar bill passed the State Senate in 2000. However, the legislation, sponsored by the Senate Finance Committee, failed to get a hearing in the House of Representatives.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sectional Analysis

SB 183

Section 1. Amends AS 09.60.010 by providing that attorney fees may only be awarded to or against a public interest litigant as provided in Rule 82(g), Alaska Rules of Civil Procedure, as that rule reads on the effective date of this Act.

Section 2. Adds a new paragraph to Rule 82(b), A.R.C.P., that if the court chooses to vary an award of attorney fees beyond the amounts provided for in (b)(1) or (2), then the court is required to apportion attorney fees only on an issue that the party prevailed upon. However, if the court finds exceptional circumstances to be present, an increased award of attorney fees can be made without apportionment by issue.

Section 3. Adds a new subsection that awards attorney fees for or against a public interest litigant in the same manner as a non public interest litigant.

Section 4. Provides that section 1 only takes effect if sections 2 and 3 receive a two-thirds majority vote as required for court rule changes under article IV, section 15 of the Constitution for the State of Alaska.

DD/bc



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

TALKING POINTS

SENATE BILL 183

“An Act relating to public interest litigants and attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure”

- SB 183 simply says that all PIL litigants are treated like all other civil litigants, unless the court finds exceptional circumstances justify a higher award of attorney fees.
- SB 183 prevents legal fees being awarded to a litigant for claims on which they did not prevail, unless the courts finds exceptional circumstances.
- SB 183 makes so called “public interest litigants” subject to Court Civil Rule 82 regarding judgments for attorneys’ fees, thus adopting a uniform standard for all litigants. For example, victims of crimes cannot even be awarded full attorney fees—just the allowable fees established in Rule 82.
- Through Alaska Supreme Court decisions, a doctrine known as the *Public Interest Litigant Doctrine* (PILD) has been established. This doctrine is not codified in law or set out in any court procedure.
- The courts apparently created the PILD as social policy to encourage private plaintiffs to advocate for issues that are deemed by the court to be “in the public interest.”
- As the ADN noted, the Alaska Supreme Court once said “the policy of awarding full attorney’s fees to public interest litigants was designed to encourage plaintiffs to raise issues of public interest as ‘private attorneys general.’ And a public interest litigant cannot, by definition, have a substantial economic motivation.”
- However, “economic motivation” does exist for “public interest litigants”(PILs)—that’s the problem. When the courts award attorney’s fees for all issues instead of only for the ones that the party prevailed on, it sends a message to the PILs to raise as many issues as possible in order to be awarded more money. Such awards serve to promote spurious lawsuits, since plaintiffs know they will receive compensation for all costs even if they only win on one of several points
- PILD creates an exception to Civil Rule 82 by allowing the courts to classify a party as a “public interest litigant”, thus allowing said party to collect **full**, reasonable, actual attorney fees if they prevail. And if they lose, the public interest litigant pays **none** of the prevailing party’s attorney fees.

Additional Information on SB 183

“An Act relating to public interest litigants and attorney fees; and amending Rule 82, Alaska Rules of Civil Procedure”

Definition of statute is included for clarity purposes

AS 09.17.900. Definition.

In this chapter, "fault" includes acts or omissions that are in any measure negligent, reckless, or intentional toward the person or property of the actor or others, or that subject a person to strict tort liability. The term also includes breach of warranty, unreasonable assumption of risk not constituting an enforceable express consent, misuse of a product for which the defendant otherwise would be liable, and unreasonable failure to avoid an injury or to mitigate damages. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

Additional Information on SB 183

Alaska Rules of Civil Procedure

Rule 82. Attorney's Fees.

(a) Allowance to Prevailing Party. Except as otherwise provided by law or agreed to by the parties, the prevailing party in a civil case shall be awarded attorney's fees calculated under this rule.

(b) Amount of Award.

(1) The court shall adhere to the following schedule in fixing the award of attorney's fees to a party recovering a money judgment in a case:

	Judgment and, if awarded, Prejudgment Interest	Contested With Trial	Contested Without Trial	Non-Contested
First	\$ 25,000	20%	18%	10%
Next	\$ 75,000	10%	08%	03%
Next	\$400,000	10%	06%	02%
Over	\$500,000	10%	02%	01%

(2) In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case which goes to trial 30 percent of the prevailing party's reasonable actual attorney's fees which were necessarily incurred, and shall award the prevailing party in a case resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

(3) The court may vary an attorney's fee award calculated under subparagraph (b)(1) or (2) of this rule if, upon consideration of the factors listed below, the court determines a variation is warranted:

- (A) the complexity of the litigation;
- (B) the length of trial;
- (C) the reasonableness of the attorneys' hourly rates and the number of hours expended;
- (D) the reasonableness of the number of attorneys used;
- (E) the attorneys' efforts to minimize fees;
- (F) the reasonableness of the claims and defenses pursued by each side;
- (G) vexatious or bad faith conduct;
- (H) the relationship between the amount of work performed and the significance of the matters at stake;
- (I) the extent to which a given fee award may be so onerous to the non-prevailing party that it would deter

(J) the extent to which the fees incurred by the prevailing party suggest that they had been influenced by considerations apart from the case at bar, such as a desire to discourage claims by others against the prevailing party or its insurer; and

(K) other equitable factors deemed relevant.

If the court varies an award, the court shall explain the reasons for the variation.

(4) Upon entry of judgment by default, the plaintiff may recover an award calculated under subparagraph (b)(1) or its reasonable actual fees which were necessarily incurred, whichever is less. Actual fees include fees for legal work performed by an investigator, paralegal, or law clerk, as provided in subparagraph (b)(2).

(c) Motions for Attorney's Fees. A motion is required for an award of attorney's fees under this rule or pursuant to contract, statute, regulation, or law. The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment as defined by Civil Rule 58.1. Failure to move for attorney's fees within 10 days, or such additional time as the court may allow, shall be construed as a waiver of the party's right to recover attorney's fees. A motion for attorney's fees in a default case must specify actual fees.

(d) Determination of Award. Attorney's fees upon entry of judgment by default may be determined by the clerk. In all other matters the court shall determine attorney's fees.

(e) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, the fees awarded to the plaintiff under (b)(1) of this rule must also be apportioned among the parties according to their respective percentages of fault. If the plaintiff did not assert a direct claim against a third-party defendant brought into the action under Civil Rule 14(c), then

(1) the plaintiff is not entitled to recover the portion of the fee award apportioned to that party; and

(2) the court shall award attorney's fees between the third-party plaintiff and the third-party defendant as follows:

(A) if no fault was apportioned to the third-party defendant, the third-party defendant is entitled to recover attorney's fees calculated under (b)(2) of this rule;

(B) if fault was apportioned to the third-party defendant, the third-party plaintiff is entitled to recover under (b)(2) of this rule 30 or 20 percent of that party's actual attorney's fees incurred in asserting the claim against the third-party defendant.

(f) Effect of Rule. The allowance of attorney's fees by the court in conformance with this rule shall not be construed as fixing the fees between attorney and client.

Additional Information for SB 183

ALASKA CONSTITUTION Article IV

The Judiciary

SECTION 1. JUDICIAL POWER AND JURISDICTION. The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. The jurisdiction of courts shall be prescribed by law. The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law.

SECTION 2. SUPREME COURT.

(a) The supreme court shall be the highest court of the State, with final appellate jurisdiction. It shall consist of three justices, one of whom is chief justice. The number of justices may be increased by law upon the request of the supreme court.

(b) The chief justice shall be selected from among the justices of the supreme court by a majority vote of the justices. His term of office as chief justice is three years. A justice may serve more than one term as chief justice but he may not serve consecutive terms in that office.

SECTION 3. SUPERIOR COURT. The superior court shall be the trial court of general jurisdiction and shall consist of five judges. The number of judges may be changed by law.

SECTION 4. QUALIFICATIONS OF JUSTICES AND JUDGES. Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

SECTION 5. NOMINATION AND APPOINTMENT. The governor shall fill any vacancy in an office of supreme court justice or superior court judge by appointing one of two or more persons nominated by the judicial council.

SECTION 6. APPROVAL OR REJECTION. Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held more than three years after his appointment. Thereafter, each supreme court justice shall be subject to approval or rejection in a like manner every tenth year, and each superior court judge, every sixth year.

SECTION 7. VACANCY. The office of any supreme court justice or superior court judge becomes vacant ninety days after the election at which he is rejected by a majority of those voting on the question, or for which he fails to file his declaration of candidacy to succeed himself.

SECTION 8. JUDICIAL COUNCIL. The judicial council shall consist of seven members. Three attorney members shall be appointed for six-year terms by the governing body of the organized state bar. Three non-attorney members shall be appointed for six-year terms by the governor subject to confirmation by a majority of the members of the legislature in joint session. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration to area representation and without regard to political affiliation. The chief justice of the supreme court shall be ex-officio the seventh member and chairman of the judicial council. No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States

SECTION 9. ADDITIONAL DUTIES. The judicial council shall conduct studies for improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. The judicial council shall perform other duties assigned by law.

SECTION 10. COMMISSION ON JUDICIAL CONDUCT. The Commission on Judicial Conduct shall consist of nine members, as follows: three persons who are justices or judges of state courts, elected by the justices and judges of state courts; three members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session; and three persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under Section 12 of this article, a justice or judge may be disqualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law.

SECTION 11. RETIREMENT. Justices and judges shall be retired at the age of seventy except as provided in this article. The basis and amount of retirement pay shall be prescribed by law. Retired judges shall render no further service on the bench except for special assignments as provided by court rule.

SECTION 12. IMPEACHMENT. Impeachment of any justice or judge for malfeasance or misfeasance in the performance of his official duties shall be according to procedure prescribed for civil officers.

SECTION 13. COMPENSATION. Justices, judges, and members of the judicial council and the Commission on Judicial Qualifications shall receive compensation as prescribed by law. Compensation of justices and judges shall not be diminished during their terms of office, unless by general law applying to all salaried officers of the State.

SECTION 14. RESTRICTIONS. Supreme court justices and superior court judges while holding office may not practice law, hold office in a political party, or hold any other office or position of profit under the United States, the State, or its political subdivisions. Any supreme court justice or superior court judge filing for another elective public office forfeits his judicial position.

SECTION 15. RULE-MAKING POWER. The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.

SECTION 16. COURT ADMINISTRATION. The chief justice of the supreme court shall be the administrative head of all courts. He may assign judges from one court or division thereof to another for temporary service. The chief justice shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the supreme court and to supervise the administrative operations of the judicial system.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

MEMORANDUM

TO: Senator Dave Donley

FROM: Bill Church *Bill*
Legislative Aide

DATE: March 19, 2001

RE: Department of Law Public Interest Litigant Payments

The Department of Law has provided a six year history (FY 95-01) of general funds used to pay attorney fees in PIL cases.

The breakdown is as follows:

FY	Criminal Division	Civil Division	Number of PIL
95	\$82,047	\$1,231,439	20
96	\$147,717	\$146,392	11
97	\$85,958	\$144,483	11
98	\$53,922	\$215,611	9
99	\$56,734	\$603,859	8
00	\$51,018	\$37,724	3
01	<u>\$209,415</u>	<u>\$211,320</u>	<u>8</u>
	\$686,811	\$2,590,828	70

This represents a total of \$3,277,639 in public interest litigant attorney fees for the entire seven-year period. This is an average cost to the state of \$468,234 per year. If the legislation were to become law and the amount paid out in PIL attorney fees was cut by 25 percent, the state could save approximately \$117,058 per year.

Co-Chair: Senate Finance Committee

Vice-Chair: Senate Judiciary Committee

Member: Legislative Budget and Audit Committee • Legislative Council

SB

184

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 18 2001

SENATE FINANCE
COMMITTEE

DATE: April 9, 2001

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 18 April 2001

Finance Committee considered SENATE BILL NO. 184
CONSTRUCTION OF WATER & SEWAGE FACILITIES

"An Act relating to user contributions toward the cost of construction of certain water and sewage facilities."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DEC	4/11/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>		✓		
<i>[Signature]</i>		X		
<i>[Signature]</i>		X		
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

APR 18 2001

SENATE FINANCE
COMMITTEE

SB 184

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:

Bill Version:

() Publish Date:

Revision Date/Time (Note if correction):

Title: An Act relating to user contributions toward the cost of construction of certain water and sewage facilities.

Sponsor: Senate Finance

Requester: Senate Finance

Dept. Affected: Environmental Conservation

BRU: Facility Construction and Operation

Component: Facility Construction and Operation

Component Number: 637

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 184 removes the current explicit prohibition against requiring a local contribution to sanitation projects. Because the local contribution is discretionary under the bill, it will not necessarily invoke a policy or procedural change, or fiscal impacts.

Prepared by: Dan Easton
 Division: Facility Construction and Operation
 Approved by: Kurt Fredriksson
 Agency: Department of Environmental Conservation

Phone 9070-465-5135
 Date/Time 4/11/01 11:45 AM
 Date 4/11/2001 2:15 PM

For distribution information, call the Governor's Legislative Office



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

SB 184

"User contributions toward the cost of construction of certain water and sewer facilities"

Water and Sewer projects funded through the "Village Safe Water Act" (VSW) program benefits villages with between 25 and 600 residents within a two-mile radius, a second or first class city with not more than 600 residents. The program is sustained through federal dollars and the Alaska Housing Finance Corporation (AHFC) dividend payment to the state.

Current statutes actually prohibit any requirement of a local contribution in support of local water and sewer enhancements under this program. SB 184 does not mandate that local communities benefited by this program contribute a certain amount for local enhancements. It does, however, remove the barrier to local financial support of water and sewer construction costs under the VSW program.

Eligible VSW projects receive 2/3rd of the funding from the federal government with the remaining 1/3rd supplied with state AHFC dividend funding. There are many more communities that do not receive requested funding than do receive funding in any given year. There is just not enough funding to support all the requests for VSW projects. Local contribution toward these programs will free up additional money in order to fund some of the requests that currently go unfunded each year. The FY 01 VSW appropriation was for \$53.0 million. If local communities contributed just 5 percent toward the cost, there would have been an additional \$2.7 million available to fund additional community requests.

With passage of this bill, the Department of Environmental Conservation will be encouraged to draft regulations creating a framework for local participation in water and sewer construction projects funded by the VSW program.

DD/bc



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sectional Analysis

SB 184

Section 1. Removes the inability of communities to make local contributions toward the cost of the construction of a facility under village safe water grants.

Rational: Even a small local contribution provides a sense of project ownership to the local community and frees up additional funding to be used on other "safe water" projects.

DD/bc



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Talking Points

SB184

“User contributions toward the cost of construction of certain water and sewer facilities”

- Current statutes actually prohibit any requirement of a local contribution in support of local water and sewer enhancements under this program.
- SB 184 does not mandate that local communities benefited by this program contribute a certain amount for local enhancements. It does, however, remove the barrier to local financial support of water and sewer construction costs under the VSW program.
- Water and Sewer projects funded through the “Village Safe Water Act” (VSW) program benefits villages with between 25 and 600 residents within a two-mile radius, a second or first class city with not more than 600 residents.
- Eligible VSW projects receive 2/3rd of the funding from the federal government with the remaining 1/3rd supplied with state AHFC dividend funding.
- There are many more communities that do not receive requested funding than do receive funding in any given year.
- Local contribution toward these programs will free up additional money in order to fund some of the requests that currently go unfunded each year.
- The FY 01 VSW appropriation was for \$53.0 million. If local communities contributed just 5 percent toward the cost, there would have been an additional \$2.7 million available to fund additional community requests.
- With passage of this bill, the Department of Environmental Conservation will be encouraged to draft regulations creating a framework for local participation in water and sewer construction projects funded by the VSW program.

DD/bc

Additional Information for SB 184

“User contributions toward the cost of construction of certain water and sewer facilities”

Alaska Statute 46.07.040 in its entirety to show what is and is not covered under a VSW grant

AS 46.07.040. Construction of Facilities.

(a) The commissioner shall provide for the construction of facilities under this chapter, and is authorized to provide for the construction by contract or through grants to public agencies or private nonprofit organizations, or otherwise. A contribution toward the cost of the construction of a facility may not be required from its users. Construction under this section by contract is governed by AS 36.30 (State Procurement Code).

(b) In the construction of a facility under this chapter, workers from the village in which the facility is being constructed shall be utilized to the maximum extent feasible.

(c) In (a) of this section, "cost of the construction of a facility" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out the project. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering, or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction, and improvement of real property, and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 18 2001

SENATE FINANCE
COMMITTEE

DATE: April 9, 2001

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 18 April 2001

Finance Committee considered SENATE BILL NO. 184
CONSTRUCTION OF WATER & SEWAGE FACILITIES

"An Act relating to user contributions toward the cost of construction of certain water and sewage facilities."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DEC	4/11/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>		✓		
<i>[Signature]</i>		X		
<i>[Signature]</i>		X		
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

SENATE FINANCE COMMITTEE
2000 COMMITTEE ACTION

Bill Number	SB 184		
Amendment			
Motion	move		
<u>Motion by</u>	Green		
<u>Objection by</u>	hoffman		
Removed			
<u>Second Objection by</u>	olson		
<u>Committee Member</u>	Y	Vote	N
Senator Leman	✓		
Senator Olson			✓
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman			✓
Senator Green	✓		
Senator Hoffman			✓
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	6		
Nay	3		
Absent			
<u>MOTION</u>	Passes		

SENATE BILL NO. 184

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 4/9/01
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to user contributions toward the cost of construction of certain water
2 and sewage facilities."

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

4 * Section 1. AS 46.07.040(a) is amended to read:

5 (a) The commissioner shall provide for the construction of facilities under this
6 chapter, and is authorized to provide for the construction by contract or through grants
7 to public agencies or private nonprofit organizations, or otherwise. A contribution
8 toward the cost of the construction of a facility may [NOT] be required from its users.
9 Construction under this section by contract is governed by AS 36.30 (State
10 Procurement Code).

FISCAL NOTE

APR 18 2001

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number:

Bill Version:

() Publish Date:

SB 184

Revision Date/Time (Note if correction):

Title: An Act relating to user contributions toward the cost of construction of certain water and sewage facilities.

Sponsor: Senate Finance

Requester: Senate Finance

Dept. Affected: Environmental Conservation

BRU: Facility Construction and Operation

Component: Facility Construction and Operation

Component Number: 637

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 184 removes the current explicit prohibition against requiring a local contribution to sanitation projects. Because the local contribution is discretionary under the bill, it will not necessarily invoke a policy or procedural change, or fiscal impacts.

Prepared by: Dan Easton

Division: Facility Construction and Operation

Approved by: Kurt Fredriksson

Agency: Department of Environmental Conservation

Phone 9070-465-5135

Date/Time 4/11/01 11:45 AM

Date 4/11/2001 2:15 PM

For distribution information, call the Governor's Legislative Office

SENATE FINANCE COMMITTEE

S I G N - I N

SB 184-CONSTRUCTION OF WATER & SEWAGE FACILITIES

NAME: DAN EASTON Subject/Bill No: 184

Co./Dept./Title: DIRECTOR, FACILITY CONSTRUCTION Phone: 465-5135

Address: 410 WILKINSBY AVE., TUNEAU 99801 Zip: 99801

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

185

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 APR 10 2002
 SENATE FINANCE
 COMMITTEE

DATE: April 9, 2001

FURTHER:

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 10 April 2002

Finance Committee considered SENATE BILL . IO. 185
POWER COST EQUALIZATION BASED ON HIGHEST COST

"An Act relating to the basis for determining eligibility for and the amount of power cost equalization payments; and providing for an effective date."

and recommends:

- be replaced with CS SB 185 (FIN)
- adopt previous CS CS Farthcoming
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	4/8/02		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Alan Quinlan</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>Alan J. Roman</i>			✓	
<i>Asmy White</i>	✓			
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	

REPORTED OUT
 APR 10 2002
 SENATE FINANCE
 COMMITTEE

FISCAL NOTE

STATE OF ALASKA
 2002 LEGISLATIVE SESSION

Fiscal Note Number:
 Bill Version: CSSB 185 (FIN)
 (S) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title: "An act relating to the basis for determining
eligibility for PCE payments BRU: Rural Energy Programs
 Sponsor: Senate Finance Committee Component: Power Cost Equalization
 Requester: Senate Finance Committee Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous*						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1089 PCE & Rural Electric Capitalization						
1169 PCE Endowment Fund	12,799.7					
TOTAL	12,799.7	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 3,531.0

POSITIONS

Full-time						
Part-time						
Temporary						

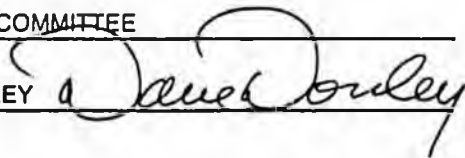
ANALYSIS: (Attach a separate page if necessary)

CSSB 185(Fin) raises the PCE floor from 12¢ per kwh to 16.75¢ per kwh and revises the maximum amount of eligible residential kwh use per month from 500 kwh to a seasonal rate of 450 kwh for the months of October through March, and 350 kwh for the months of April through September.

The estimated cost of the program, with the adjustments cited above, is \$12,849.0. This is a reduction of about \$2,851.0 from the \$15.7 million appropriated for FY02 operating expenditures.

This fiscal note transfers 7% of the PCE Endowment as of 2/1/02 for FY03, and appropriates 3.5% of the PCE Endowment as of 2/1/01 to the PCE/Rural Electrification Fund.

Prepared by: SENATE FINANCE COMMITTEE Phone 465-3892

Senator: /s/ SENATOR DONLEY  Date 4/8/02 9:23am
 Committee Cochair

SENATE FINANCE COMMITTEE
4 / 10 2002 COMMITTEE ACTION

Bill Number	SB 185		
Amendment	Report from		
Motion	Committee		
<u>Motion by</u>	Donley		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 185(FIN), Draft Version "U"

1 Page 1, following line 11:

2 Insert a new bill section to read:

3 **"* Sec. 2.** AS 42.45.100(a) is amended to read:

4 (a) The power cost equalization and rural electric capitalization fund is
5 established as a separate fund for the purpose of

6 (1) equalizing power cost per kilowatt-hour statewide at a cost close to
7 or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and
8 Juneau by paying money from the fund to eligible electric utilities in the state; and

9 (2) making grants to eligible utilities under AS 42.45.180 to improve
10 the performance of the utility."

11 Renumber the following bill sections accordingly.

12

13 Page 2, following line 10:

14 Insert a new bill section to read:

15 **"* Sec. 4.** AS 42.45.110(b) is amended to read:

16 (b) An eligible electric utility is entitled to receive power cost equalization

17 (1) for sales of power to local community facilities, calculated in the
18 aggregate for each community served by the electric utility, for actual consumption of
19 not more than 70 kilowatt-hours per month for each resident of the community; the
20 number of community residents shall be determined under AS 29.60.020; and

21 (2) for actual consumption of not more than 500 kilowatt-hours per
22 month sold to each residential customer [OF NOT MORE THAN

23 (A) 450 KILOWATT-HOURS PER MONTH FOR THE

1 MONTHS OF OCTOBER THROUGH MARCH, AND

2 (B) 350 KILOWATT-HOURS PER MONTH FOR THE
3 MONTHS OF APRIL THROUGH SEPTEMBER]."

4
5 Renumber the following bill sections accordingly.

6
7 Page 3, following line 4:

8 Insert a new bill section to read:

9 **"* Sec. 6.** AS 42.45.110(c) is amended to read:

10 "(c) The amount of power cost equalization provided per kilowatt-hour under
11 (b) of this section may not exceed 95 percent of the power costs, or the average rate
12 per eligible kilowatt-hour sold, whichever is less, as determined by the commission.

13 However,

14 (1) during the state fiscal year that began July 1, 1999, the power costs
15 for which power cost equalization were paid to an electric utility were limited to
16 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
17 per kilowatt-hour;

18 (2) during the state fiscal years beginning July 1, 2007, and each
19 following state fiscal year [JULY 1, 2000, AND JULY 1, 2001], the commission
20 shall adjust the power costs for which power cost equalization may be paid to an
21 electric utility based on the weighted average retail residential rate in Anchorage,
22 Fairbanks, and Juneau; however, the commission may not adjust the power costs
23 under this paragraph to reduce the amount below the lower limit set out in (1) of this
24 subsection; **and**

25 (3) [DURING EACH FOLLOWING STATE FISCAL YEAR, THE
26 COMMISSION SHALL ADJUST THE POWER COSTS FOR WHICH POWER
27 COST EQUALIZATION MAY BE PAID TO AN ELECTRIC UTILITY BASED ON
28 THE WEIGHTED AVERAGE RETAIL RESIDENTIAL RATE IN ANCHORAGE,
29 FAIRBANKS, AND JUNEAU, PER KILOWATT-HOUR FOR SALES TO
30 RESIDENTIAL CUSTOMERS OF 400 KILOWATT-HOURS PER MONTH; THE
31 COMMISSION MAY NOT ADJUST THE POWER COSTS UNDER THIS

1 PARAGRAPH TO REDUCE THE AMOUNT BELOW 16.75 CENTS PER
2 KILOWATT-HOUR; AND

3 (4)] the power cost equalization per kilowatt-hour may be determined
4 for a utility without historical kilowatt-hour sales data by using kilowatt-hours
5 generated."

6

7 Renumber the following bill sections accordingly.

8

9 Page 3, following line 16:

10 Insert a new bill section to read:

11 **** Sec. 8.** AS 42.45.110(d) is amended to read:

12 (d) An electric utility whose customers receive power cost equalization under
13 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
14 equalization and the amount of power cost equalization per kilowatt-hour sold. The
15 rate charged to the customer shall be the difference between the two amounts. Power
16 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
17 of all power sold to local community facilities, in the aggregate, to the extent of 70
18 kilowatt-hours per month per resident of the community, and to reduce the cost [TO
19 EACH RESIDENTIAL CUSTOMER] of the first 500 [NOT MORE THAN 450]
20 kilowatt-hours per residential customer per month [FOR THE MONTHS OF
21 OCTOBER THROUGH MARCH, AND NOT MORE THAN 350 KILOWATT-
22 HOURS PER MONTH FOR THE MONTHS OF APRIL THROUGH
23 SEPTEMBER]."

24

25 Renumber the following bill sections accordingly.

26

27 Page 3, line 27:

28 Delete all material.

29 Insert new bill sections to read:

30 **** Sec. 10.** Sections 1, 3, 5, 7, and 9 of this Act take effect July 1, 2002.

31 *** Sec. 11.** Sections 2, 4, 6, and 8 of this Act take effect July 1, 2007."

CS FOR SENATE BILL NO. 185(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the basis for determining eligibility for and the amount of power
2 cost equalization payments; and providing for an effective date."

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

4 * Section 1. AS 42.45.100(a) is amended to read:

5 (a) The power cost equalization and rural electric capitalization fund is
6 established as a separate fund for the purpose of

7 (1) equalizing power cost per kilowatt-hour statewide at a cost close to
8 [OR EQUAL TO] the mean of the cost per kilowatt-hour in Anchorage, Fairbanks,
9 and Juneau by paying moncy from the fund to eligible electric utilities in the state; and

10 (2) making grants to eligible utilities under AS 42.45.180 to improve
11 the performance of the utility.

12 * Sec. 2. AS 42.45.100(a) is amended to read:

13 (a) The power cost equalization and rural electric capitalization fund is
14 established as a separate fund for the purpose of

7
#2

1 (1) equalizing power cost per kilowatt-hour statewide at a cost close to
2 or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and #2
3 Juneau by paying money from the fund to eligible electric utilities in the state; and

4 (2) making grants to eligible utilities under AS 42.45.180 to improve
5 the performance of the utility.

6 * Sec. 3. AS 42.45.110(b) is amended to read:

7 (b) An eligible electric utility is entitled to receive power cost equalization

8 (1) for sales of power to local community facilities, calculated in the
9 aggregate for each community served by the electric utility, for actual consumption of
10 not more than 70 kilowatt-hours per month for each resident of the community; the
11 number of community residents shall be determined under AS 29.60.020; and

12 (2) for actual consumption [OF NOT MORE THAN 500
13 KILOWATT-HOURS PER MONTH] sold to each residential customer of not more
14 than

15 (A) 450 kilowatt-hours per month for the months of
16 October through March; and

17 (B) 350 kilowatt-hours per month for the months of April
18 through September.

19 * Sec. 4. AS 42.45.110(b) is amended to read:

20 (b) An eligible electric utility is entitled to receive power cost equalization

21 (1) for sales of power to local community facilities, calculated in the
22 aggregate for each community served by the electric utility, for actual consumption of
23 not more than 70 kilowatt-hours per month for each resident of the community; the
24 number of community residents shall be determined under AS 29.60.020; and #2

25 (2) for actual consumption of not more than 500 kilowatt-hours per
26 month sold to each residential customer [OF NOT MORE THAN

27 (A) 450 KILOWATT-HOURS PER MONTH FOR THE
28 MONTHS OF OCTOBER THROUGH MARCH; AND

29 (B) 350 KILOWATT-HOURS PER MONTH FOR THE
30 MONTHS OF APRIL THROUGH SEPTEMBER].

31 * Sec. 5. AS 42.45.110(c) is amended to read:

1 (c) The amount of power cost equalization provided per kilowatt-hour under
 2 [SUBSECTION] (b) of this section may not exceed 95 percent of the power costs, or
 3 the average rate per eligible kilowatt-hour sold, whichever is less, as determined by
 4 the commission. However,

5 (1) during the state fiscal year that began July 1, 1999, the power cost
 6 for which power cost equalization were paid to an electric utility were limited to
 7 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
 8 per kilowatt-hour;

9 (2) during the state fiscal years beginning July 1, 2000, and July 1,
 10 2001 [EACH FOLLOWING STATE FISCAL YEAR], the commission shall adjust
 11 the power costs for which power cost equalization may be paid to an electric utility
 12 based on the weighted average retail residential rate in Anchorage, Fairbanks, and
 13 Juneau; however, the commission may not adjust the power costs under this paragraph
 14 to reduce the amount below the lower limit set out in (1) of this subsection; [AND]

15 (3) during each following state fiscal year, the commission shall
 16 adjust the power costs for which power cost equalization may be paid to an
 17 electric utility based on the weighted average retail residential rate in Anchorage,
 18 Fairbanks, and Juneau, per kilowatt-hour for sales to residential customers of
 19 400 kilowatt-hours per month; the commission may not adjust the power costs
 20 under this paragraph to reduce the amount below 16.75 cents per kilowatt-hour;
 21 and

22 (4) the power cost equalization per kilowatt-hour may be determined
 23 for a utility without historical kilowatt-hour sales data by using kilowatt-hours
 24 generated.

25 * Sec. 6. AS 42.45.110(c) is amended to read:

26 (c) The amount of power cost equalization provided per kilowatt-hour under
 27 (b) of this section may not exceed 95 percent of the power costs, or the average rate
 28 per eligible kilowatt-hour sold, whichever is less, as determined by the commission.
 29 However,

30 (1) during the state fiscal year that began July 1, 1999, the power costs
 31 for which power cost equalization were paid to an electric utility were limited to

7
#2

1 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
2 per kilowatt-hour;

← technical correction per Legal Services

3 (2) during the state fiscal year [YEARS] beginning July 1, 2007, and
4 each following state fiscal year [JULY 1, 2000, AND JULY 1, 2001], the
5 commission shall adjust the power costs for which power cost equalization may be
6 paid to an electric utility based on the weighted average retail residential rate in
7 Anchorage, Fairbanks, and Juneau; however, the commission may not adjust the
8 power costs under this paragraph to reduce the amount below the lower limit set out in
9 (1) of this subsection; and

#2

10 (3) [DURING EACH FOLLOWING STATE FISCAL YEAR, THE
11 COMMISSION SHALL ADJUST THE POWER COSTS FOR WHICH POWER
12 COST EQUALIZATION MAY BE PAID TO AN ELECTRIC UTILITY BASED ON
13 THE WEIGHTED AVERAGE RETAIL RESIDENTIAL RATE IN ANCHORAGE,
14 FAIRBANKS, AND JUNEAU, PER KILOWATT-HOUR FOR SALES TO
15 RESIDENTIAL CUSTOMERS OF 400 KILOWATT-HOURS PER MONTH; THE
16 COMMISSION MAY NOT ADJUST THE POWER COSTS UNDER THIS
17 PARAGRAPH TO REDUCE THE AMOUNT BELOW 16.75 CENTS PER
18 KILOWATT-HOUR; AND

19 (4) the power cost equalization per kilowatt-hour may be determined
20 for a utility without historical kilowatt-hour sales data by using kilowatt-hours
21 generated.

22 * Sec. 7. AS 42.45.110(d) is amended to read:

23 (d) An electric utility whose customers receive power cost equalization under
24 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
25 equalization and the amount of power cost equalization per kilowatt-hour sold. The
26 rate charged to the customer shall be the difference between the two amounts. Power
27 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
28 of all power sold to local community facilities, in the aggregate, to the extent of 70
29 kilowatt-hours per month per resident of the community, and to reduce the cost to
30 each residential customer of not more than 450 [THE FIRST 500] kilowatt-hours
31 per residential customer per month for the months of October through March, and

1 not more than 350 kilowatt-hours per month for the months of April through
 2 September.

3 * Sec. 8. AS 42.45.110(d) is amended to read:

4 (d) An electric utility whose customers receive power cost equalization under
 5 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
 6 equalization and the amount of power cost equalization per kilowatt-hour sold. The
 7 rate charged to the customer shall be the difference between the two amounts. Power #2
 8 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
 9 of all power sold to local community facilities, in the aggregate, to the extent of 70
 10 kilowatt-hours per month per resident of the community, and to reduce the cost [TO
 11 EACH RESIDENTIAL CUSTOMER] of the first 500 [NOT MORE THAN 450]
 12 kilowatt-hours per residential customer per month [FOR THE MONTHS OF
 13 OCTOBER THROUGH MARCH, AND NOT MORE THAN 350 KILOWATT-
 14 HOURS PER MONTH FOR THE MONTHS OF APRIL THROUGH SEPTEMBER].

15 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 POWER COST EQUALIZATION PROGRAM ADJUSTMENTS. It is the intent of
 18 the legislature that if the amount available for power cost equalization under
 19 AS 42.45.085(a)(1) exceeds the costs of the program, the legislature will

20 (1) review the statutory provisions and consider increasing the maximum
 21 number of kilowatt hours eligible for power cost equalization and adjusting the minimum and
 22 maximum power costs for which power cost equalization may be paid; and

23 (2) consider other changes to provisions of the program in order to further
 24 lower the cost of electricity to rural consumers.

25 * Sec. 10. Sections 1, 3, 5, 7, and 9 of this Act take effect July 1, 2002.

26 * Sec. 11. Sections 2, 4, 6, and 8 of this Act take effect July 1, 2007. #2

adopted

SENATE FINANCE

COMMITTEE #1

Amendment Number: #1

Bill Number: SB 185

Sponsor: Donley Date: 3/20/02

Logged In By: U Mindy

It is the intent of legislature that if the amount available for appropriation from the Power Cost Equalization Fund under §2.45.055 is more than required to fund the Power Cost Equalization program, the legislature will review the statutory provisions to consider adjustments to the maximum eligible rate change, the maximum percentage change allowed for calculating PCE payments and other provisions of the program.

SENATE FINANCE COMMITTEE
3/29 2002 COMMITTEE ACTION

Bill Number	SB 185		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Donley		
<u>Objection by</u>	Austerman		
Removed	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

22-LS0465\U
Craver
3/20/02

CS FOR SENATE BILL NO. 185(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the basis for determining eligibility for and the amount of power
2 cost equalization payments; and providing for an effective date."

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

4 * Section 1. AS 42.45.100(a) is amended to read:

5 (a) The power cost equalization and rural electric capitalization fund is
6 established as a separate fund for the purpose of

7 (1) equalizing power cost per kilowatt-hour statewide at a cost close to
8 [OR EQUAL TO] the mean of the cost per kilowatt-hour in Anchorage, Fairbanks,
9 and Juneau by paying money from the fund to eligible electric utilities in the state; and

10 (2) making grants to eligible utilities under AS 42.45.180 to improve
11 the performance of the utility.

12 * Sec. 2. AS 42.45.110(b) is amended to read:

13 (b) An eligible electric utility is entitled to receive power cost equalization

14 (1) for sales of power to local community facilities, calculated in the

1 aggregate for each community served by the electric utility, for actual consumption of
2 not more than 70 kilowatt-hours per month for each resident of the community; the
3 number of community residents shall be determined under AS 29.60.020; and

4 (2) for actual consumption [OF NOT MORE THAN 500
5 KILOWATT-HOURS PER MONTH] sold to each residential customer of not more
6 than

7 (A) 450 kilowatt-hours per month for the months of
8 October through March, and

9 (B) 350 kilowatt-hours per month for the months of April
10 through September.

11 * Sec. 3. AS 42.45.110(c) is amended to read:

12 (c) The amount of power cost equalization provided per kilowatt-hour under
13 [SUBSECTION] (b) of this section may not exceed 95 percent of the power costs, or
14 the average rate per eligible kilowatt-hour sold, whichever is less, as determined by
15 the commission. However,

16 (1) during the state fiscal year that began July 1, 1999, the power costs
17 for which power cost equalization were paid to an electric utility were limited to
18 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
19 per kilowatt-hour;

20 (2) during the state fiscal years beginning July 1, 2000, and July 1,
21 2001 [EACH FOLLOWING STATE FISCAL YEAR], the commission shall adjust
22 the power costs for which power cost equalization may be paid to an electric utility
23 based on the weighted average retail residential rate in Anchorage, Fairbanks, and
24 Juneau; however, the commission may not adjust the power costs under this paragraph
25 to reduce the amount below the lower limit set out in (1) of this subsection; [AND]

26 (3) during each following state fiscal year, the commission shall
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28 electric utility based on the weighted average retail residential rate in Anchorage,
29 Fairbanks, and Juneau, per kilowatt-hour for sales to residential customers of
30 400 kilowatt-hours per month; the commission may not adjust the power costs
31 under this paragraph to reduce the amount below 16.75 cents per kilowatt-hour;

1 and

2 (4) the power cost equalization per kilowatt-hour may be determined
3 for a utility without historical kilowatt-hour sales data by using kilowatt-hours
4 generated.

5 * Sec. 4. AS 42.45.110(d) is amended to read:

6 (d) An electric utility whose customers receive power cost equalization under
7 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
8 equalization and the amount of power cost equalization per kilowatt-hour sold. The
9 rate charged to the customer shall be the difference between the two amounts. Power
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11 of all power sold to local community facilities, in the aggregate, to the extent of 70
12 kilowatt-hours per month per resident of the community, and to reduce the cost to
13 each residential customer of not more than 450 [THE FIRST 500] kilowatt-hours
14 per residential customer per month for the months of October through March, and
15 not more than 350 kilowatt-hours per month for the months of April through
16 September.

17 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 POWER COST EQUALIZATION PROGRAM ADJUSTMENTS. It is the intent of
20 the legislature that if the amount available for power cost equalization under
21 AS 42.45.085(a)(1) exceeds the costs of the program, the legislature will

22 (1) review the statutory provisions and consider increasing the maximum
23 number of kilowatt hours eligible for power cost equalization and adjusting the minimum and
24 maximum power costs for which power cost equalization may be paid; and

25 (2) consider other changes to provisions of the program in order to further
26 lower the cost of electricity to rural consumers.

27 * Sec. 6. This Act takes effect July 1, 2002.

adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS0465\W
Craver
3/19/02

CS FOR SENATE BILL NO. 185()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the basis for determining eligibility for and the amount of power
2 cost equalization payments; and providing for an effective date."

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8 [OR EQUAL TO] the mean of the cost per kilowatt-hour in Anchorage, Fairbanks,
9 and Juneau by paying money from the fund to eligible electric utilities in the state; and

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11 the performance of the utility.

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3 number of community residents shall be determined under AS 29.60.020; and

4 (2) for actual consumption [OF NOT MORE THAN 500
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8 October through March, and

9 (B) 350 kilowatt-hours per month for the months of April
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14 the average rate per eligible kilowatt-hour sold, whichever is less, as determined by
15 the commission. However,

16 (1) during the state fiscal year that began July 1, 1999, the power costs
17 for which power cost equalization were paid to an electric utility were limited to
18 minimum power costs of more than 12 cents per kilowatt-hour and less than 52.5 cents
19 per kilowatt-hour;

20 (2) during the state fiscal years beginning July 1, 2000, and July 1,
21 2001 [EACH FOLLOWING STATE FISCAL YEAR], the commission shall adjust
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23 based on the weighted average retail residential rate in Anchorage, Fairbanks, and
24 Juneau; however, the commission may not adjust the power costs under this paragraph
25 to reduce the amount below the lower limit set out in (1) of this subsection; [AND]

26 (3) during each following state fiscal year, the commission shall
27 adjust the power costs for which power cost equalization may be paid to an
28 electric utility based on the weighted average retail residential rate in Anchorage,
29 Fairbanks, and Juneau, per kilowatt-hour for sales to residential customers of
30 400 kilowatt-hours per month; the commission may not adjust the power costs
31 under this paragraph to reduce the amount below 16.75 cents per kilowatt-hour;

1 and

2 (4) ' e power cost equalization per kilowatt-hour may be determined
3 for a utility without historical kilowatt-hour sales data by using kilowatt hours
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5 * Sec. 4. AS 42.45.110(d) is amended to read:

6 (d) An electric utility whose customers receive power cost equalization under
7 AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost
8 equalization and the amount of power cost equalization per kilowatt-hour sold. The
9 rate charged to the customer shall be the difference between the two amounts. Power
10 cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost
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12 kilowatt-hours per month per resident of the community, and to reduce the cost to
13 each residential customer of not more than 450 [THE FIRST 500] kilowatt-hours
14 per residential customer per month for the months of October through March, and
15 not more than 350 kilowatt-hours per month for the months of April through
16 September.

17 * Sec. 5. This Act takes effect July 1, 2002.



Official Business


Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

MEMORANDUM

TO: Senate Finance Committee Members

FROM: Senator Dave Donley, Co-Chair 
Senate Finance Committee

DATE: March 29, 2002

RE: CSSB 185(Fin), Power Cost Equalization

At the last hearing on Senate Bill 185, the committee adopted work draft 22-LS0465\W, which raised the PCE floor from 12¢ per kWh to 16.75¢ per kWh and revised the maximum amount of eligible residential kilowatt hour use per month from 500 kWh to a seasonal rate of 450 kWh for the months of October through March and 350 kWh for the months of April through September. Additionally, the committee adopted an amendment to the work draft adding legislative intent to the bill.

Attached for your information is a copy of the new committee substitute (version 22-LS0465\U, dated 3/20/02) and its accompanying fiscal note. Section 5 contains the legislative intent adopted by the committee.

The fiscal note indicates that the revisions to the PCE program contained in CSSB 185 result in savings of \$2,851.0, bringing the program cost to \$12,849, which is within the range of funds available for appropriation from the PCE Endowment Fund.

During discussion of this legislation, questions were raised regarding endowment payouts at varying rates. Attached for your information is a table prepared by the Legislative Finance Division that shows different payout amounts based on varying interest rates and endowment fund balances.

Another issue brought up during discussion was that of National Petroleum Reserve-Alaska funds that had been received by the state and how those funds were used.

March 29, 2002

Page 2

According to the Department of Revenue, in Fiscal Year 2000, NPR-A funds received totaled \$40,298.6. Of the amount, \$28,000.0 went to communities in NPR-A Impact Awards, \$3,136.2 was deposited in the Permanent Fund and Public School Trust and \$9,162.8 was appropriated for PCE payments to communities. In FY 01, NPR-A funds received totaled \$1,583.8, all of which went to communities in NPR-A Impact Awards. Fiscal Year 2002 NPR-A funds are approximately \$1,799.0 all of which is earmarked for community Impact Awards. Attached for the committee's information is the list of awards made to communities from FY 00 through FY 02.¹

¹ Source of grants: "National Petroleum Reserve - Alaska Impact Mitigation Program", Report to the Second Session of the Twenty Second Legislature, Fiscal Year 2002, Department of Community & Economic Development.

POWER COST EQUALIZATION ENDOWMENT
(millions of dollars)

Payout of at least \$15.7 million is in bold

A Simple Approach--Balance Required for Payout at Various Payout Rates	Balance	a relatively high payout for an endowment that is to keep pace with inflation	probably unattainable if the payout is to keep pace with inflation		allows only .9% of earnings to cover inflation; highly unlikely to be sufficient		all earnings are paid out annually; no endowment growth to cover inflation
		Payout Rate	5.5%	6.0%	6.5%	7.0%	7.5%
	180,000	9,900	10,800	11,700	12,600	13,500	14,220
All earnings must be paid out at this balance	190,000	10,450	11,400	12,350	13,300	14,250	15,010
	200,000	11,000	12,000	13,000	14,000	15,000	15,800
	210,000	11,550	12,600	13,650	14,700	15,750	16,590
	220,000	12,100	13,200	14,300	15,400	16,500	17,380
A 7% payout of \$15.7 million works if the balance is \$230 million.	230,000	12,650	13,800	14,950	16,100	17,250	18,170
	240,000	13,200	14,400	15,600	16,800	18,000	18,960
	250,000	13,750	15,000	16,250	17,500	18,750	19,750
	260,000	14,300	15,600	16,900	18,200	19,500	20,540
	270,000	14,850	16,200	17,550	18,900	20,250	21,330
	280,000	15,400	16,800	18,200	19,600	21,000	22,120
A typical endowment payout with inflation	290,000	15,950	17,400	18,850	20,300	21,750	22,910
protection requires a balance of \$290 million	300,000	16,500	18,000	19,500	21,000	22,500	23,700

Payout of at least \$12.8 million is in bold

A Simple Approach--Balance Required for Payout at Various Payout Rates	Balance	a relatively high payout for an endowment that is to keep pace with inflation	probably unattainable if the payout is to keep pace with inflation		allows only .9% of earnings to cover inflation; highly unlikely to be sufficient		all earnings are paid out annually; no endowment growth to cover inflation
		Payout Rate	5.5%	6.0%	6.5%	7.0%	7.5%
	180,000	9,900	10,800	11,700	12,600	13,500	14,220
All earnings must be paid out at this balance	190,000	10,450	11,400	12,350	13,300	14,250	15,010
	200,000	11,000	12,000	13,000	14,000	15,000	15,800
	210,000	11,550	12,600	13,650	14,700	15,750	16,590
	220,000	12,100	13,200	14,300	15,400	16,500	17,380
A 7% payout of \$12.8 million works if the balance is \$240 million.	230,000	12,650	13,800	14,950	16,100	17,250	18,170
	240,000	13,200	14,400	15,600	16,800	18,000	18,960
	250,000	13,750	15,000	16,250	17,500	18,750	19,750
	260,000	14,300	15,600	16,900	18,200	19,500	20,540
	270,000	14,850	16,200	17,550	18,900	20,250	21,330
	280,000	15,400	16,800	18,200	19,600	21,000	22,120
A typical endowment payout with inflation	290,000	15,950	17,400	18,850	20,300	21,750	22,910
protection requires a balance of \$290 million	300,000	16,500	18,000	19,500	21,000	22,500	23,700

FY 2000 NPR-A IMPACT AWARDS

<u>Grantee</u>	<u>Project</u>	<u>Funds Awarded</u>	<u>Comments On Award</u>	<u>Current Status of Grant</u>
Atkasuk	Community Center Maintenance and Operations	90,000	The community center use is anticipated to increase as a result of NPRA activities. The City will pay 80% of the operation/maintenance costs and shows some ability to absorb impact through existing facilities and services.	Grant closed 10/01
Atkasuk	Basic Local Government Operations	109,000	The need for new positions can be linked to the foreseeable impacts of NPRA. The city has some ability to absorb impacts through existing services, facilities and staff; these funds will fund new positions, or increase part time positions to full time positions.	Agreement Executed 29-Apr-00
Barrow	Public Facilities - Maintenance and Operations	650,000	Project will fund staff and other expenses to operate city recreation facilities. The use of recreation facilities is expected to increase along with the increase in NPRA activities.	Agreement Executed 29-Apr-00
Barrow	Renovation/Upgrade of Barrow Teen Center and Community Center	1,000,000	These facilities are needed due to increase in NPRA activities. The City's ability to absorb this impact through existing facilities and services is limited.	Agreement Executed 29-Apr-00
Barrow	Design, Construction & Purchase Retractable Boat Ramp	1,000,000	NPR-A uplands development will displace subsistence users from some uplands areas. A boat ramp will give subsistence hunters better access to the ocean. Population growth caused by NPR-A development expands the need for recreational facilities.	Agreement Executed 29-Apr-00
Barrow	Maintenance Building Construction	630,000	Need for warm storage can be linked to mitigation of foreseeable NPR-A impacts.	Agreement Executed 29-Apr-00

North Slope Borough	Village Power Plant/Electrical Distribution & Waste Heat Conversion Upgrade	10,065,367	NPR-A development will impact power generation and distribution. Upgraded power production and distribution will mitigate population growth impacts and increasing 'westernization' of local lifestyles.	Agreement Executed 29-Apr-00
North Slope Borough	All Infrastructures Services Study	1,500,000	Study will identify additional and continuing effects of NPR-A development on public facilities and the provision of public services. Project is related to present and foreseeable impacts. Impacts known or anticipated now can be supplemented with new data and forecasts.	Agreement Executed 29-Apr-00
North Slope Borough	Nuiqsut Above Ground Service Connections	2,100,000	This project will help the community be more resilient, better prepared to deal with NPR-A impacts. Nuiqsut's proximity to NPR-A development may heighten the city's impacts from	Agreement Executed 29-Apr-00
North Slope Borough	Nuiqsut Police Officer (3 years)	100,000	The community is presently impacted by NPR-A development. City is currently one police officer short; an additional officer will help the city address NPR-A related impacts.	Grant closed 9/01
North Slope Borough	Wainwright Community Center Renovations	191,283	Will provide expanded/improved facilities for locals who have family members working away from home in NPR-A related employment. Improved opportunity for social and community support.	Agreement Executed 29-Apr-00
North Slope Borough	Fire Department Equipment/Training	1,114,150	Current firefighting equipment is old and outdated. Existing fire trucks are not equipped to handle the new city water system. Provides an essential public service. Need is linked to anticipated growth in service demand caused by NPR-A development.	Agreement Executed 29-Apr-00

North Slope Borough	Harvest Monitoring; Subsistence Documentation Project	100,000	The need for harvest monitoring is clearly related to the foreseeable impacts of oil and gas development. Subsistence hunting is a culturally important activity. Establishment of baseline data will permit more accurate monitoring of oil and gas impacts on wildlife populations.	Agreement Executed 29-Apr-00
North Slope Borough	Service & Inventory of Fish Resources in the Lakes/Streams of Eastern NPRA	150,000	The need for the inventory is clearly related to the foreseeable impacts of oil and gas development. Subsistence hunting is a culturally important activity. Establishment of baseline data will permit more accurate monitoring of oil and gas impacts on wildlife populations.	Agreement Executed 29-Apr-00
North Slope Borough	Tracking & Analysis of Teshekpuk Lake Caribou Herd Movement/Distribution	150,000	The need for the tracking and analysis is clearly related to the foreseeable impacts of oil and gas development. Subsistence hunting is a culturally important activity. Establishment of baseline data will permit more accurate monitoring of oil and gas impacts on wildlife populations.	Agreement Executed 29-Apr-00
North Slope Borough	Nuiqsut Natural Gas Piping Distribution	3,800,000	NPRA development will create a higher demand for fuel use. Impacts include larger volumes and more frequent shipping, handling, increased air pollution, fuel spills and leaks, expanded fuel storage needs. The two Natural Gas grants were originally awarded to Nuiqsut who chose to have the NSB administer both projects; Nuiqsut's grants were closed 10/01 with no expenditures and the agreements with the Borough are currently being negotiated.	Grant negotiation in progress
North Slope Borough	Nuiqsut Natural Gas Home/Building	2,200,000	Same as above.	Grant negotiation in progress
North Slope Borough	Waterfowl Surveys in NPR-A	150,000	The need for the survey is clearly related to the foreseeable impacts of oil and gas development. Subsistence hunting is a culturally important activity. Establishment of baseline data will permit more accurate monitoring of impact on wildlife populations.	Grant closed 11/01