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## Guidelines for Pharmacology Continuing Education

- I. Purpose: To establish guidelines for continuing education courses in pharmacology for practicing optometrists.
- II. Course objectives: to increase the optometrist's knowledge of:
  - A. the systemic effects of systemic medications from a mechanistic, diagnostic and therapeutic standpoint,
  - B. the ocular effects of systemic medications from a mechanistic, diagnostic and therapeutic standpoint,
  - C. the ocular effects of ocular drugs from a mechanistic, diagnostic and therapeutic standpoint,
  - D. the systemic effects of ocular drugs from a mechanistic, diagnostic and therapeutic standpoint, and
  - E. diagnostic ocular pharmaceutical agents (DPA) --- theory and practice.
- III. Guidelines for the course content.
  - A. General Pharmacology
    1. Principles of Drug Actions
      - a. Dosage forms
      - b. Routes of administration
      - c. Pharmacodynamics
        - (1) absorption
        - (2) distribution
        - (3) fate (metabolism)
      - d. Mechanisms of action
        - (1) agonists and antagonists
        - (2) receptors and acceptors
        - (3) synergism, additivity and competitive antagonism
    2. Host Factors and Placebos
    3. Drug Categories (to include adverse ocular and systemic effects)
      - a. Neuropharmacologic agents
        - (1) anesthetics
        - (2) CNS depressants (general)
        - (3) effects of drugs on synaptic transmission
        - (4) major and minor tranquilizers
        - (5) antidepressants
        - (6) CNS stimulants (general)
        - (7) analgesics (selective CNS drugs)
      - b. Cardiovascular agents
        - (1) hemopoietics
        - (2) antihypertensives
        - (3) anticoagulants
        - (4) cardiac glycosides
        - (5) antiarrhythmics
        - (6) vasolidators

- c. Renal agents
- d. Gastro-intestinal agents (especially anticholinergics)
- e. Endocrine drugs (including steroids and the birth control pills)
- f. Antiallergic agents
- g. Antibiotic-chemotherapeutic agents.
- h. Antifungal agents
- i. Disinfectants
- j. Vitamins
- k. Antiviral agents
- l. Cancer chemotherapeutics
- m. over-the-counter (OTC) agents
- 4. Drug abuse
- 5. Drug contraindications during pregnancy

#### B. Ocular Pharmacology

- 1. Principles of Drug Actions
  - a. Dosage forms
  - b. Routes of administration
  - c. Pharmacodynamics
    - (1) absorption
    - (2) distribution
    - (3) fate (metabolism)
- 2. Drug Categories, to include adverse ocular and systemic effects, and
  - a. Neuropharmacologic agents (autonomics)
    - (1) review of nervous systems
    - (2) autonomic drugs
      - ((a)) sympathomimetics
      - ((b)) parasympathomimetics
      - ((c)) sympatholytics
      - ((d)) parasympatholytics
    - (3) ocular anesthetics
  - b. Agents affecting trans-membrane fluid transport
  - c. Antibacterial agents
  - d. Antiinflammatory agents
    - (1) antihistamines
    - (2) steroids
    - (3) sympathomimetics
    - (4) parasympatholytics
  - e. Antiviral agents
  - f. Antifungal agents
- 3. Differential Diagnosis of Ocular Neuromuscular Disorders
- 4. Review of Ocular Side Effects of Systemic Drugs
- 5. Review of Systemic Side Effects of Ocular Drugs
- 6. Review of Ocular Side Effects of Ocular Drugs
- 7. Ocular Urgencies and Emergencies, including glaucoma management
- 8. Contraindications During Pregnancy
- 9. Ocular Urgencies and Emergencies
- 10. Ethics and Jurisprudence

1. patient history
  - a. Medical history
  - b. Patient's current drug regimen, and the effects of these drugs on ocular structure and function
2. Sterile technique--proper instillation of "drops"
3. Refractive examination and fundus examination
  - a. pre-medication procedures
    - (1) advice to patients (effects of DPAs)
    - (2) tonometry
    - (3) angle evaluation
  - b. Application of mydriatic/cycloplegic and related examination procedures
  - c. Post-medication procedures
    - (1) corneal examination
    - (2) tonometry
    - (3) advice to patient (i.e., return of pupil to normal, etc.)
  - d. Diagnostic techniques and instrumentation
    - (1) tonometry, including Goldmann applanation
    - (2) angle evaluation with the biomicroscope, including gonioscopy
    - (3) stain analysis
    - (4) monocular and binocular fundus examination, including indirect ophthalmoscopic and biomicroscopic procedures
4. Clinical competency
  - A. comprehensive examination procedure will be established to evaluate each student as to his skill and competency in the use of DPAs and relevant instrumentation, and
  - B. the effect of systemic medication on ocular structure
  - C. the effect of ocular instillations on systemic structure and function.

JUN 9 1975

~~JUN 9 1975~~

## Editor's view

# FUNDUS PHOTOGRAPHY

Twenty-two states now permit optometrists to use pharmaceutical agents in diagnosis. This authorization has opened up many new vistas of examination heretofore unavailable to O.D.'s. One of these, retinal photography, is explored in this issue.

Previously, office photography in optometry was limited to contact lens fitting, strabismus records, and the like. With mydriatics and with advanced equipment technology, optometrists can avail themselves of fundus photography and compile patient records of internal normalities and abnormalities.

Complete and comprehensive records are the best defense against malpractice suits. What better way to prove that you viewed a patient's fundus than by taking a photograph of it! And what better practice management is there than to show a patient what the retina of his eye looks like.

Fundus cameras are rapidly becoming important tools of the modern optometrist. They will soon take their place with biomicroscopes as basic equipment in the practice of optometry.

This month we carry an important article on the management aspects of fundus photography written by a relatively new O.D. who has made the technique an important part of his practice. You may find after reading it that this is an area that you too should embrace.

**Irving Bennett, O.D.**

18 other states

(1.) NAME public need - inadequate care  
(2.) use drugs is not risk free  
(3.)

Original sponsor: Commerce Committee

Offered: 4/14/78  
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 664

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the practice of optometry."

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

8 \* Section 1. AS 08.72.300(2) and (3) are amended to read:

9 (2) "optometry" is the employment of means or methods [,  
10 OTHER THAN THE USE OF DRUGS,] for the diagnosis of an optical deficiency  
11 or deformity, visual or muscular anomaly of the human eye, or the pre-  
12 scription or application of lenses, prisms or ocular exercises for the  
13 correction or relief of the human eye;

14 (3) "practicing optometry" means the diagnosis [, BY MEANS OR  
15 METHODS OTHER THAN THE USE OF DRUGS,] of an optical deficiency or defor-  
16 mity, visual or muscular anomaly of the human eye, or the prescription  
17 of lenses, prisms or ocular exercises for the correction or relief of  
18 the human eye, or the holding of oneself out as being able to do so;

19 \* Sec. 2. AS 08.72 is amended by adding a new section to read:

20 Sec. 08.72.305. USE OF DRUGS FOR DIAGNOSIS. (a) No person prac-  
21 ticing optometry may use drugs for diagnostic purposes unless he has

22 (1) passed the board's examination on the subject of pharma-  
23 cology as it relates to optometry and the use of topically applied  
24 drugs; and

25 (2) completed courses and clinical experience approved by the  
26 board and offered by a recognized and accredited school or college of  
27 optometry and passed an examination, given by that school or college,  
28 which relates to topical application of drugs to the eye,

29 (b) No person practicing optometry may administer drugs except for

including proper responses to reactions which may  
result to topical applications to the eyes.

1 recognition of pathology and diagnosis of a vision anomaly.

2 (c) Topical anesthetics, mydriatics, and cycloplegics may be used  
3 by a person practicing optometry under conditions approved by the board;  
4 the board may authorize the use of myotics for emergency purposes only.

5 \* Sec. 3. AS 08.72.020 is amended to read:

6 Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The  
7 board consists of five persons, appointed by the governor. Members  
8 serve staggered terms of three years. [THE TERMS OF THE PUBLIC MEMBERS  
9 OF THE BOARD SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME TIME.]

10 \* Sec. 4. AS 08.72.040 is amended to read:

11 Sec. 08.72.040. QUALIFICATIONS. Three board members shall be  
12 licensed, practicing optometrists who have been residents for at least  
13 three years. One shall be a licensed physician, board certified in  
14 ophthalmology. <sup>medicine</sup> One shall be a person who has [TWO SHALL BE PERSONS WHO  
15 HAVE] no direct financial interest in the health care industry.  
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Introduced: 1/19/78  
Referred: Health, Education &  
Social Services and Judiciary

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

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23 cology as it relates to optometry and the use of topically applied  
24 diagnostic drugs; or

25 (2) completed a course approved by the board and offered by a  
26 recognized school or college and passed an examination, given by that  
27 school or college, which relates to topical application of drugs to the  
28 eye.

29 (b) No person practicing optometry may administer drugs except for

1 a diagnostic purpose.

2 (c) Topical anesthetics, mydriatics, cycloplegics and myotics, may  
3 be used for diagnostic purposes by a person practicing optometry under  
4 conditions approved by the board.  
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HB

727

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 253

Amendment No. 2--Establishing  
Magistrate Salaries. Further  
Amending Order No. 9

IT IS ORDERED:

Supreme Court Order No. 253 is amended by (1) adding "Angoon" and "McGrath" to the list of Magistrate I positions; (2) removing "Cold Bay" from the list of Magistrate I positions and adding it to the list of Magistrate II positions; (3) adding a new Paragraph 4 and renumbering the old Paragraph 4 as Paragraph 5; (4) removing "Dillingham" and "Nenana" from the list of Magistrate II positions and transferring them to a new Paragraph 4; and (5) increasing the salary figures in Paragraphs 1 and 3 by five percent.

The amended Order in its entirety is as follows:

1. There are established three salary levels for magistrate posts. The base annual salary for each level is as follows:

Magistrate I	\$ 6,787
Magistrate II	\$13,917
Magistrate III	\$21,836

Geographic cost of living adjustments shall be provided in accordance with applicable statutes.

2. The following magistrate positions are allocated to the designated salary levels:

<u>Y016</u>	<u>Magistrate I</u>	
Angoon	Aniak	Buckland
Craig	Emmonak	Galena
Gambell	Hoonah	Hooper Bay
Kake	Kasigluk	Kiana
Mekoryuk	McGrath	Mt. Village
Noorvik	Pelican	Point Hope
Rampart	St. Mary's	St. Paul Island
Sand Point	Savoonga	Seldovia
Sitka	Tanana	Teller
Tununak	Unalakleet	Unalaska
Wainwright	Wales	Yakutat

*Whitney  
Selawick*

Magistrate II

Cold Bay  
Naknek

Fort Yukon  
~~Selawik~~

Healy  
Skagway  
Nenana

Magistrate III

Barrow  
Petersburg

Cordova  
Seward

Haines  
Tok  
Wrangell

3. The annual base salary of the present incumbents of the following positions shall be \$28,175:

Delta Junction  
Glennallen

Kenai  
Kotzebue

Palmer

Geographic cost of living adjustments shall be provided in accordance with applicable statutes. At the time the present incumbent resigns from one of the above positions, the salary for that position will be re-evaluated.

4. The annual base salary of the present incumbents of the following positions shall be \$21,000:

Dillingham

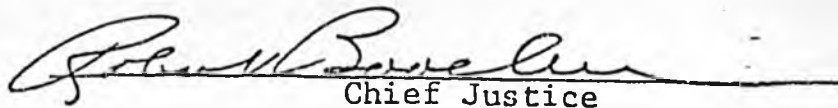
~~Nenana~~

Geographic cost of living adjustments shall not be provided. At the time the present incumbent resigns from one of the above positions, the salary for that position will be re-evaluated.

5. When any magistrate position listed above becomes vacant, the supreme court may provide for a salary higher than is herein provided for that position for an appointee whom the court determines possesses extraordinary qualifications or when the court determines other special circumstances exist justifying a departure from the salary provided herein for that position.

DATED: \_\_\_\_\_

EFFECTIVE DATE: Nunc pro tunc as of January 1, 1977

  
Chief Justice

Feb - 9 - 1978

Dear Leulak -

I'll try to call you again, but in the event I can't reach you - would you please appear on my behalf on HB 727 and HB 456 at the 3PM Feb 10<sup>th</sup> meeting.

My main concern is that this committee understand that magistrates are dedicated people with many hats to wear. We are at the grass roots of "the" system and meet the public on their first encounter of a problem. Other judges meet these same defendants, but usually only after they have had their first court contact. Thus missing the Superior Court judges and the justices.

As full time magistrates we deal with all types of problems - and people. We live with these people and their surroundings everyday.

As you can recall, I have been in this position for many years and have "made-do" and "done" without the beautiful plush surroundings that many "judges" have enjoyed for years. I now have a beautiful building and am proud of it. However, I recall the days of make-shift boxes too.

I have enjoyed and dedicated my life to my job and serving the public. This is so, and

come to me to ask for assistance  
and guidance. Many of these are  
legal people and attorneys of long  
practice. Thus rewarding my  
hours and years serving them!

Gov. Tony Diamond appointed me to  
this position and said - "Never have  
a case before you without putting  
a little heart into it" I've tried  
and trust I may have the  
privilege of continuing to do what  
the law says tempered with common  
sense and love of my fellow beings.

Best wishes & Thanks Leulsh

Dorothy Sexton

Tell Al Ose - I sure appreciate  
his help for us "bush" people!!

# Memorandum

Alaska Court System

TO: [ ] The Hon Terry Gardiner, Ch.  
State Legislature  
Judiciary Committee  
Pouch V, Juneau, Ak. 99811

DATE : March 15, 1978

FROM: Carl W. Heinmiller, Magistrate  
Drawer D, Haines, Alaska 99827  
Board Member; Alaska Magistrates Assn.

SUBJECT: HB 727

I wish to state the reason for my unhappiness at the hearing on March 14th at 3 pm regarding HB 727. I received a call from your office that the bill was coming up before your committee. Therefore, I told off a day's work, spent \$70 on airfare plus other expenses to find I was unable to testify.

The question seemed to be "what is a fulltime magistrate"? There are four classes of Magistrates:

Class I	in the \$28,000 range
Class II	in the \$22,000 range
Class III	in the \$15,000 "
Class IV	in the \$7,500 "

The first two classes, by order of our Presiding Superior Court judges requires them to work a min. of 37 1/2 hrs. per week. The Class III is 20 hrs. per week and Class IV is less. HOWEVER, the parttime Magistrates all have other jobs. I underlined minimum, as all magistrates are subject to call, 25 hrs a day, seven days a week. There is no such thing as compensatory time. I know of no other State jobs that has that kind of demand, except judges. There is no overtime, either.

I can see Paul Arnholdt's "problem", but why should Magistrate be required to be second class to judges when they have been declared judicial officers? If the problem exists in the court's retirement system, why defeat this bill as it will have no effect on the problem.

Should the bill come up again, I would like to be informed, however I do not want to spend \$200 to listen to someone present faulty information, or at least information that can become misunderstood.

CC: Mike Miller  
Jim Duncan  
Bill Miles  
Lisa Rudd  
Dick Eliason  
Fred Brown

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

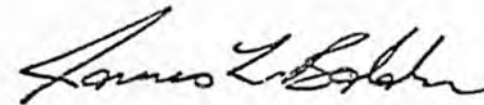
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee  
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



I have reviewed HB 727 as requested in your undated memorandum (copy attached) and this correspondence is to confirm our telephone conversation of February 16, 1978. The questions raised concerning this bill could be resolved by making the following changes:

(1) repeal AS 22.25.010(g); and

(2) delete section 1 of HB 727 and replace it with the following new material:

\* Section 1. AS 22.25 is amended by adding a new section to read:

Sec. 22.25.100. Definitions. In the chapter, unless the context clearly indicates otherwise,

(1) "justice" means a supreme court justice; and

(2) "judge" means a superior court or district court judge or a full-time magistrate who has not retired before July 1, 1978.

You are correct in your assumption that AS 22.28 was repealed by referendum. If the Committee directs, I will prepare a committee substitute for their review.

JLB:hjd

Attachment



Official Business

file 195 127  
Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 14, 1978

Legislative Board of Retirement  
Benefits  
c/o Legislative Affairs Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Sirs:

The Committee has under consideration HB 727, which provides for inclusion of full-time magistrates under the judicial retirement systems. Testimony was given on this bill on Feb. 10. Further consideration is not foreseen before March 1.

According to the Session Laws of Alaska, 1977, it is the responsibility of the Legislative Board of Retirement to prepare a detailed fiscal analysis of legislation which would make changes in the retirement system (SLA 130, section 24.20.540).

The session laws of 1977 also give the Retirement Board the responsibility for preparation of fiscal notes of bills affecting the retirement system (SLA 130, section 24.30.037).

The Committee would like to have this information ready at the time they next consider the bill, which will be sometime after March 1.

Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Robert Speed, Administrative  
Assistant



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

*Baldwin*

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

TO: Bill Berrier

FROM: House Judiciary,  
Bob Speed, A.A.

RE: HB 727, including magistrates in the judicial retirement system.

We need information on the impact of the changes this bill would make in regard to two statutes:

AS 22.25.020 and

AS 22.28.060, the latter of which we hear may have been repealed last year.

What would the impact be? And, would a change imposed by HB 727 or a similar bill necessitate changes in the statutes cited?

#

*Send memo*  
*Telcon 2-16-78*

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. HB 727  
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
Agency Affected Administration - Division of Retirement & Benefits  
Program Category Affected Retirement and Benefits  
Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
100 BENEFITS		279.6	293.6	303.3	323.7	339.9
TOTAL	-0-	279.6	293.6	303.3	323.7	339.9

FUNDING (Thousands of Dollars)

GENERAL FUND		279.6	293.6	303.3	323.7	339.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

1. Fiscal note represents cost on a funded basis for the inclusion of past and future service for existing full-time magistrates under Non-Contributory Judicial Retirement System (AS 22.25).
2. Fiscal note does not include the cost on a funded basis for the existing Judicial System (AS 22.25) (these costs identified in fiscal note for SB 91--first year cost equals \$1,832.7).
3. The Alaska Court System cannot provide a definition for "full-time" magistrate (see attachment), so for purposes of this fiscal note all magistrates earning \$15,000 or more per year were considered full-time (16 out of 50) with an average salary of \$24,939.
4. Assume salaries for full-time magistrates increase at 5% per year.
5. Employer contribution rate of 70.03% of covered payroll is required.  
 FY 79 covered payroll for full-time magistrate \$399,020  
 Employer contribution rate .7003  
 FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Representative Schaeffer  
 Office of the Governor (Keith Specking)

*Paul B. Arnoldt*

Gardiner

FE

this page

HOUSE JOURNAL  
SUPPLEMENT

March 7, 1978

No. 17

HB  
727

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations  
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the TRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

SUMMARY OF HOUSE BILL NO. 727

Retirement system affected: PERS

Amends the noncontributory judicial retirement system by adding coverage for full-time magistrates, removes full-time magistrates retiring after July 1, 1978 from the public employees' retirement system, and refunds all employee contributions to PERS of affected full-time magistrates, and restores employer contributions to the general fund.

The Act takes effect July 1, 1978.



Alaska Court System

State of Alaska

303 K STREET  
ANCHORAGE, ALASKA 99501

SUSAN BURKE  
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

(907) 274-9611

February 24, 1978

Hon. Terry Gardiner  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 727

Dear Representative Gardiner:

This is in response to your Committee's request for (1) a description of our existing system for distinguishing between full time and part time magistrates for purposes of leave benefits, and (2) a definition of "full time" magistrates for purposes of retirement benefits under House Bill 727.


During 1975, our personnel office conducted a survey of all magistrate posts in order to develop a standard schedule of salaries for magistrates. This survey included on-site visits to most of the magistrate posts. As a result of this undertaking, baseline 1975 data was developed which included, among other things, the number of hours each magistrate was required to spend in his or her office. Those who were required to keep regular office hours of 8:00 to 4:30 were considered "full time" for purposes of applying leave benefits under AS 39.20. (It should perhaps be noted that the number of hours worked was not ultimately used as one of the criteria for salary setting.)

Having established baseline data, we now merely update it to reflect any changes in circumstances that would have a bearing on salary level. Through this process we can also determine whether the workload has increased or decreased to the point that a change is warranted in the application of leave benefits.

After having some time to reflect on your request for a definition of "full time magistrate" that might be used in House Bill 727, we find that it is impossible to do so. As you know, we consider all magistrates as full time for purposes of retirement benefits. Unless all magistrates are to be included in House Bill 727, then a definition of "full time magistrate" necessarily involves including some magistrates and excluding others. The basis for making this distinction involves a policy determination that we believe only the Legislature can make. The judiciary has already made a policy determination that all magistrates should be treated equally for retirement purposes, and has expressed the view that no magistrates should be included in the existing judicial retirement system.

I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,

  
Susan Burke  
Staff Counsel

Box 271 Haines,  
Alaska 99827

Feb. 28, 1978

The Hon. Terry Gardiner, Ch.  
Judiciary Committee of the House  
Pouch V  
Juneau, Alaska 99811

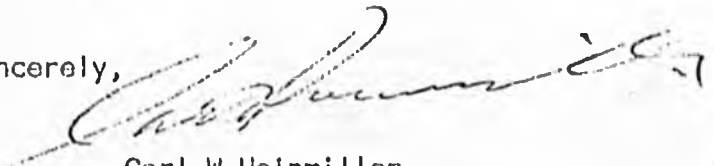
Dear Terry:

As some members of the "legal society" do not agree with HB 727, in that Magistrates are not to be classified as Judges, i.e. District Judges, I am enclosing an excerpt from a recent ruling by Judge Rowland of the Superior Court in Anchorage. Of course, the plaintiff might appeal this judgment to the Supreme Court who could reverse Judge Rowland's opinion.

The Magistrate's Association had understood that the the Court administration would neither support our request or opposed it as far as what HB 727 is intended to do, however, they have not remained silent, as you know.

Please advise as to the status of HB 727. If there is to be further hearings, we would be glad to attend and testify. It is vital that this bill be passed by this Legislature.

Sincerely,



Carl W. Heinmiller  
Haines Magistrate

CC: Malone  
Schaeffer  
Miller  
Duncan  
Miles  
Eliason  
Magistrates.

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. [Emphasis added.]

The defendants have not argued, and it cannot be maintained, that magistrates are not judges and, therefore, are excluded from the purview of Article IV, Section 4. The functions

Feb. 17, 1978

Holloway v. Judge Buckalew, et al.  
No. 77-8145

Page 2 of 4

and responsibilities of magistrates are judicial in character. Their duties are in large measure coextensive with, and in no respect different than, those of district court judges.

AS 22.15.100; AS 22.15.110; AS 22.15.120. Magistrates are statutorily defined along with justices of the supreme court and other judges as "judicial officers." AS 22.20.010. Magistrates are granted the same judicial powers and prerogatives necessary to carry out their judicial responsibilities as all other judicial officers. AS 22.20.030.

The aforementioned constitutional mandate, requiring a term for a judge of any court, is consistent with the idea, universal in American jurisprudence, that an independent judiciary is not only desirable, but indispensable. This notion of judicial independence extends, not only to freedom from executive and legislative interference with the decision-making process, but to all unwarranted pressure. Our concepts of justice and due process of law require that a judge, when

... of a particular cause or considering

Rt. 6, Box 4136  
Juneau, Alaska  
February 28, 1978

Robert Speed, Administrative Assistant  
Judiciary Committee  
House of Representatives  
Pouch V  
Juneau, Alaska

Dear Mr. Speed:

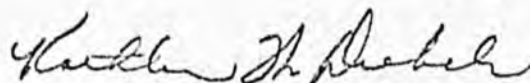
In answer to your inquiry, HB 727 does not appear to conflict with the Salary Commission, since the compensation and benefits for magistrates are not under our review.

You also ask "if we change the law, will that bring magistrates under state retirement system?" Your question indicates it may not be clear to you that the state retirement system and the judicial retirement system are 2 different systems. Magistrates are now members of the state retirement system, PERS (a contributory system). The judicial retirement system, as it applies to judges, is non-contributory with better benefits than PERS. HB 727 would move them to this better system.

There has been some movement in the past to alter the non-contributory part of the judicial retirement system, and this may surface again in the future. Because of the constitutional provision against reducing compensation for judges, it is our understanding that the judicial retirement system cannot be made contributory unless accompanied by a raise of an amount at least equal to the first contribution, or some similar arrangement. I assume magistrates are not covered by the constitutional prohibition. Would that create any special problems if the judicial retirement system were to become contributory?

Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

Sincerely,



Kathleen W. Diebels, Chairman  
Alaska State Salary Commission

Rt. 6, Box 4136  
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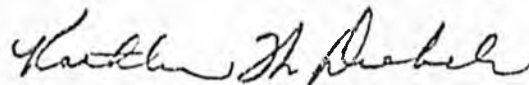
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Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

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Kathleen W. Diebels, Chairman  
Alaska State Salary Commission

1 IN THE HOUSE

BY SCHAEFFER

2 HOUSE BILL NO. 727

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the inclusion of full-time  
7 magistrates under the judicial retirement system; and  
8 providing for an effective date."

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

10 \* Section 1. AS 22.25.010(g) is amended to read:

11 (g) In this chapter the [THE] word "justice" means a supreme court  
12 justice, and the word "judge," unless the context clearly indicates  
13 otherwise means a superior court or district court judge or a full-time  
14 magistrate who has not retired before July 1, 1978.

15 \* Sec. 2. AS 39.35.680(21)(C)(vi) is amended to read:

16 (vi) justices of the supreme court or judges of the  
17 superior or district courts of Alaska and full-time magis-  
18 trates except those magistrates who retired before July 1,  
19 1978;

20 \* Sec. 3. Within 90 days after the effective date of this Act, all  
21 amounts contributed by a full-time magistrate toward retirement under AS 39.-  
22 35 shall be refunded. Amounts credited to retirement accounts of full-time  
23 magistrates by reason of employer contributions under AS 39.35 shall be re-  
24 stored to the general fund.

25 \* Sec. 4. This Act takes effect July 1, 1978.

26  
27 11 full time magistrates

28  
29 22,250,020 retirement pay  
27,280,060 reported by  
referees

30  
31 Refutation —



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM

FEB. 10, 1978

HB 727

bill scheduled for consideration feb. 10, 1978

Kellus Sewell, department of administration, called in regard to this bill, saying that a schedule conflict prevented him from being at committee this date, and asking that consideration be postponed.

Sewell also said a fiscal note has not been prepared yet on the bill.

He also requested several days for consideration of the bill.

At least two people, both from out of town, are scheduled to testify today on this bill. They are Carl Heinmiller, magistrate in Haines, and Sheldon Spraker of Glenallen. Mr. Heinmiller has to leave early today, and has asked that his testimony be considered early in the meeting.

*Others may testify.*

Mrs. Ose will testify

B

*Susan Burke - Alaska Court System*

*Mike Miller (phone)*

HOUSE  
JOURNAL SUPPLEMENT

March 7, 1978

Tuesday

No. 17

LEGISLATIVE BOARD OF RETIREMENT BENEFITS

ANALYSES OF STATE RETIREMENT BILLS

"February 28, 1978

TO: The Honorable Hugh Malone  
Speaker of the House

Pursuant to the requirements of Ch. 130, SLA 1977, the Legislative Board of Retirement Benefits submits the enclosed recommendations and analyses of bills affecting state retirement systems. The board will make further reports and recommendations periodically. The next meeting of the board is scheduled for March 6 at 9:00 a.m. in the Treasury Conference Room on the 11th floor of the State Office Building in Juneau.

Bills included in this report are: HB 7, SCS CSHB 10, CSHB 25, HB 161, HB 267, HB 634, HB 635, HB 636, HB 660, CSHB 637, HB 695, HB 698, HB 723, HB 727, SB 62, SB 91, SB 377, SB 380, SB 461.

Members:

Mr. Francis (Jerry) Gerardy  
Mr. Frank Homan  
Dr. Stanley Knedlik  
Mr. Michael J. Murray  
Dr. Merritt Olson

Frank Homan, Chairman

*Frank Homan*  
*J.K.H.*

B. B. Allen, Commissioner  
Department of Administration

Paul Arnoldt, Director  
Division of Retirement & Benefits

*this page*

HOUSE JOURNAL  
SUPPLEMENT

March 7, 1978

No. 17

IB  
127

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations  
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long-term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the IRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

SUMMARY OF HOUSE BILL NO. 727

Retirement system affected: PERS

Amends the noncontributory judicial retirement system by adding coverage for full-time magistrates, removes full-time magistrates retiring after July 1, 1978 from the public employees' retirement system, and refunds all employee contributions to PERS of affected full-time magistrates, and restores employer contributions to the general fund.

The Act takes effect July 1, 1978.

See

HB 456

amendment being drafted  
~~to~~ in regard to contrib  
retirement for judges & magis.

received

see HB 456

# Memorandum

Alaska Court System

*file - copies to member*

TO: [ The Hon Terry Gardiner, Ch.  
State Legislature  
Judiciary Committee  
Pouch V, Juneau, Ak. 99811

DATE : March 15, 1978

FROM: Carl W. Heinmiller, Magistrate  
Drawer D, Haines, Alaska 99827  
Board Member; Alaska Magistrates Assn.

SUBJECT: HB 727

I wish to state the reason for my unhappiness at the hearing on March 14th at 3 pm regarding HB 727. I received a call from your office that the bill was coming up before your committee. Therefore, I told off a day's work, spent \$70 on airfare plus other expenses to find I was unable to testify.

The question seemed to be "what is a fulltime magistrate"? There are four classes of Magistrates: Class I in the \$28,000 range  
Class II in the \$22,000 range  
Class III in the \$15,000 "  
Class IV in the \$7,500 "

The first two classes, by order of our Presiding Superior Court Judges requires them to work a min. of 37 1/2 hrs. per week. The Class III is 20 hrs. per week and Class IV is less. HOWEVER, the parttime Magistrates all have other jobs. I underlined minimum, as all magistrates are subject to call, 25 hrs a day, seven days a week. There is no such thing as compensatory time. I know of no other State jobs that has that kind of demand, except judges. There is no overtime, either.

I can see Paul Arnholdt's "problem", but why should Magistrate be required to be second class to judges when they have been declared judicial officers? If the problem exists in the court's retirement system, why defeat this bill as it will have no effect on the problem.

Should the bill come up again, I would like to be informed, however I do not want to spend \$200 to listen to someone present faulty information, or at least information that can become misunderstood.

CC: Mike Miller  
Jim Duncan  
Bill Miles  
Lisa Rudd  
Dick Ellason  
Fred Brown



Official Business

file 1978 127  
Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 14, 1978

Legislative Board of Retirement  
Benefits  
c/o Legislative Affairs Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Sirs:

The Committee has under consideration HB 727, which provides for inclusion of full-time magistrates under the judicial retirement systems. Testimony was given on this bill on Feb. 10. Further consideration is not foreseen before March 1.

According to the Session Laws of Alaska, 1977, it is the responsibility of the Legislative Board of Retirement to prepare a detailed fiscal analysis of legislation which would make changes in the retirement system (SLA 130, section 24.20.540).

The session laws of 1977 also give the Retirement Board the responsibility for preparation of fiscal notes of bills affecting the retirement system (SLA 130, section 24.30.037).

The Committee would like to have this information ready at the time they next consider the bill, which will be sometime after March 1.

Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Robert Speed, Administrative  
Assistant

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

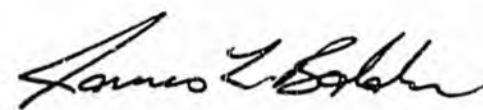
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee  
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



I have reviewed HB 727 as requested in your undated memorandum (copy attached) and this correspondence is to confirm our telephone conversation of February 16, 1978. The questions raised concerning this bill could be resolved by making the following changes:

(1) repeal AS 22.25.010(g); and

(2) delete section 1 of HB 729 and replace it with the following new material:

\* Section 1. AS 22.25 is amended by adding a new section to read:

Sec. 22.25.100. Definitions. In the chapter, unless the context clearly indicates otherwise,

(1) "justice" means a supreme court justice; and

(2) "judge" means a superior court or district court judge or a full-time magistrate who has not retired before July 1, 1978.

You are correct in your assumption that AS 22.28 was repealed by referendum. If the Committee directs, I will prepare a committee substitute for their review.

JLB:hjd

Attachment



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

*Baldwin*

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MEMORANDUM

TO: Bill Berrier

FROM: House Judiciary,  
Bob Speed, A.A.

RE: HB 727, including magistrates in the judicial retirement system.

We need information on the impact of the changes this bill would make in regard to two statutes:

AS 22.25.020 and

AS 22.28.060, the latter of which we hear may have been repealed last year.

What would the impact be? And, would a change imposed by HB 727 or a similar bill necessitate changes in the statutes cited?

#

*Send memo*  
*Telcon 2-16-78*

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. HB 727  
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
Agency Affected Administration - Division of Retirement & Benefits  
Program Category Affected Retirement and Benefits  
Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
100 BENEFITS		279.6	293.6	308.3	323.7	339.9
TOTAL	-0-	279.6	293.6	308.3	323.7	339.9

FUNDING (Thousands of Dollars)

GENERAL FUND		279.6	293.6	308.3	323.7	339.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- Fiscal note represents cost on a funded basis for the inclusion of past and future service for existing full-time magistrates under Non-Contributory Judicial Retirement System (AS 22.25).
- Fiscal note does not include the cost on a funded basis for the existing Judicial System (AS 22.25) (these costs identified in fiscal note for SB 91--first year cost equals \$1,832.7).
- The Alaska Court System cannot provide a definition for "full-time" magistrate (see attachment), so for purposes of this fiscal note all magistrates earning \$15,000 or more per year were considered full-time (16 out of 50) with an average salary of \$24,939.
- Assume salaries for full-time magistrates increase at 5% per year.
- Employer contribution rate of 70.08% of covered payroll is required.  
FY 79 covered payroll for full-time magistrate \$399,020  
Employer contribution rate .7008  
FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt  
AGENCY Division of Retirement & Benefits  
PHONE 465-4460  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) Representative Schaeffer  
Office of the Governor (Keith Specking)

Gardiner

FB

this page

HOUSE JOURNAL  
SUPPLEMENT

March 7, 1978

No. 17

LB  
127

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations  
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long-term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the TRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

SUMMARY OF HOUSE BILL NO. 727

Retirement system affected: PERS

Amends the noncontributory judicial retirement system by adding coverage for full-time magistrates, removes full-time magistrates retiring after July 1, 1978 from the public employees' retirement system, and refunds all employee contributions to PERS of affected full-time magistrates, and restores employer contributions to the general fund.

The Act takes effect July 1, 1978.

file HB 727

# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811



Official Business

February 14, 1978

Legislative Board of Retirement  
Benefits  
c/O Legislative Affairs Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Sirs:

The Committee has under consideration HB 727, which provides for inclusion of full-time magistrates under the judicial retirement systems. Testimony was given on this bill on Feb. 10. Further consideration is not foreseen before March 1.

According to the Session Laws of Alaska, 1977, it is the responsibility of the Legislative Board of Retirement to prepare a detailed fiscal analysis of legislation which would make changes in the retirement system (SLA 130, section 24.20.540).

The session laws of 1977 also give the Retirement Board the responsibility for preparation of fiscal notes of bills affecting the retirement system (SLA 130, section 24.30.037).

The Committee would like to have this information ready at the time they next consider the bill, which will be sometime after March 1.

Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in cursive that reads "Bob Speed".

Robert Speed, Administrative  
Assistant



Alaska Court System

State of Alaska

SUSAN BURKE  
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K STREET  
ANCHORAGE, ALASKA 99501

(907) 274-9811

February 24, 1978

Hon. Terry Gardiner  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 727

Dear Representative Gardiner:

This is in response to your Committee's request for (1) a description of our existing system for distinguishing between full time and part time magistrates or purposes of leave benefits, and (2) a definition of "full time" magistrates for purposes of retirement benefits under House Bill 727.


During 1975, our personnel office conducted a survey of all magistrate posts in order to develop a standard schedule of salaries for magistrates. This survey included on-site visits to most of the magistrate posts. As a result of this undertaking, baseline 1975 data was developed which included, among other things, the number of hours each magistrate was required to spend in his or her office. Those who were required to keep regular office hours of 8:00 to 4:30 were considered "full time" for purposes of applying leave benefits under AS 39.20. (It should perhaps be noted that the number of hours worked was not ultimately used as one of the criteria for salary setting.)

Having established baseline data, we now merely update it to reflect any changes in circumstances that would have a bearing on salary level. Through this process we can also determine whether the workload has increased or decreased to the point that a change is warranted in the application of leave benefits.

After having some time to reflect on your request for a definition of "full time magistrate" that might be used in House Bill 727, we find that it is impossible to do so. As you know, we consider all magistrates as full time for purposes of retirement benefits. Unless all magistrates are to be included in House Bill 727, then a definition of "full time magistrate" necessarily involves including some magistrates and excluding others. The basis for making this distinction involves a policy determination that we believe only the Legislature can make. The judiciary has already made a policy determination that all magistrates should be treated equally for retirement purposes, and has expressed the view that no magistrates should be included in the existing judicial retirement system.

I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,

  
Susan Burke  
Staff Counsel

Box 271 Haines,  
Alaska 99827

Feb.28,1978

The Hon.Terry Gardiner,Ch.  
Judiciary Committee of the House  
Pouch V  
Juneau,Alaska 99811

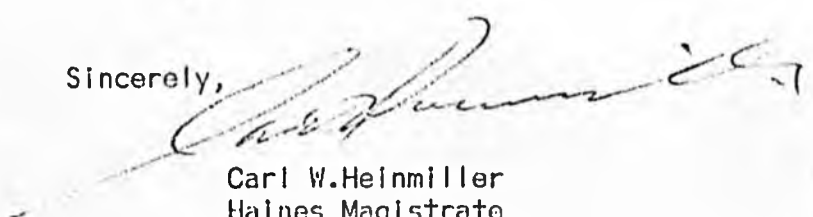
Dear Terry:

As some members of the "legal society" do not agree with HB 727, in that Magistrates are not to be classified as Judges, i.e. District Judges, I am enclosing an excerpt from a recent ruling by Judge Rowland of the Superior Court in Anchorage. Of course, the plaintiff might appeal this judgment to the Supreme Court who could reverse Judge Rowland's opinion.

The Magistrate's Association had understood that the the Court administration would neither support our request or opposed it as far as what HB 727 is intended to do, however, they have not remained silent, as you know.

Please advise as to the status of HB 727. If there is to be further hearings, we would be glad to attend and testify. It is vital that this bill be passed by this Legislature.

Sincerely,



Carl W. Heinmiller  
Haines Magistrate

CC:Malone  
Schaeffer  
Miller  
Duncan  
Miles  
Eliason  
Magistrates.

controlling. That section provides as follows:

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. [Emphasis added.]

The defendants have not argued, and it cannot be maintained, that magistrates are not judges and, therefore, are excluded from the purview of Article IV, Section 4. The functions are

Feb. 17, 1978

Holloway v. Judge Buckalew, et al.  
No. 77-8145

Page 2 of 4

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AS 22.15.100; AS 22.15.110; AS 22.15.120. Magistrates are statutorily defined along with justices of the supreme court and other judges as "judicial officers." AS 22.20.010. Magistrates are granted the same judicial powers and prerogatives necessary to carry out their judicial responsibilities as all other judicial officers. AS 22.20.036.

The aforementioned constitutional mandate, requiring a term for a judge of any court, is consistent with the idea, universal in American jurisprudence, that an independent judiciary is not only desirable, but indispensable. This notion of judicial independence extends, not only to freedom from executive and legislative interference with the decision-making process, but to all unwarranted pressure. Our concepts of justice and due process of law require that a judge, when

of a particular cause or considering

Rt. 6, Box 4136  
Juneau, Alaska  
February 28, 1978

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Judiciary Committee  
House of Representatives  
Fouch V  
Juneau, Alaska

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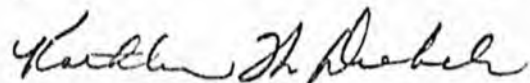
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Alaska State Salary Commission



Alaska Court System

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Sincerely,

Susan Burke  
Staff Counsel

House Bill No. 727

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THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. HB 727  
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
Agency Affected Administration - Division of Retirement & Benefits  
Program Category Affected Retirement and Benefits  
Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

EXPENDITURES (Thousands of Dollars)

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100 PERSONAL SERVICES						
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500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
100 BENEFITS		279.6	293.6	308.3	323.7	339.9
TOTAL	-0-	279.6	293.6	308.3	323.7	339.9

FUNDING (Thousands of Dollars)

GENERAL FUND		279.6	293.6	308.3	323.7	339.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

1. Fiscal note represents cost on a funded basis for the inclusion of past and future service for existing full-time magistrates under Non-Contributory Judicial Retirement System (AS 22.25).
2. Fiscal note does not include the cost on a funded basis for the existing Judicial System (AS 22.25) (these costs identified in fiscal note for SB 91--first year cost equals \$1,832.7).
3. The Alaska Court System cannot provide a definition for "full-time" magistrate (see attachment), so for purposes of this fiscal note all magistrates earning \$15,000 or more per year were considered full-time (16 out of 50) with an average salary of \$24,939.
4. Assume salaries for full-time magistrates increase at 5% per year.
5. Employer contribution rate of 70.03% of covered payroll is required.
 

FY 79 covered payroll for full-time magistrate	\$399,020
Employer contribution rate	.7008
FY 79 employer cost for full-time magistrates	\$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt  
AGENCY Division of Retirement & Benefits  
PHONE 465-4460

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named) Representative Schaeffer  
Office of the Governor (Keith Specking)

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

FOUCH Y. STATE CAPITOL  
JUNE 11, ALASKA 99811  
907-465-3800

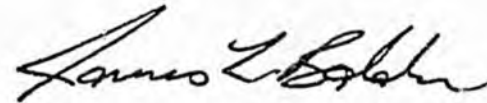
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee  
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



I have reviewed HB 727 as requested in your undated memorandum (copy attached) and this correspondence is to confirm our telephone conversation of February 16, 1978. The questions raised concerning this bill could be resolved by making the following changes:

(1) repeal AS 22.25.010(g); and

(2) delete section 1 of HB 729 and replace it with the following new material:

\* Section 1. AS 22.25 is amended by adding a new section to read:

Sec. 22.25.100. Definitions. In the chapter, unless the context clearly indicates otherwise,

(1) "justice" means a supreme court justice; and

(2) "judge" means a superior court or district court judge or a full-time magistrate who has not retired before July 1, 1978.

You are correct in your assumption that AS 22.28 was repealed by referendum. If the Committee directs, I will prepare a committee substitute for their review.

JLB:hjd

Attachment

Box 271 Haines,  
Alaska 99827

Feb.28,1978

The Hon.Terry Gardiner,Ch.  
Judiciary Committee of the House  
Pouch V  
Juneau,Alaska 99811

Dear Terry:

As some members of the "legal society" do not agree with HB 727, in that Magistrates are not to be classified as Judges, i.e. District Judges, I am enclosing an excerpt from a recent ruling by Judge Rowland of the Superior Court in Anchorage. Of course, the plaintiff might appeal this judgment to the Supreme Court who could reverse Judge Rowland's opinion.

The Magistrate's Association had understood that the the Court administration would neither support our request or opposed it as far as what HB 727 is intended to do, however, they have not remained silent, as you know.

Please advise as to the status of HB 727. If there is to be further hearings, we would be glad to attend and testify. It is vital that this bill be passed by this Legislature.

Sincerely,



Carl W. Heinmiller  
Haines Magistrate

CC:Malone  
Schaeffer  
Miller  
Duncan  
Miles  
Ellason  
Magistrates.

controlling. That section provides as follows:

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. [Emphasis added.]

The defendants have not argued, and it cannot be maintained, that magistrates are not judges and, therefore, are excluded from the purview of Article IV, Section 4. The functions

Feb. 17, 1978

Holloway v. Judge Buckalew, et al.  
No. 77-8145

Page 2 of 4

and responsibilities of magistrates are judicial in character. Their duties are in large measure coextensive with, and in no respect different than, those of district court judges.

AS 22.15.100; AS 22.15.110; AS 22.15.120. Magistrates are statutorily defined along with justices of the supreme court and other judges as "judicial officers." AS 22.20.010.

Magistrates are granted the same judicial powers and prerogatives necessary to carry out their judicial responsibilities as all other judicial officers. AS 22.20.030.

The aforementioned constitutional mandate, requiring a term for a judge of any court, is consistent with the idea, universal in American jurisprudence, that an independent judiciary is not only desirable, but indispensable. This notion of judicial independence extends, not only to freedom from executive and legislative interference with the decision-making process, but to all unwarranted pressure. Our concepts of justice and due process of law require that a judge, when

... of a particular cause or considering

Rt. 6, Box 4136  
Juneau, Alaska  
February 23, 1978

Robert Speed, Administrative Assistant  
Judiciary Committee  
House of Representatives  
Pouch V  
Juneau, Alaska

Dear Mr. Speed:

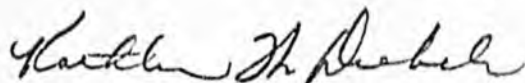
In answer to your inquiry, HB 727 does not appear to conflict with the Salary Commission, since the compensation and benefits for magistrates are not under our review.

You also ask "if we change the law, will that bring magistrates under state retirement system?" Your question indicates it may not be clear to you that the state retirement system and the judicial retirement system are 2 different systems. Magistrates are now members of the state retirement system, PERS (a contributory system). The judicial retirement system, as it applies to judges, is non-contributory with better benefits than PERS. HB 727 would move them to this better system.

There has been some movement in the past to alter the non-contributory part of the judicial retirement system, and this may surface again in the future. Because of the constitutional provision against reducing compensation for judges, it is our understanding that the judicial retirement system cannot be made contributory unless accompanied by a raise of an amount at least equal to the first contribution, or some similar arrangement. I assume magistrates are not covered by the constitutional prohibition. Would that create any special problems if the judicial retirement system were to become contributory?

Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

Sincerely,



Kathleen W. Diebels, Chairman  
Alaska State Salary Commission



Alaska Court System

State of Alaska

303 K STREET  
ANCHORAGE, ALASKA 99501

SUSAN BURKE  
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

(907) 274-8811

February 24, 1978

Hon. Terry Gardiner  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Re: HB 727

Dear Representative Gardiner:

This is in response to your Committee's request for (1) a description of our existing system for distinguishing between full time and part time magistrates for purposes of leave benefits, and (2) a definition of "full time" magistrates for purposes of retirement benefits under House Bill 727.

During 1975, our personnel office conducted a survey of all magistrate posts in order to develop a standard schedule of salaries for magistrates. This survey included on-site visits to most of the magistrate posts. As a result of this undertaking, baseline 1975 data was developed which included, among other things, the number of hours each magistrate was required to spend in his or her office. Those who were required to keep regular office hours of 8:00 to 4:30 were considered "full time" for purposes of applying leave benefits under AS 39.20. (It should perhaps be noted that the number of hours worked was not ultimately used as one of the criteria for salary setting.)

Having established baseline data, we now merely update it to reflect any changes in circumstances that would have a bearing on salary level. Through this process we can also determine whether the workload has increased or decreased to the point that a change is warranted in the application of leave benefits.

After having some time to reflect on your request for a definition of "fulltime magistrate" that might be used in House Bill 727, we find that it is impossible to do so. As you know, we consider all magistrates as full time for purposes of retirement benefits. Unless all magistrates are to be included in House Bill 727, then a definition of "full time magistrate" necessarily involves including some magistrates and excluding others. The basis for making this distinction involves a policy determination that we believe only the Legislature can make. The judiciary has already made a policy determination that all magistrates should be treated equally for retirement purposes, and has expressed the view that no magistrates should be included in the existing judicial retirement system.

I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,

Susan Burke  
Staff Counsel

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
Bill/Resolution No. HB 727  
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System  
Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
Agency Affected Administration - Division of Retirement & Benefits  
Program Category Affected Retirement and Benefits  
Budget Request Unit(s) Affected Non-Contributory Judicial/Full Time Magistrate

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
100 BENEFITS		279.6	293.6	308.3	323.7	339.9
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 FY 79 covered payroll for full-time magistrate \$399,020  
 Employer contribution rate .7008  
 FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Representative Schaeffer  
 Office of the Governor (Keith Specking)

*Paul B. Arnoldt*

HB

753

March 21, 1978

Representative Kris Lethin  
Pouch V  
Juneau, Alaska 99811

RE: H.753

Dear Mr. Lethin,

Yesterday I received a copy of H.753 from Mrs. Walter Bhagatram. We are so pleased that you and your co-sponsors are working on this problem of Birth Certificates for foreign-born children.

I am, however, confused by the wording of the amendment. It is so very important that your efforts not only successfully pass into law, but also, most importantly, that the resulting law will generate birth certificates from Vital Statistics in Alaska.

I asked the opinion of our lawyer, who, after reading H.753 and the Alaskan statutes, felt that as worded, H.753 might not generate birth certificates for foreign-born children. I'm sure you can appreciate how this made us feel. On the one hand we do not wish to be critical or disparaging of your concern and willing efforts. On the other hand we do not want your efforts to be for nothing as we most strongly desire birth certificates for our children.

Is there, then, any assurance you can give us that this bill will, if passed, result in actual birth certificates?

Again, we do thank you for your help and continued concern and hope to hear from you soon.

Sincerely,



Mary K. Storm (Mrs. Allen B. Storm)  
4274 Dean Drive  
Ventura, Ca. 93003

HOUSE BILL 753

"An Act relating to birth registration of foreign born children."

It is the opinion of the Department of Health and Social Services that the need addressed in this bill is already satisfied. In 1960 the U.S. State Department recognized that aliens in this country needed an acceptable document as proof of date of birth. Since that time the birth record issued by the U.S. Immigration and Naturalization Service has been totally accepted by all jurisdictions. Should the alien become naturalized, further documentation is provided. A birth record established by the State of Alaska for an adopted alien would be a duplication of effort and violate the basic principle of registration which is to record vital events where they occur.

Recommended by:

D. Sharon Osborne  
D. Sharon Osborne, Coordinator

2/23/78  
Date

Approved by:

Helen D. Beirne  
Helen D. Beirne, Commissioner  
Department of Health & Social  
Services

2/23/78  
Date

Joan Brooks

HB

784



Alaska Court System  
State of Alaska

SUSAN BURKE  
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K STREET  
ANCHORAGE, ALASKA 99501

(907) 274-8611

February 21, 1978

Honorable Sally Smith  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

Re: HB 784 -- Jurisdiction of  
Magistrates

Dear Sally:

This is in response to your request for back-up material in support of HB 784.

Under AS 28.35.230, all violations of state traffic regulations are classified as infractions, and thus carry a maximum penalty of a \$300 fine. Because the maximum fine is relatively low and because the possible penalty does not include incarceration, there is no right to trial by jury and no right to appointed counsel at government expense. Thus, we believe that traffic infractions are particularly appropriate to include within magistrate jurisdiction.

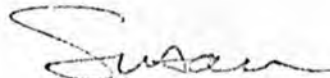
This is especially true in light of the anomalous situation that now exists with respect to magistrate jurisdiction over misdemeanors. As you know, magistrates may now hear and try any misdemeanor filed by a municipality for violation of its ordinances. A magistrate may not, however, hold a trial for an offense charged under state law or regulation (including traffic infractions) unless the defendant consents in writing to be tried by the magistrate. A number of municipal ordinances around the state carry possible penalties that are much more severe than the maximum allowed for state traffic infractions. There seems no reason to allow magistrates full jurisdiction over the more serious municipal cases and restrict their jurisdiction over state traffic infractions.

Letter to Honorable Sally Smith  
February 21, 1978  
Page 2

Our Technical Operations office is in the process of compiling the statewide traffic statistics for 1977. We anticipate that these statistics will show that a high proportion of traffic cases were state infractions. It would provide the judiciary with additional flexibility if these traffic infractions could be heard by magistrates without written consent by the defendants. We will forward these statistics to you as soon as they are available, which should be within about a week.

Please let me know if you would like any additional information.

Sincerely,



Susan Burke  
Staff Counsel

SB/bjs

HB

803

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1978

SUBJECT: HB 803: Constitutionality of amendments  
to "Administrative Rules"

TO: Representative Terry Gardiner  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley   
Legislative Counsel

HB 803 establishes an alternate procedure for adjudication of challenges to administrative regulations. Among its provisions is section 302(e) which establishes a filing fee which is a variation of the filing fees established under the authority of the supreme court under Administrative Rule 11. The latter rule states that the filing fee for the initiation of litigation is established under Supreme Court Order No. 59.

Your question is whether it is constitutional for the legislature to amend administrative rules.

The genesis of your request is presumably Art. IV, Sec. 15 of the state constitution, which provides:

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.

The question whether the legislature could amend "rules governing the administration of all courts" is one that has interested lawyers, observers of the legislative scene, and, perhaps, the judiciary. For all this interest, however, the question has received little, if any, direct attention from the supreme court in published opinions, primarily, I suppose, because none of the cases to reach the court involved matters

described either by counsel or the court itself as involving "administration."

Thus, the several leading cases all are said to involve matters of substance or of practice and procedure:

(1) Leege v. Martin, 379 P.2d 447 (1963), involved the legislature's effort to eliminate suspension of a court decision to revoke a fishing license; the court had a general rule allowing suspension of lower court judgments on appeal. The matter was treated as involving only a matter of practice or procedure. [The case is of primary interest because of its judicial embellishment on Art. IV, Sec. 15 that even if the legislature passes a bill which is later viewed as intruding on a court rule of practice or procedure by a two-thirds vote, thereby complying with Art. IV, Sec. 15, it will not be deemed by the court to have amended the court rule unless it does so explicitly and by specific reference to the court rule; and the court rule will prevail.]

(2) Channel Flying v. Bernhardt, 451 P.2d 570 (1969), involved the question whether a judicial disqualification statute constituted an amendment to a rule governing practice and procedure; if it did, it was invalid because its adoption was not affirmatively done as an amendment to the rules of practice and procedure as required under the Leege case. The court discussed Art. IV, Sec. 15 but concluded that the statute involved a matter of substance undoubtedly within the legislative prerogative.

(3) City of Valdez v. Valdez Development Company, 506 P.2d 1279 (1973), concerned a statute postponing automatically cases in which legislators are attorneys, primary witnesses, or otherwise significantly involved. While the court said: "...it is readily apparent the mandatory continuance provision can have grave consequences on the administration of the judicial system...", it is also true that the court considered the statute as a statute dealing with practice and procedure not adopted under the Leege procedures and therefore defective. No suggestion was offered that as a possible infringement on the administration of courts the subject was beyond legislative amendment.

(4) Silverton v. Marler, 389 P.2d 3 (1964), and Thomas v. State, 566 P.2d 630 (1977) both are concerned with the separation between substance and procedure, not between procedure and administration and offer no guidance.

A study done for the Legislative Council on July 1, 1960 is perhaps the best statement of the problem. It notes that the formulation of Article IV, Sec. 15 just prior to its revision into its present language was this way:

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, which rules may be changed by the legislature by two-thirds vote of members elected to each house.

The report also notes that the revision to the present language was done by the committee on style and drafting; the report notes that

"The committee had no authority to make substantive changes without the approval of the full convention."<sup>1/</sup>

The report concludes that "rules governing the administration of all courts cannot be changed by the legislature..."

Almost eighteen years later, I would agree only that the authority of the legislature over "rules of administration" is somewhat less clear than its authority over "rules of practice and procedure." Since the supreme court has never interpreted a rule it characterized as a rule of administration [nor has it interpreted a statute which it viewed as impinging on a rule of administration], the interpretations offered in the 1960 opinion are still untested.

---

<sup>1/</sup> While the authority of the committee on style and drafting is as stated, the statement begs the question whether a change was in fact made.

Part of this problem is initially semantic, and only thereafter legal.

The supreme court has adopted codes of rules in eleven areas; one code is specifically characterized as "Administrative Rules" and three others are derived from the so-called "inherent" authority of the court over the practice of law. Sullivan v. Alaska Bar Association, 551 P.2d 531 (Alaska 1976). These rules would include the Alaska Bar Rules, the Code of Judicial Conduct, and the Code of Professional Responsibility.

Accordingly, it appears that the supreme court may have "made and promulgated" seven sets of rules under its authority to adopt rules of practice and procedure. [Criminal, Appellate, District Court Criminal, District Court Civil, Civil, Childrens, and Probate Rules]

The difficulty for lawyers, litigants, and the legislature is that what is clear is that the characterization of rules by their title or grouping does not necessarily resolve their status under the constitution.

The Valdez case, supra, contains no allusion to the challenged statute's status as a possible amendment to a rule of administration. In fact, of course, the court has located its rules on calendaring and continuances in the Civil Rules. Alaska Civil Rule 40(f).

Yet the scheduling of cases is among the areas viewed by the 1960 Legislative Council memorandum as within the term "rules governing the administration of courts." The phrase was said by the memorandum to comprehend not only the traditional areas of the court's inherent powers but also the areas necessary to manage a unified judicial system:

What these grants [constitutional grants to a court system of power over "administration"] represent, apparently, is constitutional recognition of the modern unified court system. They comprehend a power over matters which are not "procedural" in the sense that the latter treat of the procedures involved in bringing a particular case to adjudication, but which are concerned rather with the internal organization of large and

complex systems of courts. Levin and Amsterdam, Legislative Control over Judicial Rule Making: A Problem in Constitutional Revision, 107 U. Pa. L. Rev. 1, 33 - 34 (1958).

In New Jersey, under a very similar provision, rules have been adopted providing for the sittings of court, the assignment of judges, general matters regarding the dispatch of judicial business, calendars, publication of opinions and similar issues. 2/ The 1960 memorandum noted that by that time, the Alaska Supreme Court had promulgated "rules governing administration" including the duties of the administrative director, the designation of holidays, the sittings of the court, the provision for court facilities, the duties of clerks and so forth.

Roscoe Pound, in his commentary on the Winberry case at 66 Harvard Law Review 28, (38 - 39), comments that courts have not been reluctant, even historically in the absence of a constitutional provision similar to Art. IV, Sec. 15, to declare legislative intrusions on the independence of the judiciary to be invalid:

Houston v. Williams, 13 Cal. 24, 25 (1859) (Justices of California Supreme Court must deliver their opinions in writing.)

Vaughn v. Harp, 49 Ark. 160, 162, 4 S.W. 751, 752 (1887) (Justice of Arkansas Supreme Court must deliver opinions in writing and address all issues raised by counsel.)

Ex parte Griffiths, 118 Ind. 83, 20 N.E. 513 (1889) (Court must write and file headnotes to its opinions.)

Speight v. People, 87 Ill. 595 (1877) (The opinion of each judge is to be stated on each issue submitted.)

In re Janitor of the Supreme Court, 35 Wis. 410 (1874) (As the court had the inherent power to appoint and remove its janitor, it could appoint and remove his assistants.)

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2/ See Winberry v. Salisbury, 5 N.J. 240, 74 A.2d 406 (1950); see also, discussing Winberry, 65 Harvard L. Rev. 234, 66 Harv. L. Rev. 28.

The 1960 memorandum notes that not all that is contained in Rules for Administration might be adopted under that power:

"This [the mandate to adopt rules governing administration] would include much of the material found in the rules promulgated by the Alaska Supreme Court entitled 'Rules Governing the Administration of all Courts,'..."  
[Emphasis added]

The final question then is whether legislation setting filing fees is a rule of administration or not. 3/

As you know, the supreme court has exercised the responsibility to set filing fees since statehood. However, the long unchallenged exercise of a power does not necessarily validate it, if the underlying premise is absent. Bradner v. Hammond, 553 P.2d 1 (1976).

The fees that are set as a condition for filing cases are in economic terms not analagous to a charge for the privilege of filing a case measured by the cost to the state of processing the case; the filing fees would need to be measurably higher than their present levels. The legislature, as the basic determiner of tax policy under the constitution, Article IX, may, however, reserve to itself the right to vary the charges made in order to resolve public policy questions of interest to it, even if it has never found fault with the court's own filing fees.

While my research has turned up no case that characterizes filing fees either as a part of rules of administration, rules of practice and procedure, or as substantive law undoubtedly committed to the legislature, the setting of fees for entry into the judicial process is not analagous to any of the cases described as involving the inherent powers of courts. While I believe this conclusion to be supportable in law, the committee must note that the final arbiter on this point will be the supreme court.

---

3/ As noted earlier, the locus of the rule does not determine its status under the constitutional rule-making authority given to the supreme court.

The Alaska Administrative Rules typically deal with topics concerned with the internal management of court affairs, for example Rule 2 prohibits the practice of law by judicial personnel; Rule 4 deals with judicial conferences; Rule 18 deals with terms of the supreme court; Rule 24 with the sittings of courts, and so forth.

These rules may fairly be characterized as rules of administration and it is unnecessary to suggest, at this time, what the legislature's role as to their revision might be. 4/

In my opinion, it is clear that the court's allocation of the rules to the various collections of rules represents a judgment by it not only of the implications of Art. IV, Sec. 15 but also an allocation of a rule which could be a matter of substance, where the legislature has acquiesced in the court's implementation of that power. In other words, the rules were developed entirely subsequent to the adoption by the legislature of Ch. 50, SLA 1959. The court itself was not appointed until several months after Ch. 50 took effect. In that context, the court, recognizing the necessity for filing fees, may be viewed as either (1) filling a gap under Ch. 50 or (2) exercising a constitutional power under some part of Art. IV, Sec. 15.

At this time, I conclude that the location of a rule in the "administrative rules" adopted by the supreme court is not a necessary determination as to the status of the rule under Article IV, Section 15.

---

4/ The 1960 memorandum to the Legislative Council represents a carefully considered analysis of this question. For its time, considering that the supreme court had only recently opened its doors for business, the 1960 memorandum represents the then state of the law. Any subsequent analysis, however, must consider not only the language of Art. IV, Sec. 15 and its history, but, also the judicial evolution of the section in the context of the practice and procedure/administration dichotomy.

Representative Terry Gardiner  
Page 8  
March 16, 1978

Having said that, I then conclude that the establishment of fees for the filing of cases is not a matter involving the administration of courts but rather a matter of substance, or at the least, a matter of practice and procedure amendable by the legislature. Accordingly, the substance of §302(e) in HB 803 does not violate the provisions of Article IV, Section 15 of the Alaska Constitution.

RAB:jpd

HB

909

POSITION PAPER  
HOUSE BILL #909

"An Act making special appropriations to the Alaska Court System; the Office of the Governor, public defender's office; and the Department of Administration and Law; and providing for an effective date."

The passage of this bill will have a definite and significant impact on the operating and capital budgets of the Division of Corrections as follows:

The only available data to estimate the impact on the Department of Health and Social Services, Division of Corrections, originates with the Court System projections of April 1979. According to their reports, the flow rate of the Anchorage area offenders into and through the justice system will increase by a factor of 1.411 as the result of an augmented Anchorage police force.

In an earlier study by the Division of Corrections and supported by private consultants' reports, the admissions for the Anchorage Annex plus Ridgeview Correctional Center are estimated for FY'79 at 8242 and FY'80 at 8984 excluding "peaking" effects.

The table below reflects the incremental affects on those earlier projections which result from the augmentation anticipated by the Court System.

	1		2		3	
	Projections Before Augmentation		Projections With Augmentation		Differentials Col. 2 less Col. 1	
	1979	1980	1979	1980	1979	1980
Admissions	8,242	8,984	11,629	13,152	3,387	4,168
Man Days	49,452	53,904	69,774	78,781	20,322	24,877
Average Head Count	135	148	191	215	56	67
Man Day Cost	\$ 50	\$ 55	\$ 50	\$ 55	-	-
Operating Cost	\$2,472,600	\$2,964,720	\$3,488,700	\$4,332,955	\$1,016,100	\$1,368,235

The need for additional bedspace in FY'79 to handle this augmented police effort, based on the above, represents a capital outlay estimated at 56 x \$90,000/bed = \$5,040,000 without consideration for expansion capability. This bedspace is in addition to those facility requirements contained in the Governor's FY 79 bond package for justice facilities. The Department of Transportation - Public Facilities study by Gruzen & Partners - Consultants, was made prior and did not consider the augmentation of the Anchorage police force. During the past nine months, the period subsequent to the study data, the Division of Corrections has consistently experienced inmate populations above the study projections.

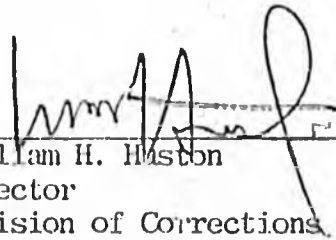
The earliest date for a facility of this size to be on line considering general funding would be July, 1980. Meanwhile, the overcrowding of existing facilities would be compounded, necessitating significant additions to the correctional staff.

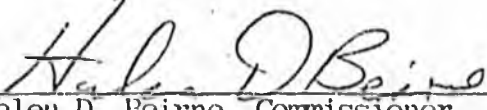
U.S. DEPARTMENT OF HEALTH AND SOCIAL SERVICES

The Division of Corrections will request supplemental appropriations to the FY 79 budget when and as actual needs are identified. It is believed that the Division could be critically impacted about January, 1979. It is reasonable to expect that from January 1, 1979 to June 30, 1979 at least 15 additional correctional officers will be needed and a minimum of \$500,000 expended for care and custody costs of the additional man days of confinement involved.

The Probation and Parole services will also be affected. Using January 1, 1979 as the critical point of need, the FY 79 additional personnel and related costs are as follows:

1 - P.O. II - Investigations	\$ 32,000
1 - P.O. II - Presentence Work	32,000
3 - P.C. II - Community Supervision	96,000
1 - Clerk Typist III - Clerical Support	19,100
Annual Total	<u>\$179,100</u>
Other Annual Support Costs for the above are estimated at:	
	<u>46,000</u>
	\$225,100
Less: One-Half year amount	<u>112,550</u>
Total	<u><u>\$112,550</u></u>

Recommended by:  4/24/78  
 William H. Houston  
 Director  
 Division of Corrections  
 Date

Approved by:  4/24/78  
 Helen D. Beirne, Commissioner  
 Department of Health and  
 Social Services  
 Date

392  
Introduced: 3/27/78  
Referred: Judiciary and  
Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 909

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

1.3  
800,000  
400,000

6 For an Act entitled: "An Act making special appropriations to the Alaska  
7 Court System; the Office of the Governor, public  
8 defender's office; and the Departments of Administra-  
9 tion and Law; and providing for an effective date."

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

11 \* Section 1. The sum of <sup>70,000</sup>~~\$720,000~~ is appropriated from the general fund  
12 to the Alaska Court System to meet expenses of additional personnel ~~and so~~  
13 ~~related costs~~ for the trial courts at Anchorage.

14 \* Sec. 2. The sum of <sup>32,000</sup>~~\$274,000~~ is appropriated from the general fund to  
15 the public defender's office in the Office of the Governor to meet expenses  
16 of additional personnel, ~~increased office space, and related costs~~ for the  
17 public defender's office in Anchorage.

18 \* Sec. 3. The sum of \$107,000 is appropriated from the general fund to  
19 the Department of Administration to meet expenses of additional personnel and  
20 relocation of the office of the state recorder in Anchorage.

21 \* Sec. 4. The sum of <sup>32,000</sup>~~\$169,000~~ is appropriated from the general fund to  
22 the Department of Law to meet expenses of additional personnel ~~and related~~  
23 ~~costs~~ for the office of the district attorney, Third Judicial District, at  
24 Anchorage.

25 \* Sec. 5. This Act takes effect July 1, 1978.

26  
27 \* Sec 3 32,000  
28 Division of Corrections  
29

Dept of HSS

## STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

POUCH N - JUNEAU 99811

April 20, 1978

The Honorable Terry Gardiner  
Representative  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Gardiner:

Noting the increases in the budgets of the Alaska Court System, Public Defenders Office, Department of Administration and the Department of Law contained in House Bill 909, I would like to call to your attention the recent cuts made to the two Alaska State Trooper BRUs which are assigned the responsibility of serving the increased activity of the Court System which will parallel this increase in their budget. The budget originally submitted by the Governor to the Legislature anticipated this increase in activity, as well as numerous other statewide law enforcement problems.

The House budget, however, deleted from the Judicial Services' BRU one new Trooper, as well as two existing Troopers. In the Detachments and CIB BRU, the House reduction included fourteen new Troopers plus one existing Trooper. Had these budget reductions not been imposed, I would have felt comfortable proceeding into FY 1979 without inclusion of our Department in the special provisions of House Bill 909. It was reported to us that the reduction of three commissioned positions was the result of their vacancy for a major portion of FY 1978. It should be apparent that it is virtually impossible to maintain a 100% occupancy of positions available particularly in a unit such as the State Troopers which require three months of Academy training and where hiring only occurs twice a year. Since there is no point in time when we can legally hire more positions than authorized, there will continue to be isolated vacancies in the future which if viewed similarly would result in budget cuts in every succeeding year. If the same logic had been applied during pipeline construction when a substantial number of Troopers terminated, we would have lost many more than two positions.

As to the specific problem of dealing with prisoner transportation, as a result of the increased number of enforcement officers in the Anchorage area, I feel that a minimum of three Troopers should be added to the Judicial Services' unit. That would be restoration of the two cut plus

April 20, 1978

the one new one requested. However, the problem we are facing in serving the Court System and the Division of Corrections is more extensive than just the increase which will occur in the Anchorage area.

In the past two years, inmate population has grown by almost 200 prisoners in Alaska's correctional facilities. This has resulted in serious overcrowding and no relief of this situation is anticipated during FY 1979. As the overcrowding increases, the demand for prisoner transportation between institutions to balance population by moving prisoners to where beds are available has and will continue to increase. Another serious factor which is basically outside of my control and has affected our efficiency very adversely is the recent labor contract negotiated with Public Safety Employees Association. This contract does not allow us to have officers move prisoners voluntarily on their day off at their request as has been the past practice. This reduction in total available man hours must either be met by more overtime or more positions. Obviously at time and one-half for overtime, creation of new positions is preferable.

Up to this point, I don't feel that the Department of Public Safety has been responsible for any logjamming in the administration of justice system, however, that time is rapidly approaching. Another factor which the budget reductions probably did not recognize was the impact in the Fairbanks "I" Detachment area of gasline pre-construction activities. Simply stated, with a cut of \$96.2 in the Judicial Services' BRU and \$641.8 in the Detachments and CIB BRU, the level of law enforcement services provided by the Alaska State Troopers during FY 1979 will deteriorate substantially if no increase is received either through House Bill 909 or the Free Conference Committee budget.

I have attached several excerpted pages from the Quarterly Field Program Reports for the quarter ending March 31, 1978. These reports are prepared in the field and sent directly to my office to keep me abreast of the various types of manpower, equipment, logistics and operational problems being faced by field personnel. From these, you will note that in Anchorage, senior officers responsible for administering the Judicial Service function statewide are themselves escorting prisoners, acting as court bailiffs and performing other related duties which should normally be accomplished by their subordinates if adequate in numbers. In Juneau, Ketchikan, Bethel and several other locations around the State, we had to terminate the temporary help which in the past has been assigned to assist the Troopers in carrying out the Judicial Service function. There is no provision for temporary State Troopers, and we are not recommending it both because of the liability exposure to the State and the inefficiency of training personnel only to be forced to terminate them after nine months employment. We prefer to have permanent, fully trained and qualified personnel in numbers adequate to meet the responsibility assigned. This past practice of utilizing temporary Judicial Service Officers has been appropriately discontinued.

The Honorable Terry Gardiner

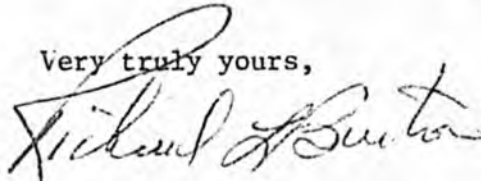
(3)

April 20, 1978

In general, from the material attached, you can see that it is an everyday occurrence around the State that officers assigned to local patrol are diverted to the service of the Courts and prisoner transportation problems under the Judicial Services' unit. The final page of the attachments was contained in the Fairbanks Quarterly Reports and shows that in the three month period ending March 12, 1978, we were basically falling behind in our workload every month in Fairbanks.

Although I do not want to be the harbinger of gloom, this is and should be an area of concern demanding the specific attention of your Judiciary Committee.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Richard L. Burton".

Richard L. Burton  
Commissioner

Enclosures

cc: Senator George Hohman, Chairman, Senate Judiciary Committee  
Michael C. Harper, Administrative Assistant to the Governor

## MEMORANDUM

TO : Commissioner Richard L. Burton  
 Department of Public Safety

DATE: April 12, 1978

FILE NO

TELEPHONE NO

FROM : Captain A. A. English *al*  
 Commander/Civil Section  
 Alaska State Troopers

SUBJECT: FIELD PROGRAM REPORT  
 FIRST QUARTER 1978  
 ANCHORAGE CIVIL SECTION

1. Events adversely effecting local operations:

Classification of prisoners is still a time consuming function of J.S. personnel. We no longer participate in Eagle River and Annex Classifications as all of their classifications are "in house". A J.S. supervisor still spends an average of two hours per week at Ridgeview (female facility) and five hours per week at Third Avenue jail participating in Corrections Classifications. The reason for no longer classifying at Eagle River and the Annex is that Eagle River accepts only sentenced classified prisoners and the Annex ships all its prisoners to Third Avenue as soon as they are sentenced.

The volume of transportation of prisoners between Alaskan cities remains high. A great many of these moves are for psychiatric examinations at API or Langdon Clinic. Prisoners are brought up from Juneau or down from Nome for such psych. exams, and are often ready for return to their place of arrest within two days. As an example of high expense: The Ketchikan Superior Court recently ordered a juvenile murder defendant transported to Fairbanks for a partial day psych. exam., which required us to provide escorts and the fare.

(continued)

With the new PSEA contract we have had to re-evaluate our P.T. policy. Past policy was to utilize troopers on their days off at their request. In such cases we paid only minimum per diem and round trip airfare. The troopers donated their time so they could visit their destination for personal reasons. With the new PSEA contract such voluntary travel will have to be with the approval of the troopers Detachment Commander authorizing the overtime.

## 2. Significant Changes

I am presently conducting a study of statewide J.S. functions being done in the Anchorage J.S. Office. The possibility of moving some of the responsibility to the Director's Office is the reason for this study.

Anchorage courts are often in session from 8:00 a.m. until 6:00 p.m. these busy days, especially with jury trials. This makes it necessary for us to have troopers available for the purpose of prisoner control.

## 3. Prevention development progress:

The plan mentioned in the January 3, 1978 report of APD warrant section moving out of the court building has been altered and City warrants instead moved to AST-J.S.'s former office area in the old court building. It is hoped that the holding cells in that area will someday also be utilized for City prisoners, thus cutting down the volume of prisoner traffic in AST-J.S. Prisoner Transportation Holding area. We will continue to assist the court with all remands whether State or City.

(continued)

## 4. Operations:

Manpower continues to be a problem. To keep up with the court prisoner duties alone J.S. supervisors (Capt., Lt., 1st Sgt., and Cpl.) find themselves in court several hours weekly. Our writ load has been down this quarter but if the usual increase of summer materializes in both prisoners and writ volume we will not be able to keep up without an increase in overtime.

Personnel Actions include the following:

- 1) Trooper Bob Adams will be off duty until approximately June 1 following heart surgery.
- 2) Temp. JSO/Dispatcher Len Bunts was promoted to Trooper 4-10-78 and assigned to Vehicle Enforcement.
- 3) Effective 4-1-78 Trooper Rod Pilch was permanently assigned to Anchorage J.S. following a three month TDY assignment from "C" Detachment.
- 4) Effective 4-10-78 Trooper Atkinson was returned to "C" Detachment following three months TDY training at J.S.
- 5) Effective 4-16-78 Trooper Coffey will be transferred to Talkeetna Post.
- 6) Trooper Reed has been frequently utilized by CIB and Intelligence for polygraph examinations.
- 7) Pilot/Officer McMillon is utilized heavily for pilot duties by the various Departmental sections during the summer months.

The result of the manpower shortage is having to schedule heavily on day shift to cover court (8:00 a.m. - 6:00 p.m.) and to have a skeleton crew on swings and weekends (the best writ serving

(continued)

times). Warrant section troopers are heavily used in court and for prisoner transports giving each man only a few hours a week to work straight warrants. Manpower utilization is being re-evaluated with the thought in mind of the possibility of reassigning responsibilities.

#### 5. Training

It is still not fully decided what additional training the reclassified Troopers (from JSOs) will be receiving or what "grandfather" rights may be granted them. The decision is expected from the Commissioner's Office in April of 1978.

#### 6. Support

It would seem that any office walls or carpet for the squad room is out of the question. The Court System will not fund the requested charges and we do not have the funds.

#### 7. Logistics

Four vehicles of our total eighteen remain without screens (silent patrolman) but all four will be replaced over the next year. Two are 1974 Novas and two are 1975 Chevilles.

Sirens and shotguns have been ordered for all J.S. vehicles not so equipped.

#### 8. Facilities

Two needs, whenever money is available, within the Court System or Public Safety budget are:

- 1) SEPERATE men's and women's rest rooms in the squad room. Right now our male and female troopers and office staff use a system

of changing signs on the rest room door, i.e.,; Male/Female and Occupied/Not Occupied. Presently twenty-four personnel (five females) utilize this rest room.

- 2) A drive-in secure prisoner loading/unloading area is needed at the Court building. Presently we often have to walk prisoners across the parking lot over ice exposing the troopers and prisoners to abtact or accidental injury besides the escape risk factor.
  
- 9) A new antenna for our J.S. radio frequency on top of the Court building is still in the plans for this summer.

The private line has been moved from the upstairs, Captain's, office to Warrant Section. The phone is used for all warrant long distance calls, for informant calls, for "trick" call backs, and for phone tracing purposes.

10) Communications

As reported in the January report the MX 360 portable radios have not been received as of this time. There has been no changes from the last report the radio equipment we presently have is working very satisfactorily.

AME/lwh

cc: Major Vaden

## MEMORANDUM

TO Major Ray Rush  
 Field Enforcement Commander  
 Zone 2

DATE March 31, 1978

FILE NO

REFERENCES

FROM Captain John Monagle  
 Commander  
 B Detachment, Juneau

SUBJECT Field Program Report  
 B Detachment  
 1st Quarter 1978

EVENTS ADVERSELY AFFECTING LOCAL OPERATIONS:

Manpower continues to be the major problem affecting local operations. B Detachment has been four positions down for the past year. Two of those positions will be filled immediately with transfers. Although we have assumed additional obligations in the vehicle enforcement (commercial vehicles) program, the vacated BVE position is not being filled.

The decision to terminate temporary JSOs and make these positions permanent Trooper positions, has effectively reduced that operation from a four man operation to a two man operation. The additional work is being assigned from Troopers in the respective posts and is therefore the result of additional work with the reduced manpower. If this tendency continues, it will adversely affect the initiation of any innovative enforcement programs.

With the continuing policy of having to escort prisoners to doctors offices and hospitals for treatment programs, there is a continual drain on the service section officer's time. Unfortunately he has been unable to keep up with the continuing escalation of prisoner demands for treatment and this has necessitated the use of the patrol officer taking him away from his assigned duties.

The lack of funding for SAR Programs which is mentioned in Sergeant Morris Rogers' report, is one that will have to be taken care of through a budgetary process. Expanded SAR efforts will always cost additional money, the majority of which is going to have to be funded through U. S. Coast Guard facilities and personnel.

SIGNIFICANT CHANGES:

The program initiated February 1, 1978, of using the IBM cards in the computer for initial complaints, has worked well to reduce manpower needs and paperwork flow.

New PCN has been received for the fifth Dispatcher I position in Ketchikan.

Chief of Police George Clouse, has been terminated as Chief in Craig Alaska and as yet, no replacement has been hired.

Juneau's bar closing, reduced by three hours, has noticeably affected the availability of the patrol function for security checks and general patrol.

## FIELD PROGRAM REPORT

SOLDOTNA POST

March 31, 1978

### 1. Events Adversely Affecting Local Operations.

Although the goal during this reporting period was special emphasis on on-view patrol, the entire month of January was spent on cross training and in-service training of six Soldotna Post Troopers which was conducted by Marion Sellars in Bureau of Vehicle Enforcement. The instruction was given during daytime hours which left several evening shifts uncovered. This may have been the reason for some of the late evening burglaries.

Another situation which hampered local patrol was the required assignment of one of the Soldotna Troopers to Judicial Services and another trooper on annual leave throughout the three months. Although burglaries and break-ins were minimal, the loss of manpower from patrol could possibly prove responsible for the reported offenses. This shortage in patrol was due to the combination of troopers handling Judicial Services functions from January 8 to February 12 at which time Trooper John Tanguy was assigned Judicial Services for a period of two months. In the future this assignment will change to the various troopers of the Soldotna Post.

I strongly support and contend that the Soldotna Post be reclassified as a flexible post to allow freedom of movement for special projects and programs. This would allow Soldotna Post to initiate a team policing concept for selective enforcement of traffic and other offenses or problem areas and to alleviate additional overtime.

### 2. Significant Changes.

On February 24, 1978 Soldotna Police Department and Dispatch vacated the present Department of Public Safety building. Soldotna Police Department and Dispatch are now located in the previous City Hall building near the present Public Safety facility. Since this severance, Soldotna Post troopers and supervisors have actively engaged in cleaning this entire structure and rearranging offices. This rearrangement provided additional office space and desks for the troopers and also provided an office which is used for interrogations and interviews. Video equipment has been relocated.

The reassignment of Corporal Schadle as Outpost Supervisor and Sergeant Radisch as Soldotna Post Supervisor has proven effective. Reclassifying as troopers the two Vehicle Enforcement officers and Judicial Service Officer has provided an interrelated duty assignment and all three of these officers are progressing satisfactorily and are handling their additional responsibilities.

A guard hire system has been initiated and seems to be operating satisfactorily. The procedures need to be observed and evaluated for possible streamlining and/or improving.

DATE March 28, 1978

Commissioner Richard L. Burton  
 Department of Public Safety  
 Juneau

FILED

PRIORITY

TO: Lieutenant James Lansbery  
 Commander Detachment E  
 Alaska State Troopers  
 Kodiak

SUBJECT: Field Program Report  
 1st Quarter  
 Detachment E

### 1. Events Adversely Affecting Local Operations

The magistrates' positions at Unalaska, Sand Point, Naknek and Hooper Bay have been vacated during the past quarter. Also the magistrate at Saint Paul Island has indicated that he is going to resign and has submitted an application to the Department of Public Safety for the position of constable there. Of those positions vacated a temporary magistrate has been assigned at Naknek but no date of filling these posts on a permanent basis has been determined yet.

The reclassification of JSOs to trooper level positions, although giving us more versatility in the Kodiak Post itself, caused a reduction of manpower of one man in the Bethel area where the JSO was a temporary and was released.

The bids for the new Kodiak office space were opened the last part of February. Only one bidder responded at that time and did not respond adequately to the conditions of the bid so it was rejected. A new bid date of the 17th of April was set and there are currently several bidders indicating that they are interested in submitting a bid for the space required. Of these, two are indicating that they are interested in building a new building to the specifications set out in the bid.

In December the State Goose assigned to the Kodiak area was left in Anchorage for maintenance to be performed while the pilot was on approximately one month annual leave. Upon his return it was learned that no maintenance had been performed on the aircraft. Aircraft section indicated that they would get to it as soon as possible. Due to several incidents that arose after this period of time i.e. construction of new hanger doors, fire during construction etc. the maintenance on the State Goose has been continually delayed. As of this date indications are that the aircraft will be ready to return to Kodiak approximately the first of April. This has left both AST and FWP Detachments without the use of this aircraft through the entire quarter.

CIVIL PROC. REC.

36

CIVIL PROC. SVD.

32

CIVIL PROC. REC.

216

CIVIL PROC. SVD.

169

WARRANTS REC.

95

WARRANTS SVD.

28

WARRANTS  
OUTSTANDING

508

CIVIL PROC. REC.

2

CIVIL PROC. SVD.

33

CRIM. PROC. REC.

887

CRIM. PROC. SVD.

263

WARRANTS REC.

97

WARRANTS SVD.

56

WARRANTS  
OUTSTANDING

488

CIVIL PROC. REC.

22

CIVIL PROC. SVD.

20

CRIMINAL REC.

410

CRIMINAL SVD.

256

WARRANTS REC.

75

WARRANTS SVD.

41

WARRANTS  
OUTSTANDING

453

18 WORK DAYS

11/7/78 - 2/12/78  
25 WORK DAYS

11/3/78 - 1/17/79  
15 WORK DAYS