

1071

SJ

HB

45

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HB

389

Jul. 3, 1978

The Honorable John Rader
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

After due consideration, I have decided that I must veto HCSSB 432 (Rules) which would empower both the Legislative Council and Budget and Audit Committee to bring suit in the name of the legislature.

Legislation authorizing legislative agents to bring civil actions in the name of the legislature in support of its orders and subpoenas is constitutional, and their doing so would be quite proper were the executive to fail to do so at the legislature's request. It would also be proper to authorize legislative agents to appear as amici curiae in cases challenging the validity of legislative acts, particularly as, for instance, in cases such as A.L.I.V.E. Voluntary, where the executive is challenging their validity. No one could possibly question the legislature's empowering its interim committee to act on these matters.

But bringing civil actions to compel the executive to act in accordance with the constitution and laws of the state exceeds the power vested in the legislative branch. Buckley v. Valeo, 424 U.S. 1 (1975). Circumstances compel me to infer that the legislature intends this bill to serve that purpose, that is, as it has in Groft v. Thomas (enforce election laws); Kelley v. Hammond (enforce finance laws); Bradner v. Hammond (enforce personnel laws); Hammond v. Chance (enforce constitution); and SCR 112 (enforce land laws).

At the present time, the Legislative Council has apparent authority to file amicus briefs in suits brought by others in which the legislature's laws or acts are challenged and

July 3, 1978

the executive's position is not in support of the legislature's, for example, as in A.L.V.E. Voluntary. So that is no problem. There has never been so much as a hint that the executive would fail to support the legislature's issuance of a subpoena or order. So that is no problem either. Accordingly, there is no pressing need for any authorizing legislation such as this bill at this particular time. There is time in which to develop legislation on the subject which will include standards and guidelines to steer the interim committees away from the shoals of the separation-of-powers doctrine.

Given the recent -- and continuing -- examples of the litigiousness of the interim committees, this bill, which is absolutely devoid of any standards or guidelines for bringing suit, is an open invitation to usurp executive power. As the United States Supreme Court said in Buckley:

The enforcement power, exemplified by [the] discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law and it is to the president, and not to the Congress, that the Constitution entrusts the responsibility to 'take care that the laws be faithfully executed.'

The Constitution of Alaska dictates the same result. Public Defender Agency v. Superior Court, 3rd Jud. Dist., 534 P.2d 547 (Alaska 1975).

Accordingly, I have vetoed HCSSB 432 (Rules).

Sincerely,

Jay S. Hammond
Governor

ROD PEGUES - DEPARTMENT OF LAW

This bill is unconstitutional and violates the separation of powers. The legislative branch enacts laws, the executive branch executes the law and the judicial branch adjudicates. It is clearcut. This bill would in effect usurp, by the legislative branch, the powers of the executive branch. The governor's first obligation is to uphold the constitution. There are cases when the legislature could litigate when exercise of legislative powers is being thwarted (via amicus briefs). He feels that the legislature should have certain powers of suing (see attached bill draft from law) but cannot and should not have the power to sue the governor. Please see attached article which gives the Dept. of Law's basic position.

BILL BARRIER - LEGISLATIVE AFFAIRS, LEGAL SERVICES

Although he feels that this is a separation of powers issue, Mr. Barrier does not believe that this bill is in violation of the separation of powers concept of American Democracy. In some instances the legislature must be allowed to sue the executive in order to defend their powers. If the legislature wants to give the Legislative Council the power to sue it should be made specific, by statute, if they do or do not have this power. Best example of this type of situation. A few years ago there was a ballot proposition on exchange of lands. The legislature said that the ballot title was misleading and couldn't wait for the next session to do something about it as the election would be over by then. So the Legislative Council sued the executive through the Legislative Affairs Division of Legal Services. The court ruled that constitutionally the legislature cannot sue and that the Legislative Council does not have statutory authority to bring suit.

PROPOSITION #2, A CONSTITUTIONAL AMENDMENT

In last election to voters failed to pass proposition #2. This proposed amendment would have given the legislature the ability to vest one of its interim committees the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the interim committee its power to appropriate federal or other monies received from non-state sources.

GARY PESCA SACKETT'S A.A.

Legislative Finance- This bill has been introduced to give the legislature the power to sue the Governor. The LB&A Committee and the Legislative Council tried to sue Hammond for transferring money between appropriations (revising programs) during the interim without the approval of the LB&A Committee. (Kelly vs. Hammond). The issue of the right to sue came up after the preliminary judgement. Governor said it was unconstitutional. Ramona Kelly was on the LB&A Committee at the time.* They tried to make it a personal suit but it didn't work. Hammond has pressed this point to a much further extent than other governors. But it is a problem that has been and will be faced with any governor. There will always be a difference of opinion between the legislative and Executive branches as to their powers as equal but separate branches and how far beyond their powers each can step. LB&A was trying to get the 3rd branch (Judicial) involved as a referee. But without the power to sue the legislative branch has no power to ask for 3rd party involvement. When the legislature is in session the law is clear and the governor has the power to transfer between appropriations by going thru the budget process (supp. or special appropriations). During the interim he does not have this vehicle and just does it on his own. At this point he cannot legally be stopped during the

interim. So unless the legislature is physically here, the governor can do anything he wants with bills and appropriations. Courts say the issue doesn't matter. The legislature does not have the authority to bring a suit against the Governor so even though she was a private party (who can sue) it was considered a suit by LB&A.

ROB C FOR HOHMAN

This bill is to insure that legislative intent is implemented. When the governor circumvents the intent of legislation the only alternative is to sue him. Last election Prop. 2 (which would have given the legislature the power to sue) was voted down by the people.

HB

195

T H E B L A C K C O A L I T I O N , I N C .

Anchorage, Alaska

April 2, 1979

Robert Ziegler, Chairman
Judicial Council
Pouch V
Juneau, Alaska 99811

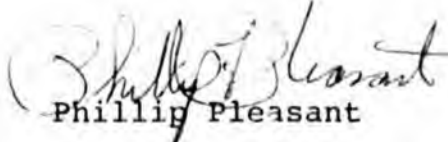
Dear Chairman Ziegler:

Thank you for taking the time to meet with members and friends of the Black Coalition, Inc. while we were in Juneau recently.

Your comments regarding positions on the Advisory Board were appreciated. We will also be watching developments in the killing of Phillip Moore by the police department. We feel that Judicial Council review is a good suggestion.

We look forward to other meetings of this type, where concerns may be aired and addressed.

Sincerely,


Phillip Pleasant


gw

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

165 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801

TELEPHONE 586-6425

M E M O R A N D U M

TO: Representative Anderson
FROM: Don Clocksin 
DATE: February 16, 1979
SUBJECT: Sentencing Studies

1. Summary of Findings

In April, 1977, the Alaska Judicial Council issued a Preliminary Report analyzing felony sentencing patterns in Alaska from 1974 to 1976. On September 6, 1978, the Council issued a follow-up report documenting one finding from their studies - that race affected the length of a sentence. In October, the Alaska Court System prepared their own analysis of the Judicial Council data, and on October 30, the Judicial Council submitted a response to the Court System critique.

Though the statistical battle rages, a couple facts seem to be accepted by both the Council and the Court System. This memo addresses only the questions regarding Natives, not Blacks.

- a. Particularly in Fairbanks, Natives convicted of felonies receive jail time much more often than whites.
- b. Natives convicted of misdemeanors receive longer sentences than whites.

2. Discussion

The Court System has rejected the Judicial Council study as incomplete and inaccurate.

If racial disparity in sentencing does indeed exist in Alaska, the Judicial Council study has not proven it to what we would consider an acceptable degree.

However, when one reads the Court System analysis and compares it with the study, it is clear that both agree a disparity exists and that it is based on race. This general rejection of the Judicial Council's efforts is contradicted by the following, quoted from the Court System analysis.

"The Black and Native races have significantly lower probation rates."

"Natives receive higher sentences across the board . . ."

". . . the finding of potential racial disparity appears probable for Natives on misdemeanor sentences . . ."

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Once we conclude that a disparity exists, the next step is to look at all other explanations for the disparity. A number are mentioned in the two reports, while some others are not adequately considered. First, the findings indicate that a greater percentage of Natives are unemployed. The Court System concludes from that fact that more Natives get jail time because more of them are unemployed and thus cannot be put on probation.

Second, a substantially larger percentage of crimes by Natives are alcohol-related. The implication is that a greater sentence was imposed because alcohol was involved, not because a Native was involved.

Third, indications are that Natives have fewer ties to the community (Anchorage or Fairbanks) and that it is this "instability" which results in no probation, not the fact a Native is involved.

Fourth, a factor which seems to have been missed by all parties to this dispute is what kind of lawyer was available. Natives are much more likely to be represented by the Public Defender and much more likely to get jail time and longer sentences. The data seems to indicate that representation by appointed counsel has much more effect on length of sentence than most other factors. Since Public Defender defendants get longer sentences, and Natives more often must use the P.D., this factor should be looked at more carefully.

Fifth, another factor all but ignored by the studies is the demeanor of the defendant in open court. We may hypothesize that bush Natives, with different language and cultural backgrounds, handle themselves poorly when talking with the judge. We may also assume that, despite all the talk of objective sentencing criteria, the way a person behaves in front of a judge substantially affects the judge's sentence.

The important point to make about all these other "explanations" for the disparity in sentencing is that they tend to prove the racism rather than disprove it. Natives who 1) come from the bush; 2) cannot find jobs there; 3) have alcohol problems because of dramatic socio-cultural changes; 4) are poorer; 5) have no choice as to their lawyer; and 6) are forced into a foreign justice system, are suffering from those characteristics. Since they are uniquely Native characteristics in Alaska, heavier sentences based upon those characteristics are racist.

The difficulty with the Court System response is that it agrees with the data but rejects the hypothesis. Their attitude does not seem particularly constructive. A few examples: 1) Neither the Court System nor the Judicial Council lend any significance to the greater presence of alcohol in Native crimes or the almost non-existent role of drugs in Native crimes; 2) The Court System spends 10 pages

critiquing the findings on felony sentencing but only 3 pages on the misdemeanor sentences, when the latter clearly shows a racial disparity; and 3) The Court System discusses variables which absolve them of responsibility (e.g., unemployment) but do not discuss other explanations which place more responsibility on the justice system (e.g., demeanor in court; the pre-sentence report). By arguing that racial disparity has not been proven, the Court System unnecessarily delays any study of solutions.

3. Recommended Actions

Further study is clearly needed. The resolutions and bills on the subject are correct in their assumption that the disparity exists and methods for addressing it must be looked at. The study should look at the following:

- a. comparison of alcohol-related crimes by Natives with alcohol-related crimes by whites;
- b. comparison of crimes by unemployed Natives with crimes by unemployed whites;
- c. comparison of sentencing patterns of rural courts with those of urban courts;
- d. comparison of pre-sentencing reports on Natives with those on whites;
- e. the importance of demeanor and visual and oral communication between probation officer and defendant and between judge and defendant in sentencing decisions;
- f. the correlation between representation by a public defender and by private counsel and whether lower quality representation, if it occurs, affects Natives more than whites; and
- g. the effect of alcohol on charges filed by the police and prosecutor and whether any such variable affects Natives more than whites.

Two general points to be made: First, it is likely, based upon any comparison between rural and urban courts, that Natives receive fairer sentences if they are sentenced close to home. If the lack of ties to the community is relevant to the sentencing decision, then sentencing by a court closer to the defendant's home is likely to be less harsh. We should consider making an effort of getting community-based correction facilities in rural areas and more effort at returning the defendant to his or her home for sentencing.

A second but related point is that, if a person is sentenced to jail time, he or she often is sent outside the state to do time. This hurts Natives particularly since their language and cultural differences make them an oddity in the lower 48. Rehabilitation is very difficult the further a person is taken from their home and relatives. Without family contact and assistance in finding

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February 16, 1979

jobs, the ability to readjust to society becomes overwhelmingly difficult. If you are interested in the state's practice of shipping prisoners out of the state to serve their time, you may want to look at SB 32 which makes it easier to do so. It would adopt the Interstate Corrections Compact to facilitate out-of-state transfers and allow the Division of Corrections to avoid its obligation to encourage rehabilitation.

DC:vtb

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

JAY S. HAMMOND, GOVERNOR

POUCH AN - JUNEAU 99811
PHONE: 588-8726 465-3560

Statement of Niel Thomas
Executive Director
Alaska State Commission for Human Rights
before
House Judiciary Committee
Monday, February 26, 1979
On Racial Issues in Sentencing

The Human Rights Commission supports legislative efforts designed to address the question of what role race plays in the sentencing process in Alaska. Statistical studies by the Judicial Council over a two year period indicate that race is a significant factor which influences the sentences which individuals of different races receive.

These data may indicate that bias can enter into the process in a number of ways. Although subjective bias in the judge himself can be part of the problem, the Commission does not believe that judicial discretion is the only factor. Bias in the criminal justice system can enter at any stage. What the arresting officer views as "suspicious," given two people of different races who are doing the same thing, may be tainted by the officer's racism. Who the prosecutor chooses to prosecute may reflect the prosecutor's bias. The dynamics of trial and the mechanism of jury determinations can be similarly infected.

At sentencing, the judge must make his decision based upon information that is put before him, both by testimony and by sentencing reports. How the convicted individual behaves and expresses himself, his living conditions and lifestyle, may be related to cultural factors which can work for or against him in the judge's mind. How any given individual is described in a sentencing report may reflect the racial bias of the author of the report. For example, two individuals, one white and one minority, with identical working records may be described differently. The white person may be described as having an ability to obtain regular employment by virtue of his having held a succession of jobs. With the same work record, a minority individual's work history may be described as "irregular and spotty".

A judge who has been trained to assess facts and evidence impartially may not fully recognize the bias inherent in what he sees. Therefore, the ultimate sentence may reflect this collective bias. The proof has come out inferentially in the statistical averages compiled by the Judicial Council. Pinpointing prejudicial actions in individual cases is difficult if not impossible.

Statement of Niel Thomas
before House Judiciary Committee
Monday, February 26, 1979
Racial Issues in Sentencing
Page 2

The Human Rights Commission has been requested by the Alaska Court System to join with the U.S. Department of Justice, Community Relations Service, to prepare training on these issues for Alaska's judges. A session of approximately one and a half days is now being planned for the annual Judicial Conference in Sitka this June. The training will familiarize judges with the ways in which prejudice can enter into the sentencing process so that judges may be more alert to it. The goal is to reduce sentencing disparities through increased judicial awareness.

The Commission supports any efforts of the legislature which would increase the body of information about sentencing disparities contained in studies which are now over two years old. Updating this information, possibly with statistics which identify the performance of individual judges over a longer time span, would deepen our understanding of the nature of the problem and what can be done about it.

LAIL 2161 14.09 JA01 0035 14.09 02/26/79

TO REP. NELS ANDERSON

FROM: BERTRAND C. CAMPBELL, 3204 LATOUCHE, ANCHORAGE 99504 264-7730

AS PAST PRESIDENT OF THE ALASKA NATIVE CAUCUS AND TSIMSHIAN TRIBAL ASSOCIATION, I FEEL THAT HB 195 AND HB 196, ALONG WITH HCR 5, ARE ABSOLUTELY NECESSARY IN ORDER TO CORRECT THE OBVIOUS INEQUITIES IN THE JUDICIAL SYSTEM. THE STUDIES OF THE JUDICIAL COUNCIL AND THE ALASKA COURT SYSTEM HAVE CORROBORATED MY LIFE-LONG FEELING THAT ALASKAN NATIVES DO NOT RECEIVE EQUAL OR JUST CONSIDERATIONS IN THE COURTS OF ALASKA.


THESE BILLS AND RESOLUTION ARE A FIRST STEP IN IDENTIFYING THE PROBLEMS AND CORRECTING THESE PROBLEMS.

CD EOM/

HB 195 - 196 - HCR 5

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
166 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

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DC:vtb

HB

213

COMMITTEE REPORT
SENATE

3/27/79

FURTHER: None

Date: 4/11/79

Mr. President:

The Committee on JUDICIARY has had HB 213
relating to the Alaska Police Standards Council

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

SENATE AMENDMENT

By Senate Judiciary Committee

To: _____ SENATE BILL No. _____

To: Amend _____ HOUSE BILL No. HB 413 _____

PAGE:

LINE:

2

23

*change effective date to
July 1, 1978*

Introduced: 2/14/79
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 213

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Police Standards
7 Council; and providing for an effective date."

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

9 * Section 1. AS 18.65.150 is amended by adding new paragraphs to read:

10 * (4) the special agent in charge of the Federal Bureau of
11 Investigation in Alaska or his designee, if approved by the appropriate
12 official of the bureau;

13 * (5) the director of the Criminal Justice Center, University
14 of Alaska, or his designee.

15 * Sec. 2. AS 18.65.220 is amended by adding a new paragraph to read:

16 (5) employ an administrator and other employees necessary
17 to implement the provisions of AS 18.65.130 - 18.65.290.

18 * Sec. 3. AS 18.65.240 is amended by adding a new subsection to read:

19 (c) The council may revoke the certificate of a police officer
20 who does not meet the standards adopted under (a)(2) of this section.

21 * Sec. 4. AS 18.65.280 is amended to read:

22 Sec. 18.65.280. EXEMPTIONS. (a) The commissioner and deputy
23 commissioner of public safety and the chief administrative officer of
24 participating local police agencies are exempt from the requirements
25 of AS 18.65.240 [SEC. 240 OF THIS CHAPTER]. However, a chief of police
26 of a participating local police agency, except a person serving as
27 chief of police on the effective date of this chapter, who performs
28 operational duties in addition to administrative duties, must meet the
29 requirements of AS 18.65.240(a)(1).

1 (b) Any municipality with an established police training program
2 which meets the requirements of AS 18.65.220(2) and (3) may exclude
3 itself from the provisions of this Act by ordinance. The exclusion
4 has [SHALL HAVE] no effect on eligibility to receive or expend federal
5 or state grants.

6 * Sec. 5. AS 18.65.290(2) is amended to read:

7 (2) "police officer" means a full-time employee of the
8 state or a municipal [A] police department with authority to arrest
9 and issue citations; [detain a person taken into custody until that
10 person can be arraigned before a judge or magistrate;] conduct investi-
11 gations of violations of and enforce criminal laws, regulations, and
12 traffic laws; search with or without a warrant persons, dwellings, and
13 other forms of property for evidence of a crime; carry a concealed
14 weapon; and take other action which is consistent with and necessary
15 for the exercise of these enumerated powers when necessary to maintain
16 the public peace; [WHICH IS A PART OF OR ADMINISTERED BY THE STATE OR
17 A POLITICAL SUBDIVISION OF THE STATE PARTICIPATING IN A PROGRAM ESTAB-
18 LISHED UNDER SECS. 130-290 OF THIS CHAPTER, WHO IS RESPONSIBLE FOR THE
19 PREVENTION AND DETECTION OF CRIME AND THE ENFORCEMENT OF THE PENAL,
20 TRAFFIC OR HIGHWAY LAWS OF THIS STATE.]

21 * Sec. 6. AS 18.65.290 is amended by adding a new paragraph to read:

22 (3) "chief administrative officer" means the chief of
23 police or other official who is head of a police department in a
24 participating political subdivision.

25 * Sec. 7. This Act takes effect July 1, 1979.
26
27
28
29

March 28, 1979

Senator Robert Ziegler,
Chairman, and Members
Senate Judiciary Committee

James F. Mayer
Administrator
Alaska Police Standards Council

HB 213, "An Act Relating to
the Alaska Police Standards
Council"

Following is a brief section-by-section analysis of HB 213:

AS 18.65.150 (4) (5)

These sections add two members to the existing nine-member council, which is responsible for coordinating the training and education efforts for all full-time police officers in Alaska. The new members would be the director of the Criminal Justice Center of the University of Alaska or his designer, because of his programs of post-secondary education for police officers, and the Agent in Charge of the F.B.I. in Alaska or his designee, since they provide a significant amount of specialized and in-service training programs to police officers throughout Alaska.

The addition of these two members will supply valuable input to the council's coordinating efforts.

AS 18.65.220 (5)

This section is a standard housekeeping measure giving the council the statutory authority to employ staff. This is presently accomplished through the budgetary process.

AS 18.65.240 (c)

This section gives the council enforcement authority to revoke a police officer certificate (under the Administrative Procedure Act) if the officer at any time does not meet the minimum standards of employment set forth in (a) (2) of this section.

For example, an officer could receive certification from the council and it later be found that he did not meet the minimum standards for employment, or an incident might take place which would be disqualifying. As it stands, inadequate revocation authority exists.

Passage of this section would alleviate this situation and preserve the integrity of the law enforcement profession.

AS 18.65.280 (a)

This section will require a police chief who performs operational duties (i.e. patrol, traffic, etc.) in addition to strictly administrative duties to meet the minimum training standards in AS 18.65.240 (a)(1). It will effect mostly smaller communities whose chiefs actually perform police functions but will not effect their right to employ whomever they want as chief.

It is the council's strong feeling that whoever has policing responsibility, regardless of rank, should have the required minimum police officer training.

AS 18.65.280 (b)

This is also a housekeeping measure to assure that any municipality which desires to exclude itself from the provisions of the Police Standards Act must have an established police training program which meets the minimum requirements of the Act.

AS 18.65.290 (2)

This is a housekeeping measure to more clearly define "police officer" and correct the ambiguity of the original statute.

AS 18.65.290 (3)

This defines "chief administrative officer" as used throughout the Act and regulations promulgated thereunder.

Please note that this proposed legislation has been discussed in detail with the Alaska Chiefs of Police Association and the Public Safety Committee of the Alaska Municipal League and has their full support.

JFM/mas

LATI 3328 16.01 JA01 0072 16.01 04/06/12

TO SENATOR ROBERT ZIEGLER
FROM: ADULT PROBATION/PAROLE OFFICERS
SUPERIOR COURT BUILDING
941 WEST 4TH AVENUE
ANCHORAGE, AK 99501 274-1534

ALTHOUGH YOU VOTED AGAINST OUR SB 162, WE UNDERSTAND YOU HAE BEEN
WORKING TO HAVE US MOVED TO A MORE APPROPRIATE AGENCY AND OUT OF
H&SS. THANK YOU FOR YOUR EFFORTS AND PLEASE VOTE AGAINST THE RIDER
ON HB 213 WHICH WAS INTRODUCED TO SUBVERT SB 162.

CD EOM

.....

April 10, 1979

Adult Probation/Parole Officers
Superior Court Building
941 West 4th Avenue
Anchorage, Alaska 99501

Gentlemen:

House Bill 213 is in the Senate Judiciary committee and has been since it passed the House on March 23rd. The bill was introduced at the request of the Governor just one day after Senator Bennett introduced Senate Bill 162 (February 13th). The bill came over from the House in unamended form, and I am not sure to what you are referring when you mention "the rider which was introduced to subvert SB 162." You may have in mind the new language on lines 7 through 16 on page two of the bill (enclosed). According to the Governor's transmittal letter which accompanied the bill, the purpose of this language is to differentiate "police officer" from "peace officer." You will note that the bills are amending two entirely separate statutes. On the face of it, at least, I would not think that the provisions of HB 213 do any violence to what which you are trying to accomplish with the passage of SB 162.

If I err, or there is something in the legislation which I do not see, please let me know. We are not planning to schedule this bill in the near or foreseeable future, but we would certainly welcome any written testimony you would like to offer.

Regards,

Robert H. Ziegler, Sr.

RHZ/pkz



RECEIVED

MAR 6 1979

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION **Police Standards
FBI Academy Council**
Quantico, Virginia 22135

In Reply, Please Refer to
File No.

March 1, 1979

Mr. James F. Mayer
Executive Director
Alaska Police Standards Council
Pouch AS
Juneau, Alaska 99811

Dear Jim:

Your letter to Judge Webster dated February 15, 1979, concerning the addition of Special Agent in Charge Simon Tullai to the Alaska Police Standards Council has been referred to me for reply.

The FBI's commitment to police training is one of long standing and we are most desirous of continuing our training for those agencies who seek our assistance. As you are aware, Special Agents in Charge of many FBI field offices are designated members of training councils such as yours. We are honored that you have requested the legislated addition of the Special Agent in Charge of our Anchorage Division to serve on your Council.

I am indeed pleased to advise that authority has been granted for Special Agent in Charge Simon Tullai, his designee, and successors to serve as a mandated member of the Alaska Police Standards Council. It is our sincere desire to be of whatever assistance possible to your Council in its efforts to maintain the high quality of law enforcement in the state of Alaska.

I wish you success in this legislation and I am looking forward to a continued excellent relationship between the FBI and the Alaska Police Standards Council.

Sincerely yours,


Kenneth E. Joseph, Ph.D.
Assistant Director

MEMORANDUM

TO: Senator Robert Ziegler,
Chairman, and Members
Senate Judiciary Committee

DATE: March 28, 1979

FILE NO.

TELEPHONE NO.

FROM: James F. Mayer *JM*
Administrator
Alaska Police Standards Council

SUBJECT: HB 213, "An Act Relating to
the Alaska Police Standards
Council"

Following is a brief section-by-section analysis of HB 213:

AS 18.65.150 (4) (5)

These sections add two members to the existing nine-member council, which is responsible for coordinating the training and education efforts for all full-time police officers in Alaska. The new members would be the director of the Criminal Justice Center of the University of Alaska or his designee, because of his programs of post-secondary education for police officers, and the Agent in Charge of the F.B.I. in Alaska or his designee, since they provide a significant amount of specialized and in-service training programs to police officers throughout Alaska.

The addition of these two members will supply valuable input to the council's coordinating efforts.

AS 18.65.220 (5)

This section is a standard housekeeping measure giving the council the statutory authority to employ staff. This is presently accomplished through the budgetary process.

AS 18.65.240 (c)

This section gives the council enforcement authority to revoke a police officer certificate (under the Administrative Procedure Act) if the officer at any time does not meet the minimum standards of employment set forth in (a) (2) of this section.

For example, an officer could receive certification from the council and it later be found that he did not meet the minimum standards for employment, or an incident might take place which would be disqualifying. As it stands, inadequate revocation authority exists.

Passage of this section would alleviate this situation and preserve the integrity of the law enforcement profession.

AS 18.65.280 (a)

This section will require a police chief who performs operational duties (i.e. patrol, traffic, etc.) in addition to strictly administrative duties to meet the minimum training standards in AS 18.65.240 (a)(1). It will effect mostly smaller communities whose chiefs actually perform police functions but will not effect their right to employ whomever they want as chief.

It is the council's strong feeling that whoever has policing responsibility, regardless of rank, should have the required minimum police officer training.

AS 18.65.280 (b)

This is also a housekeeping measure to assure that any municipality which desires to exclude itself from the provisions of the Police Standards Act must have an established police training program which meets the minimum requirements of the Act.

AS 18.65.290 (2)

This is a housekeeping measure to more clearly define "police officer" and correct the ambiguity of the original statute.

AS 18.65.290 (3)

This defines "chief administrative officer" as used throughout the Act and regulations promulgated thereunder.

Please note that this proposed legislation has been discussed in detail with the Alaska Chiefs of Police Association and the Public Safety Committee of the Alaska Municipal League and has their full support.

JFM/mas

The State Affairs Committee has had HOUSE BILL NO. 213 (relating to the Alaska Police Standards Council; effective date) under consideration and a majority of the committee recommends it do pass and attaches a new fiscal note. Concurring: Miller (Chairman), Eliason, Fuller, Parker, Metcalfe and Martin. HB 213

A new fiscal note on HB 213 appears in House Journal Supplement No. 20.

HB 213 was referred to the Rules Committee for placement on the calendar.

The State Affairs Committee's letter of intent for HB 213 appears as follows:

STATE AFFAIRS COMMITTEE LETTER OF INTENT

HB 213

The State Affairs Committee heard testimony on HB 213 ("An Act relating to the Alaska Police Standards Council; and providing for an effective date") March 1 and although the committee was unanimous in its recommendation that the bill pass and that the Alaska Police Standards Council be expanded, there was not unanimity in the view that additional state dollars need be spent to fund the bill. The feeling of the committee (on a 4 to 2 vote) was that the representative on the council from the FBI and the representative from the Criminal Justice Center should be able to fund their own travel from federal or other funds already under their control. Therefore, the committee voted that the fiscal note on this legislation should be zero and that no additional funding be provided.

Mike Miller
Mike Miller, Chairman

The Resources Committee has had HOUSE BILL NO. 239 (making a special appropriation to the Legislative Affairs Agency for a gas liquids line feasibility study and an instate royalty gas and gas liquids line feasibility study; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 239 (same title) and that it do pass. Concurring: Miles (Co-Chairman), Osterback (Co-Chairman), Halford, Chatterton, Carney and Fuller. HB 239

HB 239 was referred to the Finance Committee.

HOUSE JOURNAL SUPPLEMENT

March 2, 1979

Friday

No.

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 213
Title An Act relating to the Police Standards Council
Requested by State Affairs Date March 1, 1979 HB 213

II. FISCAL DETAIL Office of the Governor
Agency Affected
Program Category Affected Administration of Justice
BRU, Program, or Subprogram Affected Alaska Police Standards Council
(Note: If more than one budget component is affected, separate line item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND ACQUISITIONS						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
The recommendation of the State Affairs Committee was that the FBI and the Criminal Justice Center should provide their own funds for per diem and travel.

IV. DATE 3-1-79 PREPARED BY Mike Miller
AGENCY State Affairs Committee
Original: Legislative Finance PHONE 465-4950
cc: Budget and Management
Prime Sponsor (List Legislator Name)

ALASKA STATUTES

Article 2. Alaska Police Standards Council.

Sec. 18.65.130. Policy. The administration of criminal justice affects the health, safety and welfare of the people of this state, and requires education and training of a professional quality. It is in the public interest that education and training be made available to persons seeking to become police officers, police officers who are serving in a temporary or probationary capacity, and police officers already in regular service.

Sec. 18.65.140. Creation. There is created in the Office of the Governor the Alaska Police Standards Council.

Sec. 18.65.150. Composition of council. The council consists of the following persons:

- (1) four chief administrative officers or chiefs of police of participating local governments;
- (2) the commissioner of public safety or his designee;
- (3) four members of the public at large with at least two from the communities of 2,500 population or less.

Sec. 18.65.160. Appointment. The commissioner of public safety or his designee shall serve during his continuance in office. Other members of the council shall be appointed by the governor for terms of four years, except that no member may serve beyond the time he holds the office which made him eligible for appointment. The terms of members initially appointed to the council by the governor shall be two for one year, two for two years, two for three years, and two for four years. A vacancy on the council shall be filled for the remainder of a member's unexpired term in the same manner as the original appointment.

Sec. 18.65.170. Chairman and vice chairman. The council shall select its chairman and vice chairman annually.

Sec. 18.65.180. Holding another office. Membership on the council does not disqualify a member from holding any other public office or employment.

★ Sec. 18.65.190. Compensation and expenses. The members of the council receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 18.65.200. Meetings. The council shall meet at least twice a year. The chairman shall set the time and place of the meeting, either on his own motion or on written request by any three members of the council.

MEMORANDUM

TO:

DATE: March 28, 1979

Senator Robert Ziegler,
Chairman, and Members
Senate Judiciary Committee

FILE NO.

TELEPHONE NO.

FROM:

James F. *JFM*
Administrator
Alaska Police Standards Council

SUBJECT: HB 213, "An Act Relating to
the Alaska Police Standards
Council"

Following is a brief section-by-section analysis of HB 213:

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Please note that this proposed legislation has been discussed in detail with the Alaska Chiefs of Police Association and the Public Safety Committee of the Alaska Municipal League and has their full support.

JFM,mas

HB

261

The second session of the tenth Alaska Legislature adopted a new criminal code for the state. The new code is a sweeping and comprehensive revision of Alaska's criminal law. The code becomes effective on January 1, 1980. The eighteen month delayed effective date was specified to allow sufficient time to devise and implement a training program to ensure that all segments of the criminal justice system would be familiar with the code once it went into effect. Though envisioning this training program, the Legislature failed to provide funds for its development and implementation. The funding of a training program is critical to ensure a smooth transition from existing to the new criminal code.

The attached pages discuss in detail the training program to be conducted by the Department of Law. The program has two phases. The first begins on April 1, 1979 and continues until June 30, 1979. During April and May of this year a criminal code manual will be prepared by the Department of Law. The manual will include the provisions of the new criminal code, the relevant corresponding sections of the prior criminal code, the commentary adopted by the legislature expressing its intent in passing the criminal

code, cross-references for each statute to other relevant provisions in the criminal code, a derivation chart listing the states upon which the revised criminal code was based and a compilation of judicial decisions in states having statutes similar to those appearing in the new criminal code. The manual will be approximately five-hundred pages and will be distributed to all district attorneys, public defenders and judges. Extra copies of the manual will be available at cost to members of the defense bar.

The first phase of instruction will begin in Sitka in early June for all district attorneys. A twelve-hour session conducted over two days is planned. Training manuals will be distributed at or before the session. All members of the eight district attorneys offices will leave the session with a working knowledge of the criminal code along with a manual which will address many of the questions which will arise once the code becomes effective.

Also being held in Sitka at the same time as the district attorney's conference is the annual judicial conference. Members of the criminal division of the Department of Law will present an overview of the criminal code at the judicial conference and distribute the criminal code manual. Also envisioned is a program on the new criminal code to be

presented at the Alaska Bar Association Convention in Sicks
prior to the judicial conference.

The second phase of the training program will commence on July 1, 1979. Drafting will begin on a criminal code work book which will be distributed to all law enforcement officers (both state and municipal) in Alaska. The work book will be drafted in conjunction with the efforts of the Department of Public Safety Academy to devise a training program for new recruits. The work book will emphasize those provisions of the criminal code which are of particular relevance to peace officers (i.e., assault, disorderly conduct, homicide, theft, joyriding). A number of questions regarding the statutes will also be included. These questions will be answered by the officers at the training sessions described below. An instruction manual will also be prepared which will be used by the eight prosecuting attorney instructors who will be assigned primary responsibility for training law enforcement officers.

In early fall a five-day intensive review of the criminal code will be conducted in Anchorage. Eight prosecuting attorneys, one from each of the eight state district attorney offices located in Ketchikan, Juneau, Anchorage, Bethel, Nome, Kenai, Fairbanks, and Kodiak will attend this session.

Each of the eight prosecuting attorney instructors with the assistance of the attorney coordinator will be responsible for the training of all law enforcement officers in their city and surrounding communities. The five day meeting will acquaint the prosecuting attorney instructors with the training program for law enforcement officers.

Instruction of law enforcement officers will be conducted from October 1 to December 15, 1979 by the attorney coordinator and the prosecuting attorney instructors. The primary sessions will be held in the eight cities having district attorney offices. The sessions will be two days long, with several sessions contemplated in the larger communities. All local law enforcement offices as well as officers from surrounding communities having less than five peace officers will attend these sessions. Similar sessions will also be held in surrounding communities having five or more peace officers.

Upon completion of the training program for law enforcement officers, the coordinating attorney will begin work on sample complaints to be used in charging under the criminal code. Work will also begin in conjunction with the court system on a set of jury instructions to be used with the criminal code.

The final phase of the training program will be conducted at the eight district attorney offices during May 15-June 30. The attorney coordinator will conduct reviews of selected areas of the code as well as address problems that have arisen since the code's implementation.

SUMMARY OF COST OF CRIMINAL CODE TRAINING PROGRAM
April 1, 1979 - June 30, 1980

Personal Services	\$ 77,371.67
Travel	28,897.43
Printing and video costs	18,200.00
Commodities	<u>7,350.00</u>
	\$131,819.10

I. Attorney Coordinator

A. Prepare Criminal Code Manual to include new criminal code, corresponding provisions of old criminal code, commentary adopted by legislature, derivation information listing states with similar statutes and judicial decisions interpreting statutes, cross references to other relevant statutes in new criminal code.

B. Conduct first phase of training for all district attorneys and assistant district attorneys in Sitka. June 11-12.

C. Present programs on criminal code at:

1. Judicial Conference - Sitka, June 11-13

2. Bar Association Convention - Sitka, June 6-8

3 months x 4,620.36 \$13,861.08

II. Legal Intern - Research judicial decisions in other states with statutes similar to those appearing in criminal code. Compile decisions for placement in criminal code manual.

3 months x \$1,800 5,400.00

III. Travel and per diem (see detailed cost analysis attached)

12,865.28

IV. Printing of criminal code manual and distribution to all district attorneys, public defenders and judges (including postage).

350 sets x \$12 4,200.00

V. Video tape production: includes cost of tapes, filming and reproduction costs of recording training program for district attorneys. Tapes to be used for training district attorneys hired after June 1979 and in training district attorneys unable to attend training program in Sitka.

3,000.00

VI. Telephone - \$200 per month

600.00

VII. Commodities and office consumables

\$250 per month 750.00

VIII. Secretarial support:

\$1,836 x 3 5,508.00

\$46,184.36

III. Secretarial support:		
	12 months 1/2 time x \$1,836.56	11,019.35
IV. Printing of workbook for law enforcement officers:		
	1,000 x \$8.00	8,000.00
V. Video tape production: includes cost of tapes, filming and reproduction costs of recording training program for law enforcement officers. Tapes to be used for training law enforcement officers hired after December 15, 1979 and in training of officers who are unable to attend programs conducted October 1 to December 15, 1979.		3,000.00
VI. Telephone: \$200 per month		2,400.00
VII. Commodities and office consumables: \$250 per mo.		<u>3,600.00</u>
		\$85,634.74

TRAVEL AND PER DIEM COSTS - PHASE I

Travel costs for 45 district attorneys and assistant district attorneys to Sitka to attend two-day training session on criminal code:

To Sitka from:

Juneau - 7 x \$64.24	=	\$ 449.68
Ketchikan - 2 x \$93.16	=	186.32
Anchorage - 21 x \$180.08	=	3,781.68
Kenai - 2 x \$216.08	=	432.16
Kodiak - 2 x \$275.49	=	550.98
Bethel - 1 x \$328.90	=	328.90
Nome - 1 x \$333.72	=	333.72
Fairbanks - 9 x \$235.76	=	<u>2,121.84</u>
		\$8,185.28

Per diem: 45 participants at \$52		
per day x 2 days	=	<u>\$4,680.00</u>

TOTAL

\$12,865.28

TRAVEL AND PER DIEM COSTS - PHASE II

A. Training program for prosecuting attorney instructors in Anchorage. September 17 to September 21.

Round trip airfare of prosecuting attorney instructors to Anchorage from:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>

\$ 967.05

Per diem: 7 participants x 5 days x \$55
per day \$1,925.00

TOTAL

\$2,892.05

B. Trips of attorney coordinator to district attorney offices. October 1 to December 15.

Round trip airfare from Anchorage to:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>

\$ 967.05

Per diem for attorney coordinator for trips to district attorneys offices. October 15 to December 15:

Juneau - 3 days x \$55	=	\$ 165.00
Ketchikan - 3 days x \$50	=	150.00
Kenai - 3 days x \$54	=	162.00
Kodiak - 2 days x \$54	=	108.00
Bethel - 2 days x \$65	=	130.00
Fairbanks - 5 days x \$50	=	290.00
Nome - 2 days x \$82	=	<u>164.00</u>

\$1,169.00

TOTAL

2,136.05

C. Trips of peace officer- from cities having less than five peace officers to nearest district attorney's office. October 1 to December 15.

		<u>Number of Officers</u>
To Ketchikan from:	Metlaktla	2
	Craig	2
To Juneau from:	Haines	4
	Skagway	3
	Hoonah	2
	Pelican	1
	Yakutat	1
To Anchorage from:	Whittier	1
To Fairbanks from:	North Pole	3
	Nenana	2
To Kenai from:	Seldovia	1
To Kodiak from:	Dillingham	2
	Unalaska	<u>2</u>
		26

26 officers at approximately \$200 per trip including per diem \$ 5,200.00

D. Trips of prosecuting attorney instructor and coordinating attorney to Petersburg, Wrangell, Valdez, Palmer, Glenallen, Tok, Cordova, Barrow, Seward, Homer, Kotzebue. October 15 to December 15.

10 cities at approximately \$200 per trip including per diem x 2 4,000.00

E. Trips of attorney coordinator to district attorney's offices. April 15 to May 15:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>
		\$ 967.05

Per diem for attorney coordinator for trips to district attorneys offices. April 15 to May 15:

Juneau - 2 days x \$55	=	\$ 110.00
Ketchikan - 2 days x \$50	=	100.00
Kenai - 2 days x \$54	=	108.00
Kodiak - 2 days x \$54	=	108.00
Bethel - 2 days x \$65	=	130.00
Fairbanks - 3 days x \$58	=	116.00
Nome - 2 days x \$82	=	<u>165.00</u>
		\$ 837.00

TOTAL

1,804.05

\$16,032.15

MEMORANDUM

TO [Barry Stern
Coordinator, Criminal Code Training
Department of Law

DATE February 27, 1979

FILE NO

TELEPHONE NO

FROM James F. Mayer 
Executive Director
Alaska Police Standards Council

SUBJECT Criminal Code Training/
Village Police Officers

The following list identifies the communities and number of police officers in the "village" category which will require training in the Criminal Code revision. They are broken down regionally, based on the already proposed training centers.

<u>Training Center</u>	<u>Municipality</u>	<u>Number of Officers</u>
Anchorage	St. Paul	1
	King Cove	1
	McGrath	1
Bethel	Kotlik	2
	Emmonak	2
	Grayling	1
	Alakanuk	1
	Sheldon Point	1
	Shageluk	3
	Holy Cross	2
	Mountain Village	1
	Scammon Bay	2
	St. Mary's	1
	Fortuna Ledge	1
	Chevak	2
	Chuathbaluk	2
	Lower Kalskag	1
	Aniak	1
	Newtok	2
	Tununak	2
	Toksook Bay	3
	Nightmute	1
	Chefornak	1
	Akolmiut	4
	Atmautluak	2
	Akiachak	2
	Akiak	2
	Kwethluk	2
	Napakiak	2
	Quinhagak	4
	Ekwok	1
	Aleknagik	1
	Goodnews Bay	2
Platinum	2	
Togiak	2	
Nanokotak	2	

<u>Training Center</u>	<u>Municipality</u>	<u>Number of Officers</u>
Fairbanks	Fort Yukon	1
Ketchikan	Klawock	1
Petersburg	Kake	2
Juneau	Tenakee Springs	1
Kotzebue	Kivalina	1
	Kiana	1
	Ambler	1
	Noorvik	2
	Kobuk	1
	Selawik	5
	Shishmaref	3
	Deering	1
	Buckland	1
	Kenai	Soldotna
Kodiak	Ouzinkie	1
Nome	Diomedes	1
	Wales	1
	Brevig Mission	1
	Teller	1
	Elin	1
	White Mountain	1
	Golovin	1
	Koyuk	2
	Unalakleet	4
	Galena	1
	Stebbins	3
	Savoonga	2
	St. Michael	2
Sitka	Angoon	2

65 Municipalities

116 Officers

The following budget is proposed to provide transportation and per diem for these officers to go to the listed regional training centers:

Round-trip Transportation:

116 officers @ \$200.

\$23,200

Memo to Barry Stern
Page 3

Per Diem:

116 officers @ \$50. x 3 days

17,400

TOTAL

40,600.

These estimates are based on two-day training sessions, air charter costs, and are exclusive of administrative costs and any necessary additional travel and per diem for the instructors.

JFM/mas

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 261
 Title "An Act making a supplemental Appropriation...on the revised Criminal
 Requested by Legislative Finance Division Date Mar. 6, 1979 Code...

II. FISCAL DETAIL
 Agency Affected Department of Law
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected Prosecution

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	24.7					
200 TRAVEL	12.9					
300 CONTRACTUAL	7.8					
400 COMMODITIES	.7					
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	46.1					

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	46.1					
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	2					
PART TIME	0					
TEMPORARY	0					

2 Positions 3 months each

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
 This bill provides supplemental funds to the Department of Law to initiate training for the Revised Criminal Code. A detailed training plan is attached which spells out the steps which should be taken over the next 15 months to prepare members of the Criminal Justice System for implementation of the revised code. It is therefore important that training begin in the very near future. A phase I budget is included with the attached training plan which spells out the use of the funds to be provided by this bill. A separate Fiscal note has been prepared for phase II training, funds for which are requested in CSHB 262.

Richard I. Pegues

IV. DATE 3/8/79 PREPARED BY Richard I. Pegues, Admin. Officer
 AGENCY Law
 PHONE 465-3695
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB

262

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST (See fiscal note for HD 261 for back-up on
Bill/Resolution No. CSHB 262 Revised Criminal Code-Training Program.)
Title "An Act making a special Appropriation...for training...on Revised
Requested by Legislative Finance Division Date Criminal Code...
March 6, 1979

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Administration of Justice
Budget Request Unit(s) Affected Prosecution

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		52.6				
200 TRAVEL		56.6				
300 CONTRACTUAL		13.4				
400 COMMODITIES		3.6				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		126.2	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		126.2	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

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

The attorney coordinator position will be full-time for 6 mos. and then become part-time for 6 mos. The secretarial position will be part-time for 12 mos.

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This bill provides special funds to carry out a training program to prepare members of the Criminal Justice System for implementation of the Revised Criminal Code which goes into effect on 1/1/80. Monies from this special appropriation will be used to fund training during the last 12 months of a 15 month training program. Training for the first 3 months of the program will be provided with funds from HB 261 and for which a separate fiscal note has been prepared. A description of the training, including a detailed budget, is attached. Costs provided by this bill are denoted as phase II training in the description.

IV. DATE March 8, 1979 PREPARED BY Richard I. Pegues, Admin. Officer
AGENCY Law
Original: Legislative Finance PHONE 465-3695
cc: Budget and Management
Prime Sponsor (First Legislator Named)

REVISED CRIMINAL CODE-TRAINING PROGRAM

The second session of the tenth Alaska Legislature adopted a new criminal code for the state. The new code is a sweeping and comprehensive revision of Alaska's criminal law. The code becomes effective on January 1, 1980. The eighteen month delayed effective date was specified to allow sufficient time to devise and implement a training program to ensure that all segments of the criminal justice system would be familiar with the code once it went into effect. Though envisioning this training program, the Legislature failed to provide funds for its development and implementation. The funding of a training program is critical to ensure a smooth transition from existing law to the new criminal code.

The attached pages discuss in detail the training program to be conducted by the Department of Law. The program has two phases. The first begins on April 1, 1979 and continues until June 30, 1979. During April and May of this year a criminal code manual will be prepared by the Department of Law. The manual will include the provisions of the new criminal code, the relevant corresponding sections of the prior criminal code, the commentary adopted by the legislature expressing its intent in passing the criminal

code, cross-references for each statute to other relevant provisions in the criminal code, a derivation chart listing the states upon which the revised criminal code was based and a compilation of judicial decisions in states having statutes similar to those appearing in the new criminal code. The manual will be approximately five-hundred pages and will be distributed to all district attorneys, public defenders and judges. Extra copies of the manual will be available at cost to members of the defense bar.

The first phase of instruction will begin in Sitka in early June for all district attorneys. A twelve-hour session conducted over two days is planned. Training manuals will be distributed at or before the session. All members of the eight district attorneys offices will leave the session with a working knowledge of the criminal code along with a manual which will address many of the questions which will arise once the code becomes effective.

Also being held in Sitka at the same time as the district attorney's conference is the annual judicial conference. Members of the criminal division of the Department of Law will present an overview of the criminal code at the judicial conference and distribute the criminal code manual. Also envisioned is a program on the new criminal code to be

presented at the Alaska Bar Association Convention in Sitka prior to the judicial conference

The second phase of the training program will commence on July 1, 1979. Drafting will begin on a criminal code work book which will be distributed to all law enforcement officers (both state and municipal) in Alaska. The work book will be drafted in conjunction with the efforts of the Department of Public Safety Academy to devise a training program for new recruits. The work book will emphasize those provisions of the criminal code which are of particular relevance to peace officers (i.e., assault, disorderly conduct, homicide, theft, joyriding). A number of questions regarding the statutes will also be included. These questions will be answered by the officers at the training sessions described below. An instruction manual will also be prepared which will be used by the eight prosecuting attorney instructors who will be assigned primary responsibility for training law enforcement officers.

In early fall a five-day intensive review of the criminal code will be conducted in Anchorage. Eight prosecuting attorneys, one from each of the eight state district attorney offices located in Ketchikan, Juneau, Anchorage, Bethel, Nome, Kenai, Fairbanks, and Kodiak will attend this session.

Each of the eight prosecuting attorney instructors with the assistance of the attorney coordinator will be responsible for the training of all law enforcement officers in their city and surrounding communities. The five day meeting will acquaint the prosecuting attorney instructors with the training program for law enforcement officers.

Instruction of law enforcement officers will be conducted from October 1 to December 15, 1979 by the attorney coordinator and the prosecuting attorney instructors. The primary sessions will be held in the eight cities having district attorney offices. The sessions will be two days long, with several sessions contemplated in the larger communities. All local law enforcement offices as well as officers from surrounding communities having less than five peace officers will attend these sessions. Similar sessions will also be held in surrounding communities having five or more peace officers.

Upon completion of the training program for law enforcement officers, the coordinating attorney will begin work on sample complaints to be used in charging under the criminal code. Work will also begin in conjunction with the court system on a set of jury instructions to be used with the criminal code.

The final phase of the training program will be conducted at the eight district attorney offices during May 15-June 30. The attorney coordinator will conduct reviews of selected areas of the code as well as address problems that have arisen since the code's implementation.

SUMMARY OF COST OF CRIMINAL CODE TRAINING PROGRAM
April 1, 1979 - June 30, 1980

Personal Services	\$ 77,371.67
Travel	28,897.43
Printing and video costs	18,200.00
Commodities	<u>7,350.00</u>
	\$131,819.10

PHASE I COSTS: April 1, 1979 - June 30, 1979

I. Attorney Coordinator

- A. Prepare Criminal Code Manual to include new criminal code, corresponding provisions of old criminal code, commentary adopted by legislature, derivation information listing states with similar statutes and judicial decisions interpreting statutes, cross references to other relevant statutes in new criminal code.
- B. Conduct first phase of training for all district attorneys and assistant district attorneys in Sitka. June 11-12.
- C. Present programs on criminal code at:
 - 1. Judicial Conference - Sitka, June 11-13
 - 2. Bar Association Convention - Sitka, June 6-8

3 months x \$4,620.36 \$13,861.08

- II. Legal Intern - Research judicial decisions in other states with statutes similar to those appearing in criminal code. Compile decisions for placement in criminal code manual.

3 months x \$1,800 5,400.00

- III. Travel and per diem (see detailed cost analysis attached)

12,865.28

- IV. Printing of criminal code manual and distribution to all district attorneys, public defenders and judges (including postage).

350 sets x \$12 4,200.00

- V. Video tape production: includes cost of tapes, filming and production costs of recording training program for district attorneys. Tapes to be used for training district attorneys hired after June 1979 and in training district attorneys unable to attend training program in Sitka.

3,000.00

- VI. Telephone - \$200 per month

600.00

- VII. Commodities and office consumables

\$250 per month 750.00

- VIII. Secretarial support:

\$1,836 x 3 5,508.00

\$46,184.36

PHASE II COSTS: July 1, 1979 - June 30, 1980

I. Attorney Coordinator

- A. Coordinate training program for law enforcement officers (Alaska State Troopers and municipal peace officers) in conjunction with and relying on expertise of Department of Public Safety Academy and Alaska Police Standards Council. Prepare criminal code workbook for use by law enforcement officers and instructor's manual for use by prosecuting attorney instructors. July 1 to August 31.
- B. Conduct training program of prosecuting attorney instructors. September 17 to September 21, Anchorage. Familiarize instructors with training program for law enforcement officers.
- C. Supervise training by prosecuting attorney instructors of law enforcement officers. October 1 to December 15.
- D. Preparation of sample complaints. December 15 to March 15.
- E. Preparation of jury instructions in conjunction with Court System. January 15 to June 30.
- F. Follow up training in district attorney's offices. May 15 to June 30.

6 months full time x \$4,620.36

6 months 1/2 time x \$2,310.18

\$41,583.24

II. Travel and per diem (see detailed cost analysis attached)

- A. Anchorage training program of eight prosecuting attorney instructors. September 17 to September 21.
- B. Trips of attorney coordinator from Anchorage to Ketchikan, Juneau, Kenai, Soldotna, Kodiak, Bethel, Fairbanks, and Nome. October 1 to December 15.
- C. Trips of peace officers from communities having less than five peace officers to nearest district attorney's office. October 1 to December 15.
- D. Trips of prosecuting attorney instructors and attorney coordinator to Petersburg, Wrangell, Sitka, Valdez, Palmer, Glenallen/Tok, Cordova, Barrow, Seward, Homer, Kotzebue. October 1 to December 15.
- E. Follow up training in district attorney offices. May 15 to June 15.

16,032.15

III. Secretarial support:		
	12 months 1/2 time x \$1,836.56	11,019.35
IV. Printing of workbook for law enforcement officers:		
	1,000 x \$8.00	8,000.00
V. Video tape production: includes cost of tapes, filming and reproduction costs of recording training program for law enforcement officers. Tapes to be used for training law enforcement officers hired after December 15, 1979 and in training of officers who are unable to attend programs conducted October 1 to December 15, 1979.		3,000.00
VI. Telephone: \$200 per month		2,400.00
VII. Commodities and office consumables: \$250 per mo.		<u>3,600.00</u>
		\$85,634.74

TRAVEL AND PER DIEM COSTS - PHASE I

Travel costs for 45 district attorneys and assistant district attorneys to Sitka to attend two-day training session on criminal code:

To Sitka from:

Juneau - 7 x \$64.24	=	\$ 449.68
Ketchikan - 2 x \$93.16	=	186.32
Anchorage - 21 x \$180.08	=	3,781.68
Kenai - 2 x \$216.08	=	432.16
Kodiak - 2 x \$275.49	=	550.98
Bethel - 1 x \$328.90	=	328.90
Nome - 1 x \$333.72	=	333.72
Fairbanks - 9 x \$235.76	=	<u>2,121.84</u>
		\$8,185.28

Per diem: 45 participants at \$52		
per day x 2 days	=	<u>\$4,680.00</u>

TOTAL

\$12,865.28

TRAVEL AND PER DIEM COSTS - PHASE II

A. Training program for prosecuting attorney instructors in Anchorage. September 17 to September 21.

Round trip airfare of prosecuting attorney instructors to Anchorage from:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>
		\$ 967.05

Per diem: 7 participants x 5 days x \$55
per day \$1,925.00

TOTAL \$2,892.05

B. Trips of attorney coordinator to district attorney offices. October 1 to December 15.

Round trip airfare from Anchorage to:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>
		\$ 967.05

Per diem for attorney coordinator for trips to district attorneys offices. October 15 to December 15:

Juneau - 3 days x \$55	=	\$ 165.00
Ketchikan - 3 days x \$50	=	150.00
Kenai - 3 days x \$54	=	162.00
Kodiak - 2 days x \$54	=	108.00
Bethel - 2 days x \$65	=	130.00
Fairbanks - 5 days x \$58	=	290.00
Nome - 2 days x \$82	=	<u>164.00</u>
		\$1,169.00

TOTAL 2,136.05

C. Trips of peace officers from cities having less than five peace officers to nearest district attorney's office. October 1 to December 15.

		<u>Number of Officers</u>
To Ketchikan from:	Metlaktla	2
	Craig	2
To Juneau from:	Haines	4
	Skagway	3
	Hoonah	2
	Pelican	1
	Yakutat	1
To Anchorage from:	Whittier	1
To Fairbanks from:	North Pole	3
	Nenana	2
To Kenai from:	Seldovia	1
To Kodiak from:	Dillingham	2
	Unalaska	<u>2</u>
		26

26 officers at approximately \$200 per trip including per diem \$ 5,200.00

D. Trips of prosecuting attorney instructor and coordinating attorney to Petersburg, Wrangell, Valdez, Palmer, Glenallen, Tok, Cordova, Barrow, Seward, Homer, Kotzebue. October 15 to December 15.

10 cities at approximately \$200 per trip including per diem x 2 4,000.00

E. Trips of attorney coordinator to district attorney's offices. April 15 to May 15:

1.	Juneau	\$ 171.16
2.	Ketchikan	222.42
3.	Kenai	36.00
4.	Kodiak	95.41
5.	Bethel	148.82
6.	Fairbanks	102.12
7.	Nome	<u>191.12</u>
		\$ 967.05

Per diem for attorney coordinator for trips to district attorneys offices. April 15 to May 15:

Juneau - 2 days x \$55	=	\$ 110.00
Ketchikan - 2 days x \$50	=	100.00
Kenai - 2 days x \$54	=	108.00
Kodiak - 2 days x \$54	=	108.00
Bethel - 2 days x \$65	=	130.00
Fairbanks - 3 days x \$58	=	116.00
Nome - 2 days x \$82	=	<u>165.00</u>
		\$ 837.00

TOTAL

1,804.05

\$16,732.15

<u>Training Center</u>	<u>Municipality</u>	<u>Number of Officers</u>
Fairbanks	Fort Yukon	1
Ketchikan	Klawock	1
Petersburg	Kake	2
Juneau	Tenakee Springs	1
Kotzebue	Kivalina	1
	Kiana	1
	Ambler	1
	Noorvik	2
	Kobuk	1
	Selawik	5
	Shishmaref	3
	Deering	1
	Buckland	1
Kenai	Soldotna	8
Kodiak	Ouzinkie	1
Nome	Diomede	1
	Wales	1
	Brevig Mission	1
	Teller	1
	Elim	1
	White Mountain	1
	Golovin	1
	Koyuk	2
	Unalakleet	4
	Galena	1
	Stebbins	3
	Savoonga	2
	St. Michael	2
Sitka	Angoon	2

65 Municipalities

116 Officers

The following budget is proposed to provide transportation and per diem for these officers to go to the listed regional training centers:

Round-trip Transportation:

116 officers @ \$200.

\$23,200

Per Diem:

116 officers @ \$50. x 3 days	17,400
	<hr/>
TOTAL	\$40,600.

These estimates are based on two-day training sessions, air charter costs, and are exclusive of administrative costs and any necessary additional travel and per diem for the instructors.

JFM/mas



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 2, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

It is the intent of the House Judiciary Committee that under House Bill 262 first priority be given to the training of police officers and village magistrates, second priority to the training of district attorneys and public defenders. Training of judges and members of the private bar has the lowest priority.

The Committee recommends that the Finance Committee seek testimony from the office of the Public Defender.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles H. Parr".

Charles H. Parr
Chairman

MEMORANDUM

TO: [Barry Stern
Coordinator, Criminal Code Training
Department of Law

DATE: February 27, 1979

FILE NO:

TELEPHONE NO:

FROM: James F. Mayer *JFM*
Executive Director
Alaska Police Standards Council

SUBJECT: Criminal Code Training/
Village Police Officers

The following list identifies the communities and number of police officers in the "village" category which will require training in the Criminal Code revision. They are broken down regionally, based on the already proposed training centers.

<u>Training Center</u>	<u>Municipality</u>	<u>Number of Officers</u>
Anchorage	St. Paul	1
	King Cove	1
	McGrath	1
Bethel	Kotlik	2
	Emmonak	2
	Grayling	1
	Alakanuk	1
	Sheldon Point	1
	Shageluk	3
	Holy Cross	2
	Mountain Village	1
	Scammon Bay	2
	St. Mary's	1
	Fortuna Ledge	1
	Chevak	2
	Chuathbaluk	2
	Lower Kalskag	1
	Aniak	1
	Newtok	2
	Tununak	2
	Toksook Bay	3
	Nightmute	1
	Chefornak	1
	Akolmiut	4
	Atnautluak	2
	Akiachak	2
	Akiak	2
	Kwethluk	2
	Napakiaak	2
	Quinhagak	4
	Ekwok	1
	Aleknagik	1
	Goodnews Bay	2
	Platinum	2
	Togiak	2
Manokotak	2	

HB

389

COMMITTEE REPORT

SENATE

FURTHER: None

4/17/80

Date: 5/1/80

Mr. President:

The Committee on JUDICIARY has had HB 389
state regulation of fireworks

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

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

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

3-1-1
CHAIRMAN

Alaska State Legislature



IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4949

BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 8

April 15, 1980

MEMORANDUM

TO: All Members of the House of Representatives

FROM: Representative Randy Phillips ~~R.C.P.~~

RE: Bill Analysis of HB 389 ~~Fireworks~~

The main thrust of the bill amounts to the following changes:

- A. Elimination of the requirement that the state and all governmental subdivisions of the state be named as insured parties on the person's insurance policy.
- B. Deletion as a prerequisite to selling salable fireworks the acquisition of product liability insurance.

Through research and testimony from the Administration and in various committees, the following conclusions were reached:

1. That these insurance requirements do in fact discriminate in favor of large out-of-state fireworks companies. The little in-state guys cannot get insurance even from Lloyd's of London because of the statutory requirements.
2. No clearly justified benefits--either to the state or a possible injured party--exist with the inclusion of these provisions.
3. These items were enacted into the statutes back in 1968 or 1969, allegedly in response to lobbying by a large fireworks outfit. No evidence arose to the contrary.

The secondary changes in the bill are:

- A. Reduction of the permit fee from \$500 to \$100.
- B. Reduction of required public liability insurance for bodily injury from \$300,000 to \$200,000.
- C. Reduction of required public liability insurance for property damage from \$100,000 to \$50,000.

NOTE: There have been very few damages or injuries in the state due to fireworks.

Phillips Says Legislature Goofed

By BOB MILLER
Times Staff Writer

Senate President Brad Phillips has sworn in an affidavit that the final hours of the last legislature "were marked by a frenzied effort to dispose of unfinished business and on some occasions resulted unavoidably in hasty and uninformed actions on important legislative matters . . ."

The Anchorage Republican made the statement in an affidavit that is being used in a court attempt to set aside a

law that was passed by the legislature to regulate fireworks in the state.

Phillips said, "It is my intention to press for the repeal or appropriate amendment of this law at the next session of the legislature and I do not believe it is in the public interest that it be enforced or allowed to be enforced in its present form."

At issue is Senate Bill 362 which became Chapter 116 of the Alaska Statutes after it was signed by Gov. Keith H. Miller last May 22. James E. Norene of

Western States Fireworks and Joseph Bagwill of Alaska Fireworks are seeking to have the law set aside because it allegedly creates a monopoly for an "Outside" firm, Ace Fireworks Co.

Defendants in the case are Ace, State of Alaska, Empire Fire and Marine Insurance and Kenneth J. Tobey Inc., an insurance firm. Edgar Paul Boyko, who represents Norene and Bagwill, is using Phillips' affidavit in the case.

Superior Court Judge C. J.

Oochipinti has issued a preliminary injunction to prevent the state from enforcing the insurance provision of the law.

In the preliminary injunction order, Judge Oochipinti indicated Ace has a monopoly on the fireworks business in the state because it is the only one that can get insurance as prescribed by the law.

In his affidavit, Phillips said "To my knowledge, this particular piece of legislation did not receive the proper attention or investigation and it was passed

Due To Haste In 'Final Hours'

and approved by the legislature in this manner only because of representations made to affiant and others by persons believed to be reliable that such legislation was non-controversial . . ."

Henry Pratt of Anchorage was the lobbyist for Ace Fireworks during the last session and worked for passage of the bill. Phillips said he has subsequently come to the conclusion that the law created "an unlawful monopoly."

The affidavit strongly hints that the bill passed in the final

days of the legislature which adjourned May 1. The record shows that the bill was approved by the Senate on April 15 and finally by the House on May 1. It was considered first April 11 in the Senate after the Local Affairs Committee reported it out with a "do pass" recommendation.

The only senators who voted against it were:

Robert Blodgett, D-Teller; F. B. Hagglund, R-Fairbanks; Jay Hammond, R-Naknek; C. R. Lewis, R-Anchorage; Lowell

Thomas Jr., R-Anchorage, Sen. W. I. Palmer, R-Ninilchik, was absent.

Phillips continued, "Being personally in the insurance business and in order to test the claims of the Alaskan business interests affected, I made an effort to obtain either in the domestic and foreign markets coverage as required by this law, for the legitimate members of the Alaska industry supplying fireworks to the Alaska retailers, and discovered that the kinds of insurance coverage which is written into

this law cannot be obtained either on the domestic or foreign markets, or only at prohibitive rates; if at all, because it entails risks which are virtually impossible of proper ascertainment or evaluation."

He indicated the bill passed because just before adjournment legislators found it necessary "to rely on the representations of persons believed to be trustworthy, who urged such last minute legislative actions upon members of the legislature."

James E. Norene
717 Irwin St.
Anchorage, Ak. 99504

Mr. Randy Phillips
House of Representatives
Pouch Y
Juneau, Alaska 99801

Dear Mr. Phillips:

As you know, I have handled firework sales for over thirty years in Alaska, and am still supplementing my pension with firework sales.

In 1969, a bill was passed in the legislature (S.B. 302 am, Chapter 116 amended to add a new Chapter 72, State regulation of fireworks). The bill was introduced by Ace Fireworks Co. of Seattle, to gain a monopoly in the State of Alaska, as the insurance requirements were such that it was impossible to obtain the policy even through Lloyds of London. Even Ace Fireworks Company's insurance company refused me a policy. The case was taken to court, I was able to get an injunction through the courts, including the State Supreme Court, which eliminated the insurance clause, and I was able to stay in business.

Now, I have just learned that in 1972, I was supposed to appear in court within 60 days to substitute the State of Alaska as party defendant in place of the individual defendants originally named, and failing to do so the case would be dismissed. I was never notified nor issued a subpoena and only learned of the action as of yesterday through the State Fire Marshal's office in Anchorage. Once again, I am denied a State fireworks license while the large companies in Seattle, Tacoma, and Denver can monopolize the State of Alaska because the State law prohibits the small companies in Alaska from obtaining insurance as called for in the Act.

I know that it is almost sine die, in legislature, but with your cooperation and other members of both houses I feel sure that the amendment that I am submitting can be pushed through before adjournment. I am not trying to eliminate other firework companies, only amend the Act so Alaska businessmen can stay in business and not be subjected to monopolies. I am including a copy of a bill and memorandum from the Legislative Affairs Agency which was sent to Brad Phillips in 1970 and never introduced or passed, which would have eliminated the problem. I would appreciate your consideration and help, as the present Act is discriminatory to Alaskans.

I'm sorry that I am sending this request at such a late date, but as I mentioned before, it only came to my attention yesterday.

It is imperative that action be taken. Our orders were placed in January, and it will create an economic disaster if not corrected before July 1st.

Sincerely yours,

James E. Norene
James E. Norene
Former Legislator

LAW OFFICES

BOYKO AND WALTON

330 "L" STREET

ANCHORAGE, ALASKA 99501

TELEPHONE
277-2671

EDGAR PAUL BOYKO
PETER B. WALTON
JAMES H. LACK
STEPHEN C. COWPER
ROBERT H. WAGSTAFF

May 13, 1970

Honorable Brad Phillips
President, Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Brad:

I have your secretary's note of April 21, 1970, requesting my comments on the memo from Greg Machyowsky of the legislative affairs agency with respect to the fireworks insurance requirements of AS18.72.020(a)(1).

I agree with what he says, but feel that the matter has to be resolved by the legislature, since the final outcome of the litigation is still in doubt and in any event will not be ascertained prior to the 1970 fireworks season.

Accordingly, I have prepared a proposed amendment to the statute which would be acceptable to the local industry. I note, that the Governor's office is reported to be interested in considering introduction of an appropriate measure. Perhaps you could sell this to them, bearing in mind that our friend Hank Pratt has a conflict of interest as does our other good friend Senator Joe Josephson (who is the attorney of record for the outside fireworks company which was named as a defendant in the pending law suit).

For your convenience I am also enclosing a copy of Machyowsky's memorandum, so that you won't have to hunt for it.

Your response to the foregoing will be sincerely appreciated.

Cordially,

Edgar Paul Boyko

EPB:ss

CC: Mr. James Norene
Mr. Joseph Bagwill

encl

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 27, 1970

MEMORANDUM

TO: Senator Brad Phillips

FROM: Greg Machyowsky, Legislative Counsel

SUBJECT: Attached bill relating to state fireworks control

As we discussed, the attached bill amends AS 18.72 to eliminate the requirement that wholesalers of fireworks obtain insurance for products liability and reduces the amounts of public liability insurance required. In addition, the bill reduces the amount of the annual license fee required to engage in the business of wholesale sale of fireworks.

The bill does not remove the authority of the state fire marshal to enforce the law and regulations issued under the fire safety code with respect to use of fireworks (a copy of the current regulations is attached).

As you know, the state supreme court, in State v. Morene (457 P.2nd 926, August, 1969) has enjoined enforcement of the existing law insofar as it requires insurance policies to provide for coverage of the state and political subdivisions of the state as additional insureds. The fire marshal's regulations (at 13 AAC 51.010(b)) now omit the requirement for the state and political subdivisions as additional insureds on a policy.

In addition, from the supreme court's opinion, there is a possibility that the entire requirement for insurance may at least temporarily be unenforceable, pending any future determination of the validity of the provisions. However, at present neither the insurance requirement nor that part of it requiring additional insureds has been actually declared unconstitutionally discriminatory. In view of the unusual legal status of the provisions, though, the legislature may wish to revise the provisions, particularly the requirements for additional insureds. Consideration of deletion of the additional insureds requirement is recommended by the revisor in this year's Legislative Oversight of the Administration of Statutes.

Enclosures

Greg



J. C. MORRIS AGENCY, INC.

INSURANCE AGENTS: GENERAL • CASUALTY • BOND • LIFE
938 5TH AVENUE • ANCHORAGE, ALASKA 99501
(ON 5TH AVENUE FACING CAPTAIN COOK HOTEL)

June 14, 1969

Mr. James Norene
717 Irwin St.
Anchorage, Alaska

Dear Mr. Norene:

We were unsuccessful in obtaining liability coverage for you on fireworks sales in the State to meet the new Law. None of our Standard markets will consider a risk of this type. We also submitted the risk to Lloyds of London for their consideration, but they too have declined.

We are sorry we can not assist you in this case,

Sincerely,

J. C. MORRIS AGENCY



Von R. Baxter



please reply via

