

ALPHA INSTITUTE

1705 SJ - SB 741 861

Original sponsor: Eliason

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 741 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child support enforcement."

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

8 \* Section 1. AS 09.65.132(b) is amended to read:

9 (b) An income assignment order shall direct the obligor, the

10 obligor's [HIS] employer, future employer, and any person, political

11 subdivision, or department of the state to assign money due or to be due

12 the obligor to the obligee or to the child support enforcement agency

13 (AS 47.23) in an amount sufficient to meet the support payments imposed

14 by the court or by the child support enforcement agency under AS 47.-

15 23.140.

16 \* Sec. 2. AS 09.65.132(h) is amended to read:

17 (h) The court may order ~~an obligor to pay~~ <sup>THE PAYMENT OF</sup> all courts costs and

18 reasonable attorney fees involved in an income assignment proceeding

19 under this section.

ADOPTED  
M.D.

20 \* Sec. 3. AS 25.25.010(6) is amended to read:

21 \* ~~Sec. 1~~ (6) "duty of support" includes a duty of support imposed or

22 imposable by law, or by a court order, decree or judgment, whether

23 interlocutory or final, whether incidental to a proceeding for divorce,

24 legal separation, separate maintenance or otherwise, and includes the

25 duty to pay arrearages of support past due and unpaid together with

26 penalties and interest on arrearages;

27 \* Sec. 4. AS 47.23.020(2)(C) is amended to read:

28 \* - 2 (C) a uniform schedule of penalties and interest on

29 arrearages of support that shall [FEES WHICH MAY] be charged to the

1 obligor upon notice if [THE] child support payments are 10 or more  
2 days overdue or if payment is made by a check backed by insuffi-  
3 cient funds; [.]

4 \* Sec. 5. AS 47.23.020 is amended by adding a new paragraph to read:

5 (6) disburse child support payments collected by the agency  
6 to the obligee together with interest charged under (2)(C) of this  
7 section.

8 \* Sec. 6. AS 47.23 is amended by adding a new section to read:

9 Sec. 47.23.035. PENALTIES RETAINED. The agency may retain penal-  
10 ties charged under AS 47.23.020(2)(C).

11 \* Sec. 7. AS 47.23 is amended by adding a new section to read:

12 Sec. 47.23.105. AUDIT OF COLLECTIONS. Within 10 working days  
13 after receipt of a written request from an obligor or the obligor's  
14 legal representative, the agency shall provide a certified audit of all  
15 child support payments made by the obligor and received by the agency.  
16 The audit shall include the date and amount of each payment, the name of  
17 the obligee, and the total amount of arrearages of support past due and  
18 amount of unpaid penalties and interest imposed under AS 47.23.020(c).  
19 The agency is required to provide an audit for an obligor under this  
20 section only once each year.

21 \* Sec. 8. AS 47.23.110(3) is amended to read:

22 ~~Sec 8~~ *Sec 3* (3) "duty of support" includes a duty of child support imposed  
23 or imposable by law, by a court order, decree or judgment, or by a  
24 finding or decision rendered under this chapter whether interlocutory or  
25 final, whether incidental to a proceeding for divorce, legal separation,  
26 separate maintenance, or otherwise, and includes the duty to pay arrear-  
27 ages of support past due and unpaid together with penalties and interest  
28 on arrearages imposed under AS 47.23.020(2)(C);

29 \* Sec. 9. AS 47.23.070 is repealed.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 16, 1982

SUBJECT: Child support enforcement  
(CSSB 741)

TO: Senator Patrick M. Rodey  
Chairman, Senate Judiciary  
Committee

FROM: Tamara Brandt Cook  
Legislative Counsel

TBC

Here is the committee substitute you requested in final. In addition, you asked me to review whether AS 47.23.070 should be repealed, and, in particular, whether AS 09.65.132 allows for a court to order a wage assignment for child support by both parents as does AS 47.23.070.

AS 09.65.132(a) requires any judgment, court order or order of the child support enforcement agency providing for child support to contain an income assignment order. Since, both parents have a legal responsibility to furnish support for a child, the order could require wage assignments from both parents when the child is not living with one parent and being directly supported by that parent. Although the rest of the section refers to the "obligor" this in no way implies that a court may order only one person to furnish support. AS 01.10.050(b) provides with regard to all statutes that words in the singular include the plural.

AS 47.23.070 appears to conflict with AS 09.65.132 in several respects. AS 47.23.070(a) authorizes but does not require a court to order a wage assignment in a judgment for child support. It does not require an order of the child support enforcement agency to contain a wage assignment order at all. In addition, it authorizes an assignment of "salary or wages" only. AS 09.65.132(g) is broader in that it authorizes the court to assign any money owed to the obligor that is not exempt by law. It also provides an

Senator Patrick M. Rodey  
Page 2  
March 16, 1982

exemption of 50 percent of gross wages or \$100 a week. AS 09.65.132(c), (d), and (e) set out procedures under which a wage assignment order will take effect, including notice, hearing and other requirements. The order does not automatically take effect, but may take effect on request of a person or agency designated to receive support payments. On the other hand, an order issued under AS 47.23.070 takes effect immediately, although an employer is not required to comply until served with a copy of the order. AS 47.23.070 authorizes an employer to deduct \$1 from wages owed to an employee who has had wages assigned for child support, while AS 09.65.132 does not contain a similar provision.

Other provisions of AS 47.23.070 and 09.65.132, such as (d) of the former and (f) of the latter, are simply redundant.

For the foregoing reasons, either AS 47.23.070 or AS 09.-65.132 should be repealed.

TBC:ljb

Dear Janna:

Child Support Enforcement;

Suggested ammendments:

Eliason's amend: write out in bill that parent with child gets interest collected, dept. gets penalties. SUPPORT

Parr's amend: paying parent may get print-out of wages garnished or assigned upon request. SUPPORT (oppose the "only once a year" concept - s/he should be able to get it when needed).

Other suggested ammendments:

1. AS 09.65.132 should be included in the bill, also:  
" amended to read:

(b) An income assignment order shall direct the obligor, his employer, future employer, and any person, political subdivision, or department of the state to assign money due or to be due the obligor to the custodian or the child enforcement agency (AS...) in an amount sufficient to meet the support payments and arrearages and penalties and interest imposed by the court or by the child support enforcement agency under AS...."

2. AS 09.65.132 could also be amended to include the cost to the mother or custodial parent of attorneys' fees when forced to go to court to collect child support.

"amended to read:

(h) The court may order an obligor to pay all courts costs and actual attorney fees involved in an income assignment proceeding under this section."

Talk to Nancy G. in Fishber's office on details.

Susan Clark



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 17, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- HB 573 - "An Act relating to the crime of tampering with a witness."
- SB 741 - "An Act relating to child support enforcement."
- SB 633 - "An Act relating to work programs for prisoners in state institutions."
- SB 473 - "An Act relating to urban renewal and development projects of municipalities; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Parr, Ray, and Anderson. Senator Bennett was absent.

010 - Call to order by Chairman Rodey.

012 - Chairman Rodey brings SB 741 before the committee.

014 - Mr. Bruce gave explanation of the committee substitute.

037 - Senator Ray moves to adopt the committee substitute and pass the bill with individual recommendations. There was no objection.

085 - Next Chairman Rodey brought HB 573 before the committee.

100 - Mr. Bruce explains the changes that the committee substitute would make.

126 - Senator Ray moves to adopt the committee substitute and move the bill from committee with individual recommendations. There was no objection.

144 - SB 473 was the next item on the agenda.

152 - Mr. Lee Shark, City Attorney for Juneau, testified in favor of SB 473, stating it would clear up some confusion that exists in present law.

367 - Palmer McCarter, representing the Department of Community and Regional Affairs, testified in favor of the bill.

401 - Pat Anderson, representing the Municipality of Anchorage, testified in favor of SB 473.

526 - After brief discussion, Senator Parr asked that the bill be held in committee until Monday's meeting to enable time to review the bill further. There was no objection.

534 - Chairman Rodey next brought SB 633 before the committee.

540 - Senator Parr gave an overview of the bill.

581 - Mr. Walt Jones, Division of Corrections, testified in favor of SB 633.

The Committee spent considerable time discussing the merits of work programs and gratuity payments.

#### SIDE TWO

177 - Chairman Rodey suggests adopting amendments to SB 633 made by the Department of Health, Education, and Social Services. See attached amendments.

185 - Senator Ray objects to amendment on Page 1, Line 17. Chairman Rodey requested the Division of Corrections to review its fiscal note to insure that no fiscal impact is possible.

287 - SB 633 is laid on the table.

293 - Chairman Rodey adjourned at 2:35 P.M.

1. Page 1, line 17. Delete the last line in this paragraph and replace with:  
The amount of the gratuity payment may not exceed \$3.00 a day except  
in institutions where the work programs require prisoners to pay  
their daily expenses.
  
2. Page 2 Insert after line 22:  
  
AS 33.30.250(c) is amended to read:  
  
(c) Whenever the prisoner is not employed and between the hours of  
periods of employment, he shall be confined in jail or furlough facility  
as directed by the commissioner. ((UNLESS THE COURT DIRECTS OTHERWISE))
  
3. Page 1 After line 27. Insert:  
  
AS 33.30.250 is amended by adding a new sub section (d)  
  
(d) Notwithstanding provisions of this section,, prisoners may not be  
required to participate in Correctional Industries Programs except on a  
voluntary basis.



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

March 12, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SB 741 - "An Act relating to child support enforcement."

SB 603 - "An Act relating to regional resource centers."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Anderson, Parr, and Ray. Senator Bennett was absent.

002 - Chairman Rodey calls to order.

012 - Chairman Rodey brought SB 741 before the committee.

380 - Robin Foster, representing herself, testified against SB 741, stating she was against the whole Child Enforcement Agency.

529 - Chairman Rodey moves that the committee adopt an amendment to SB 741 on Page 1, Line 17, to delete "an obligor to pay" and insert "the payment of". There was no objection.

720 - Chairman Rodey laid SB 741 on the table and directed staff to prepare a memorandum explaining the section of the bill which repeals AS 47.23.070.

724 - Chairman Rodey next brought SB 603 before the committee.

789 - After brief discussion, Senator Anderson moves to pass the bill from committee with a do pass recommendation. There was no objection and the bill was passed.

802 - Adjourn.



# Alaska State Legislature

Official Business

## Senate

### Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 3, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SJR 6 - Proposing an amendment to the Constitution of the State of Alaska relating to sessions of the legislature.

SB 811 - "An Act relating to compilation of the jury list."

SB 626 - "An Act relating to smoking in public places."

SB 741 - "An Act relating to child support enforcement."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Bennett, Parr, and Anderson.

Chairman Rodey brought the first order of business before the committee, SB 811.

After a brief discussion, Senator Ray motioned to move SB 811 from committee with individual recommendations. There was no objection. Senators Rodey, Ray, and Bennett signed do pass. Senators Parr and Anderson signed no recommendation.

Chairman Rodey next brought SB 741 before the committee.

Senator Eliason testified in favor of SB 741 and distributed an amendment to the committee which would direct interest on delinquent payments to the obligee, and directs the penalty to the Child Enforcement Agency.

Dan Copeland, Director, Child Support Enforcement, Division of Department of Revenue, testified in opposition of SB 741, stating that it would place an extra administrative burden on the Agency for handling the cost of the enforcement. He did not think that the interest and penalty fee would add any incentive to the obligor and that it may actually decrease the amount of payments since it will add a financial cost to people who make the payments, some of whom don't want to make them anyway. The Federal Government has a law that allows them to charge a fee (10%), however, it is not enforced for the same reason. It

will require more administrative help, and they are concerned it may actually reduce the payments they currently receive.

Senator Rodey discussed the fiscal note. How much federally funded? What about non-ADFC?

Senator Parr brought to the committee's attention an incident where a man who had requested a certified copy of his check was not given one. He hired an attorney to obtain the copies and the attorney also had problems in getting the copy. Senator Parr was not aware of whether the agency ignored the request, lost it, or was giving the man the run-around, but that was how it was presented to him. Senator Parr expressed that copies should be made available of the payment upon written request.

Senator Ray stated that the number of copies should be limited so the agency isn't inundated with request. Limit it to one copy per year.

Senator Eliason stated that child support is a legal debt and we need to be able to enforce payments.

Mr. Copeland discussed the collection of fees and how it would offset the expenses of administering. He thinks it would cost considerable man hours and would not be cost effective. He compared it to the Court System that used to charge 3% to obtain a copy of the payment. They have discontinued it because it was not worth their time and administrative expense of providing the service.

Senator RoJey suggested that they lay the bill on the table and do more work with Senator Eliason. Senator Ray said that he will help work up a compromise.

Fred Jenkins, Men's Support Network and Alaska Domestic Violence Network, testified, stating that he agrees that the obligor should recognize payment. State will need more clerical work to administer. Should address penalty and interest and assign a specific amount. Look at the \$182,000 figure for clerical help and make sure it is reasonable.

The next item on the agenda was SB 62G.

Senator Parr discussed the law passed in 1975/76 dealing with smoking in public places. He stated that the Department of Environmental Conservation should change their definition regarding public places.

Karla Forsythe, General Counsel for the Alaska Court System, testified stating that the Court System does not have an official position on the bill. As the statute presently exists, smoking can occur in jury rooms. If rooms are adequately ventilated, smoking is allowed so needs of smokers and non-smokers can both be accomplished. It is a balancing situation to serve everyone's interest. Doesn't seem to interfere with allowing it in jury rooms.

Senator Parr raised the question as to whether or not there is adequate ventilation in jury rooms? All jury rooms?

Ms. Forsythe stated that again, it is a matter of balancing. Our Court Administrator believes the jury rooms are adequately ventilated.

Dr. E.S. Rabeau, stood up and indicated he had left a brief message expressing his thoughts. He asked Senator Rodey to read it or relay it to the other members of the Committee.

Senator Rodey said that basically the message is that non-smokers can risk lung cancer by being exposed to smokers.

Walt McPherson testified stating that his wife is allergic to smoking. She served on a jury and tried to get out of jury duty, but was not allowed. She was informed there would not be smoking; however, smoking did occur. She was sick for a week. He supports amendment and discussed problems in public places such as airports, restaurants, waiting areas, ferries, etc.

Senator Parr commented he also feels the problems occur in other public areas i.e. supermarkets, airports, etc., but feels jury rooms should be addressed since people don't have a choice of serving. It is unfair to expose them to the problem when they aren't there as a matter of choice.

The committee decided to hold the bill for further review. Senator Rodey adjourned the meeting at 2:40 P.M.

Since the prime sponsor of SJR 6, Senator Kelly, did not attend the meeting, that bill was not taken up.

# ALASKA STATE LEGISLATURE - SENATE



SENATOR RICHARD I. ELIASON  
P.O. BOX 143  
SITKA, ALASKA 99835  
POUCH V  
JUNEAU, ALASKA 99801

COMMITTEES  
FINANCE  
RESOURCES  
STATE AFFAIRS

February 18, 1982

## M E M O R A N D U M

To: Senator Pat Rodey, Chairman  
Senate Judiciary Committee

From: Senator Dick Eliason

A handwritten signature in dark ink that reads "Dick E".

Re: Senate Bill 741

S.B. 741 regarding child support enforcement has been referred to the Senate Judiciary Committee. It is a simple straight forward bill which states that when child support payments are past due there will be penalty and interest charges added to the amount due.

There is currently very little incentive to make child support payments on time since an obligor who fails to make the required payments will only be required to pay the original amount if-and-when eventually forced to pay. This amounts to an "interest free loan" to the parent who is obligated to make child support payments and fails to do so on time.

The State Division of Child Support Enforcement has a difficult time tracking obligors and extracting delinquent payments. It seems to me that S.B. 741 would provide a possible extra incentive to obligors to make timely payments. We are not talking simply about improving bureaucratic effectiveness, we are talking about the needs of children and ways of insuring that the duty of parents to care for those needs are fulfilled.

I hope that you will schedule a hearing on S.B. 741 soon. Besides the Division of Child Support Enforcement there are a number of interested persons who would like to be notified of any scheduled hearings on the bill. If you will let me know of its scheduling, I will be happy to notify these people or provide you with a list of their names and phone numbers. I believe the bill would require only a brief hearing as it is not complicated and its benefits are direct and obvious.

A M E N D M E N T

TO: SB 741

By Eliason

Page 1, after line 20 insert:

- \* Sec. 3. AS 47.23.020 is amended by adding a new paragraph to read:
  - (6) disburse child support payments collected by the agency to the obligee together with interest charged under (2)(C) of this section.
- \* Sec. 4. AS 47.23.020 is amended by adding a new subsection to read:
  - (b) The agency may retain penalties charged under (a)(2)(C) of this section.

Renumber following sections accordingly.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

February 24, 1982

The Honorable Patrick M. Rodey:  
Chairman  
Senate Judiciary Committee  
Room 125 - Capitol Building  
Juneau, Alaska

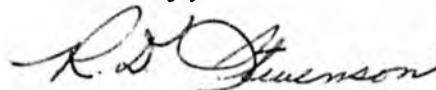
Dear Senator Rodey:

Re: Senate Bill No. 741

Senate Bill No. 741, an Act relating to child support enforcement, was introduced in the Senate on February 11, 1982 and was referred to the Senate Judiciary Committee.

For the consideration of the Senate Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Dan R. Copeland, Director, Child Support Enforcement, Department of Revenue, Anchorage.

Sincerely,



R. D. Stevenson  
Special Assistant

Enclosure

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Dan R. Copeland, Director  
Child Support Enforcement  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 741  
 Title "An Act Relating to Child Support Enforcement"  
 Requested by Senator Eliason Date 2/18/82

II. FISCAL DETAIL

Agency Affected Department of Revenue  
 Program Category Affected Revenue Collection and Management  
 BRU, Program, Or Subprogram(s) Affected Child Support Enforcement Division  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	128.0	128.0	140.8	140.8	154.9	154.9
200 TRAVEL	Ø					
300 CONTRACTUAL	19.4	29.4	32.3	32.3	35.6	35.6
400 COMMODITIES	1.6	1.6	1.8	1.8	1.9	1.9
500 EQUIPMENT	3.4	3.4	3.8	3.8	4.2	4.2
600 LAND & STRUCTURES	Ø	Ø	Ø	Ø		
700 GRANTS, CLAIMS, ETC.	Ø	Ø	Ø	Ø		
<b>TOTAL</b>	<b>182.4</b>	<b>162.4</b>	<b>178.7</b>	<b>178.7</b>	<b>196.6</b>	<b>196.6</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	50.0	40.0	45.0	45.0	46.0	46.0
FEDERAL FUNDS	130.0	120.0	130.0	130.0	145.0	145.0
OTHER (Specify Source)	<u>2.4</u>	2.4	3.7	3.7	5.6	5.6
Program Receipts						

POSITIONS

FULL TIME	5	5	5	5	5	5
PART TIME						
TEMPORARY						

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

The additional accounting clerk III for each of the five teams will be responsible for handling the additional penalty and interest information. Currently, each team uses one of their six staff members to certify payment records for use in enforcement action. These payment records are a comparison of the fixed monthly obligation and the payments. The addition of a mandatory late penalty and interest will require a comparison of the monthly obligation, payments, dates of the payment, and a computation of the penalty and interest as completed each month. It is anticipated that the introduction of these variables will substantially increase the number of payment record certifications and the time required to complete each certification.

The most significant aspect of this change will come in the form of a substantial increase in the number of disputes the agency will have to settle. While settling these disputes, collections will drop on far more cases than on the number of cases where the obligor pays timely to avoid the late penalty and interest.

IV. DATE 2/18/82 PREPARED BY Dan R Copeland  
 AGENCY Child Support Enforcement - Dept. of Revenue  
 Original: Legislative Finance PHONE 276-3441  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33 001 (Rev. 12/81)

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 25, 1982

SUBJECT: Adoption and other issues  
(HCS CSSB 399)

TO: Representative Michael F. Beirne  
Chairman, House Health, Education  
and Social Services Committee

FROM: Richard A. Bradley *B*  
Legislative Counsel

I have combined the bill as requested.

The revisor has suggested that the bill has no single subject and that the single subject is not expressed in the title. Article II, Sec. 13, Alaska Constitution.

The suggestion may be valid. The Supreme Court has been relatively generous on the question of the disparity of topics that may be included in a bill without violating the rule. In my view, the bill is clearly on the outer edges of the rule.

RAB:ljb

Enclosure

SB741

Senator EHRSON - Explains Problems w/ Child Support  
INCENTIVE TO PAY ON TIME

Long - Primary should be discretized in assessment.  
DAN COPELAND 1.) TOO DIFFICULT OF AN ADMINISTRATIVE  
TASK.

- 2.) FEDERAL GOVERNMENT HAS SIMILAR REQUIREMENTS BUT IS NOT ENFORCING
- 3.) PRIMARY OBLIGATION IS TO COLLECT PAYMENT - COLLECTING ADDITIONAL FEE WILL NOT ADD TO COLLECTIONS OF PRIMARY PAYMENTS.
- 4.) COLLECTION IN MOST DIFFICULT CASES WILL NOT BE EFFECTED.
- 5.) EXPLAINS FISCAL NOTE TO BILL FEDERAL CUTS MAY EFFECT F.N. - WOULD PROBABLY ONLY BE COLLECTING COA AFDC CHARGELOAD - NOT PRIVATE COLLECTIONS.

Senator PARRI: INTRODUCES AMENDMENT TO COMMITTEE #2

Senator PARRI: WANTS TO HOLD ALL AMENDMENTS UNTIL ALL WITNESSES TESTIFY

Senator PARRI: HOW MUCH MORE WOULD YOU COLLECT IN OFFSETS  
IN ~~10~~ ~~15~~ ~~20~~ ~~25~~ ~~30~~ ~~35~~ ~~40~~ ~~45~~ ~~50~~ ~~55~~ ~~60~~ ~~65~~ ~~70~~ ~~75~~ ~~80~~ ~~85~~ ~~90~~ ~~95~~ ~~100~~ ~~105~~ ~~110~~ ~~115~~ ~~120~~ ~~125~~ ~~130~~ ~~135~~ ~~140~~ ~~145~~ ~~150~~ ~~155~~ ~~160~~ ~~165~~ ~~170~~ ~~175~~ ~~180~~ ~~185~~ ~~190~~ ~~195~~ ~~200~~ ~~205~~ ~~210~~ ~~215~~ ~~220~~ ~~225~~ ~~230~~ ~~235~~ ~~240~~ ~~245~~ ~~250~~ ~~255~~ ~~260~~ ~~265~~ ~~270~~ ~~275~~ ~~280~~ ~~285~~ ~~290~~ ~~295~~ ~~300~~ ~~305~~ ~~310~~ ~~315~~ ~~320~~ ~~325~~ ~~330~~ ~~335~~ ~~340~~ ~~345~~ ~~350~~ ~~355~~ ~~360~~ ~~365~~ ~~370~~ ~~375~~ ~~380~~ ~~385~~ ~~390~~ ~~395~~ ~~400~~ ~~405~~ ~~410~~ ~~415~~ ~~420~~ ~~425~~ ~~430~~ ~~435~~ ~~440~~ ~~445~~ ~~450~~ ~~455~~ ~~460~~ ~~465~~ ~~470~~ ~~475~~ ~~480~~ ~~485~~ ~~490~~ ~~495~~ ~~500~~ ~~505~~ ~~510~~ ~~515~~ ~~520~~ ~~525~~ ~~530~~ ~~535~~ ~~540~~ ~~545~~ ~~550~~ ~~555~~ ~~560~~ ~~565~~ ~~570~~ ~~575~~ ~~580~~ ~~585~~ ~~590~~ ~~595~~ ~~600~~ ~~605~~ ~~610~~ ~~615~~ ~~620~~ ~~625~~ ~~630~~ ~~635~~ ~~640~~ 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COURT - CAN ORDER ATTORNEY FEES ALLOW

- 1.) ~~MEMO~~ MEMO EXPLAINING REFERENCE FOR SENATOR ANDERSEN.
- 2.) EXPLAIN ADDRESS THIRD PARTY CUSTODIAL STATUS.

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# COMMITTEE REPORT

## SENATE

2/16/82

FURTHER: None

Date: February 22, 1982

Mr. President:

The Committee on JUDICIARY has had SB 765

exempting the importation of alcoholic beverages for religious purposes from a prohibition on the importation of alcoholic beverages into municipalities or villages

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

[Signature]  
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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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[Signature]  
CHAIRMAN

1 IN THE SENATE

BY RAY

2 SENATE BILL NO. 765

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act exempting the importation of alcoholic beverages for religious purposes from a prohibition on the importation of alcoholic beverages into municipalities or villages."

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

11 \* Section 1. AS 04.11.496(b) is amended to read:

12 (b) If a majority of the voters vote "yes" on the question set out  
13 in (a) of this section, a person, beginning on the first day of the  
14 month following certification of the results of the election, may not  
15 knowingly send, transport, or bring alcoholic beverages into the municipality or established village, unless the alcoholic beverages are for use for bonafide religious purposes based on tenents or teachings of a church or religious body. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village. Licenses that [WHICH] may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that [WHICH] will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

*CHANGES*

~~ADOPTED~~ →

A M E N D M E N T

TO: SB 765

Page 1, line 18:

After "body" insert ", are limited in quantity to the amount necessary for religious purposes, and are dispensed for religious purposes by a person authorized by the church or religious body to dispense the alcoholic beverage"



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

FEBRUARY 22, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SB 610 - "An Act relating to certificates of birth."

SB 692 - "An Act relating to the duties of coroners and the coroner's inquest."

SB 765 - "An Act exempting importation of alcoholic beverages for religious purposes."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:05 P.M. Committee members present were: Senators Rodey, Ray, and Parr. Senator Bennett was absent.

Chairman Rodey first brought SB 765 before the committee. Senator Ray moved that on page 1, line 18, after "body" insert "are limited in quantity to the amount necessary for religious purposes, and are dispensed for religious purposes by a person authorized by the church or religious body to dispense the alcoholic beverage". There was no objection and the amendment was adopted.

Senator Ray motioned that SB 765 be moved from committee. There was no objection. All members present signed do pass.

The next item on the agenda was SB 610. Senator Parr explained the intent of the bill. Chairman Rodey next called Joan Brooks, Vital Statistics, before the committee. Ms. Brooks testified in favor of the bill stating that SB 610 would alleviate problems she had encountered with mothers requesting the name of the natural father, other than her husband, being placed on the child's birth certificate. She reported receiving one (1) call a week to her office on the subject.

After discussion Senator Parr moved that the bill be passed from committee. Senator Parr signed do pass, Senator Rodey signed no recommendation, Senator Ray signed do not pass.

Next Chairman Rodey brought SB 692 before the committee. Mr. Bruce gave a brief history of the bill at the request of Chairman Rodey.

After discussion, Senator Ray moved that the committee substitute for SB 692 be passed from committee. There was no objection. All members present signed do pass.

Chairman Rodey adjourned the meeting at 2:00 P.M.

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
615 "4" STREET, SUITE 100  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 272-9431

February 8, 1982

HAND-DELIVERED

The Honorable Bill Ray  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Ray:

As discussed in our conversation of February 5, 1982, the ability legally to obtain sacramental wine is a matter of serious concern in communities which have held or are considering holding state Title 4 alcohol local option elections to prohibit the sale and importation of alcoholic beverages. As A.S. 04.11.496 is currently written, the statute sets out no exception to provide for the contingency of sacramental wine to be used for religious services once a municipality or established village has held a valid election to prohibit the sale and importation of alcoholic beverages. This puts church officials in the peculiar position of having to violate the law to bring wine for religious services into villages which have held elections.

In a great many of the sixty or so villages to which the ALSC Alcohol Project staff and I, upon village request, have travelled, the issue has been raised by numerous village residents as well as Roman Catholic and Russian Orthodox priests. In particular, the problem was recently called to our attention by Brown Jug when the church in St. Mary's placed an order with them. Brown Jug was understandably loath to risk the local option law penalties. We have checked the statutes of other states which have alcohol local option laws similar to Alaska. Each state statute researched has an express exception for sacramental wine as part of the statutory scheme.

In these statutes (which I will be delighted to provide if you are interested), the sacramental wine exceptions to prohibition limit acquisition of sacramental wine to officials or authorized representatives of churches or bona fide religious organizations for use and dispensation in bona fide religious ceremonies and rituals. The sacramental wine exception has been, in other states, simply written or can involve complicated procedures involving affidavits and package labelling.

Honorable Bill Ray  
Page Two  
February 8, 1982

In drafting the enclosed sacramental wine exception, we have opted for a simply written exception adding a new subsection (d) to A.S. 04.11.496.

As indicated in our conversation of February 5, 1982, you will be hearing from some of the people and groups who brought ~~the~~ problem to our attention.

Thank you for agreeing to introduce this piece of legislation.

Please call me if you have any questions or I can otherwise be of assistance.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

*Carole A. Baekey /BT*

Carole A. Baekey  
Statewide Alcohol Coordinator

CAB/js

Enclosure

PROPOSED AMENDMENT TO A.S. 04.11.496

(Sacramental Wine Exception)

A.S. 04.11.496 is amended by adding a subsection (d) which reads as follows:  
NOTHING IN THIS SECTION SHALL PREVENT THE IMPORTATION, POSSESSION, AND DISPENSATION OF WINE FOR SACRAMENTAL PURPOSES ONLY BY AN AUTHORIZED REPRESENTATIVE OF ANY CHURCH OR BONA FIDE RELIGIOUS ORGANIZATION. SUCH IMPORTATION SHALL BE LIMITED TO QUANTITIES NECESSARY FOR USE IN BONA FIDE RELIGIOUS CEREMONIES OR RITUALS.

# St. Matthew's Episcopal Church

1030 Second Avenue Fairbanks, Alaska 99701



February 3, 1982

The Rev. Donald P. Hart, Rector

Senator Bill Ray  
Pouch V (M53100)  
Juneau, Alaska 99811

Dear Senator Ray:

My attention has been directed to a problem in villages which have passed ordinances prohibiting the importation or use of alcohol. The problem has to do with the use of sacramental wine in services of the church.

As I am sure you know, several churches, the Episcopal, Roman Catholic, and Orthodox Churches, as well as others perhaps, use wine as a part of their primary worship. This is based on Biblical roots, ancient rites, and historic useage. In some cases where priests must come from other locations they are probably bringing a sufficient supply of wine for the service with them. In most normal cases the consumption of wine amounts to a single sip from the chalice for each communicant per service.

While this situation could be overlooked and the law simply not enforced in regard to priests, this would put them in a very peculiar position outside the law. I think this is not what priests want. An amendment to the law, allowing an exception, for sacramental use, would be much more preferred.

Bishop Harris is out of the State at this time. As president of the Diocesan Standing Committee I write to you on behalf of this Diocese. My thanks for your attention to this matter.

Sincerely,

Donald P. Hart  
President of the Standing Committee

cc. The Rt. Rev. George C. Harris

HOLY CROSS MISSION

HOLY CROSS, ALASKA

99602

February 8, 1982

Senator Bill Ray  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Ray:

I have high praise for the work that Carol Baekey has done regarding the Alcohol Local Option Law. However, as I have mentioned to her, I find its present wording unsatisfactory, and possibly even unconstitutional. What am I referring to?

Taken in its literal meaning, I find that I would be in violation of said law when, as a Catholic priest, I transport sacramental wine into any village which prohibits the importation of alcohol. Certainly, the use of sacramental wine in our liturgical service does not violate the intent of the law, but I feel this should be clearly stated in black and white.

Let me state a practical case for you. I order my sacramental wine every two years, four cases of four gallons each. I then divide this amount up between the three main villages I serve. Hence, I am importing wine into three villages. Above and beyond that, I generally carry a small bottle of sacramental wine in my Mass kit which is transported in my aircraft to the four or five other villages I frequent on occasion. And to extend that even further, I never know when I will be called upon to fly to other villages such as St. Mary's, Marshall, Emmonak, Alakanuk, Chevak, Etc. on Church business. Generally, my Mass kit will be in the aircraft and in it, a small amount of sacramental wine. Under the present law, if I were to remove my Mass kit in any village prohibiting the importation of alcohol, I am subject to a fine and confiscation of an aircraft.

What I am saying is that the present law involves a violation of my right to religious freedom, and hence, is unconstitutional taken in the strictest sense. I realize that the intent of the local option law is not to restrict sacramental wine and the proper use thereof. However, this should be clearly stated.

What is a practical solution? I don't think you can restrict the amount, for a priest serving three villages will obviously have to import more than a priest serving one village, and even on a one to one basis, the amount will vary. Why? Obviously, the size of the village has something to do with the amount of sacramental wine used a year, especially if communion is given under both species.

Hence, I think that sacramental wine (the importation and use thereof) should be restricted to authorized persons, i.e., persons designated by the Bishop. Notice that I do not restrict the importation to priests, the reason being that in many villages where a priest is not in residence, a layman will pick up the mail, freight, etc., and tend the Church in the priest's absence. The wine is generally kept

HOLY CROSS MISSION

HOLY CROSS, ALASKA

99602

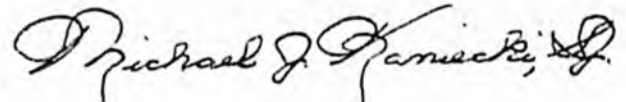
2.

at such a person's home.

These are just a couple examples to show you there is no simple solution. However, I do feel that there definitely must be some clause or provision for the importation and use of sacramental wine in villages which now have the right to prohibit the importation of alcohol.

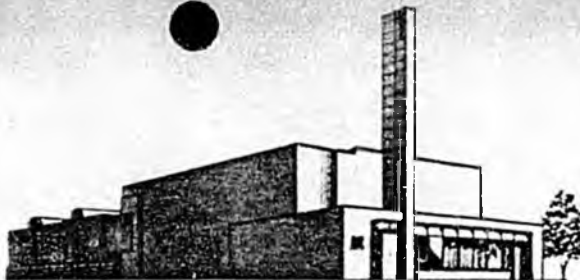
Thank you for your time and interest in this matter.

Sincerely yours,



Michael J. Kaniecki, S.J.

cc: Carol Baekey  
Bishop Whelan



Elliot P. Morrison  
Pastor

Philip E. Gilbert  
Parish Associate

Mary Ann Warden  
Lay Preacher

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# First Presbyterian Church

CUSHMAN AT SEVENTH      TEL. 452-2406      FAIRBANKS, ALASKA 99701  
Mailing Address: 547 Seventh Ave.

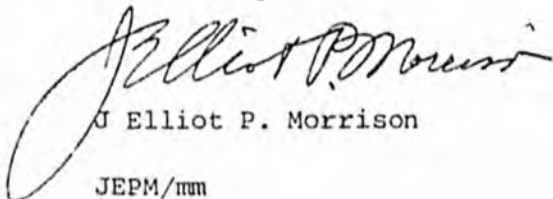
February 10, 1982

Senator Bill Ray  
Pouch V  
Juneau, AK 99811

Dear Senator Ray:

I do believe that barring wine from communion services in dry communities would be a bit of "overkill." Thus I encourage you to amend the bill for this technicality.

Grace and peace,



Elliot P. Morrison

JEPM/nmm

# City of St. Mary's

P.O. Box 163  
ST. MARY'S, ALASKA 99658

February 8, 1982

Senator Bill Ray  
Pouch V  
Juneau, Ak. 99811

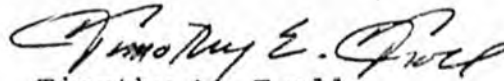
Dear Senator Ray:

I am enclosing for your reference a resolution recently passed by the City Council of St. Mary's regarding the importation of alcohol into communities for religious services. St. Mary's voted to prohibit the importation and sale of alcohol under the local option provisions of Title 4. St. Mary's, as you can probably judge from the name, is primarily a Catholic community. Recently the church had some difficulty bringing alcohol into the community because of the law. This is a technical oversight in the present law and I would encourage you to support an amendment to correct the situation.

I particularly want to thank you for your support of these local options in Title 4. The options have given rural communities like St. Mary's an opportunity to deal with alcohol in the manner that is most locally appropriate.

Sincerely,

CITY OF ST. MARY'S



Timothy E. Troll  
City Manager

cc. John Sackett  
Vern Hurlbert

RESOLUTION 82-5  
OF THE CITY COUNCIL FOR  
ST. MARY'S, ALASKA

WHEREAS: The City of St. Mary's in Emergency Ordinance 81-2 prohibiting the importation of alcoholic beverages into St. Mary's specifically provided exception for alcoholic beverages used in religious services; and

WHEREAS: The local option provisions of Alaska Statutes, Title 4 prohibiting importation do not provide exception for alcoholic beverages used in religious services; and

WHEREAS: Alcoholic beverages used in church services do not contribute to the problems caused by alcohol in village Alaska;

THEREFORE, BE IT RESOLVED that the Alaska State Legislature amend Alaska Statutes, Title 4 to provide that alcoholic beverages used in religious services may be imported into communities that have opted under the provisions of Title 4 to prohibit the importation of alcoholic beverages.

PASSED AND APPROVED by a duly constituted quorum of the City Council of St. Mary's, Alaska this 10th day of Feb, 1982.

James Paul  
Mayor

ATTEST:

James Long  
City Clerk

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Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 26, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 535 - "An Act relating to the criminal laws of the state."
- SB 774 - "An Act reducing the fee for a club license to sell alcoholic beverages."
- SB 855 - "An Act repealing the requirement that an applicant for a beverage dispensary license file a bond."
- SB 654 - "An Act relating to alcoholic beverage licenses; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Parr, Anderson. Senator Bennett was absent.

005 - Call to order.

008 - Chairman Rodey brought SB 535 before the Committee and the amendments which were offered by Senator Fischer: On Page 3, Line 15: Delete "a new paragraph" and insert "new paragraphs"; Page 3, Line 18: Change the period to a semi-colon; Page 3, following Line 18: Insert the following: (20) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, ancestry, or national origin.

039 - Senator Fischer testified in favor of CSSB 535 stating that it would add aggravating factors the judge could consider in sentencing.

111 - Barry Stern, Department of Law, testified stating that the Department is generally supportive of this legislation.

380 - Chairman Rodey set SB 535 aside.

400 - Chairman Rodey next brought SB 774 before the Committee.

433 - Don House, representing himself, testified, stating that it would be ridiculous to drop the fees.

471 - Chairman Rodey laid SB 774 on the table.

474 - The next item brought before the Committee was SB 855.

496 - Merle Jensen, Budget & Audit, testified in favor of SB 855.

546 - Pat Sharrock, representing the ABC Board, testified, stating that he had no opposition to the bill.

585 - SB 855 was laid on the table.

591 - Mr. Bruce distributed a bill relating to interest in eminent domain cases for the Committee member's approval of introduction. There was no objection.

603 - SB 654 was the last item before the Committee.

610 - Mr. Sharrock, Bill Gordon, and Mr. House, of the ABC Board, testified in favor of SB 654.

SIDE TWO

068 - After discussion, SB 654 was laid on the table.

074 - Adjournment at 2:25 P.M.



Official Business

# Alaska State Legislature

Senate

Office of the President

3577-1  
Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

TO : SENATOR PAT RODEY  
CHAIRMAN, SENATE JUDICIARY COMMITTEE

FROM : SENATOR JAY KERTTULA  
SENATE PRESIDENT

DATE : MARCH 23, 1982

SUBJECT: SENATE BILL 774

This bill is a response to the problems of many small clubs which hold liquor licenses but which make a very small profit on liquor sales. Most of these clubs are service organizations which use their funds for benevolent purposes.

In response to a complaint from a constituent in Glennallen, my office contacted Betty Calhoun, License Supervisor of the Alcoholic Beverage Control Board. She informed me that the license fees for clubs have taken a steep jump in the last few years and that her division has had several complaints, especially from the smaller clubs. She also stated that she doubted that the ABC would have any objection to reducing the fee, and I would draw your attention to the minimal fiscal note involved.

In the case of my constituent, the club takes in about \$800/year in alcoholic beverage sales. With the present fee of \$600, it is hardly worth the effort for the club to sell liquor, whereas the suggested fee of \$400 would be a workable figure for the club.

Thank you for your attention to this matter.

JK/mv/aj

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

March 3, 1982

The Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Room 125 - Capitol Building  
Juneau, Alaska

Dear Senator Rodey:

Re: Senate Bill No. 774

Senate Bill No. 774, an Act reducing the fee for a club license to sell alcoholic beverages, was introduced in the Senate on February 16, 1982 and was referred to the Senate Judiciary Committee.

For the consideration of the Senate Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Patrick L. Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

Enclosure

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Patrick L. Sharrock, Director  
Alcoholic Beverage Control Board  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 774  
 Title Reducing annual club liquor license fee  
 Requested by Senate Judiciary Committee Date 2/17/82

II. FISCAL DETAIL

Agency Affected Revenue  
 Program Category Affected Consumer Protection  
 BRU, Program, Or Subprogram(s) Affected ABC Board  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	[12.8]	[12.8]	[13.0]	[13.0]	[13.0]	[13.2]
FEDERAL FUNDS						
OTHER (Specify Source)						
	[12.8]	[12.8]	[13.0]	[13.0]	[13.0]	[13.2]

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

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

DECREASE TO GENERAL FUND REVENUE

Present number of club licenses as of 2/1/82 - 64

Total current annual fees @ \$600	\$38,400
Total proposed annual fees @ \$400	25,600
<b>Decrease to Revenues</b>	<b>\$12,800</b>

IV. DATE 2/26/82

PREPARED BY Patrick L. Sharrock  
 AGENCY Alcoholic Beverage Control Board

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

PHONE 277-8638

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COMMITTEE REPORT

SENATE

2/18/82

FURTHER: None

Date: March 3, 1982

Mr. President:

The Committee on JUDICIARY has had SB 811  
compilation of the jury list

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

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

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[Signature]

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CHAIRMAN



# Alaska State Legislature

## Senate

### Judiciary Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 3, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

SJR 6 - Proposing an amendment to the Constitution of the State of Alaska relating to sessions of the legislature.

SB 811 - "An Act relating to compilation of the jury list."

SB 626 - "An Act relating to smoking in public places."

SB 741 - "An Act relating to child support enforcement."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Bennett, Parr, and Anderson.

Chairman Rodey brought the first order of business before the committee, SB 811.

After a brief discussion, Senator Ray motioned to move SB 811 from committee with individual recommendations. There was no objection. Senators Rodey, Ray, and Bennett signed do pass. Senators Parr and Anderson signed no recommendation.

Chairman Rodey next brought SB 741 before the committee.

Senator Eliason testified in favor of SB 741 and distributed an amendment to the committee which would direct interest on delinquent payments to the obligee, and directs the penalty to the Child Enforcement Agency.

Dan Copeland, Director, Child Support Enforcement, Division of Department of Revenue, testified in opposition of SB 741, stating that it would place an extra administrative burden on the Agency for handling the cost of the enforcement. He did not think that the interest and penalty fee would add any incentive to the obligor and that it may actually decrease the amount of payments since it will add a financial cost to people who make the payments, some of whom don't want to make them anyway. The Federal Government has a law that allows them to charge a fee (10%), however, it is not enforced for the same reason. It

will require more administrative help, and they are concerned it may actually reduce the payments they currently receive.

Senator Rodey discussed the fiscal note. How much federally funded? What about non-ADFC?

Senator Parr brought to the committee's attention an incident where a man who had requested a certified copy of his check was not given one. He hired an attorney to obtain the copies and the attorney also had problems in getting the copy. Senator Parr was not aware of whether the agency ignored the request, lost it, or was giving the man the run-around, but that was how it was presented to him. Senator Parr expressed that copies should be made available of the payment upon written request.

Senator Ray stated that the number of copies should be limited so the agency isn't inundated with request. Limit it to one copy per year.

Senator Eliason stated that child support is a legal debt and we need to be able to enforce payments.

Mr. Copeland discussed the collection of fees and how it would offset the expenses of administering. He thinks it would cost considerable man hours and would not be cost effective. He compared it to the Court System that used to charge 3% to obtain a copy of the payment. They have discontinued it because it was not worth their time and administrative expense of providing the service.

Senator Rodey suggested that they lay the bill on the table and do more work with Senator Eliason. Senator Ray said that he will help work up a compromise.

Fred Jenkins, Men's Support Network and Alaska Domestic Violence Network, testified, stating that he agrees that the obligor should recognize payment. State will need more clerical work to administer. Should address penalty and interest and assign a specific amount. Look at the \$182,000 figure for clerical help and make sure it is reasonable.

The next item on the agenda was SB 626.

Senator Parr discussed the law passed in 1975/76 dealing with smoking in public places. He stated that the Department of Environmental Conservation should change their definition regarding public places.

Karla Forsythe, General Counsel for the Alaska Court System, testified stating that the Court System does not have an official position on the bill. As the statute presently exists, smoking can occur in jury rooms. If rooms are adequately ventilated, smoking is allowed so needs of smokers and non-smokers can both be accomplished. It is a balancing situation to serve everyone's interest. Doesn't seem to interfere with allowing it in jury rooms.

Senator Parr raised the question as to whether or not there is adequate ventilation in jury rooms? All jury rooms?

Ms. Forsythe stated that again, it is a matter of balancing. Our Court Administrator believes the jury rooms are adequately ventilated.

Dr. E.S. Rabeau, stood up and indicated he had left a brief message expressing his thoughts. He asked Senator Rodey to read it or relay it to the other members of the Committee.

Senator Rodey said that basically the message is that non-smokers can risk lung cancer by being exposed to smokers.

Walt McPherson testified stating that his wife is allergic to smoking. She served on a jury and tried to get out of jury duty, but was not allowed. She was informed there would not be smoking; however, smoking did occur. She was sick for a week. He supports amendment and discussed problems in public places such as airports, restaurants, waiting areas, ferries, etc.

Senator Parr commented he also feels the problems occur in other public areas i.e. supermarkets, airports, etc., but feels jury rooms should be addressed since people don't have a choice of serving. It is unfair to expose them to the problem when they aren't there as a matter of choice.

The committee decided to hold the bill for further review. Senator Rodey adjourned the meeting at 2:40 P.M.

Since the prime sponsor of SJR 6, Senator Kelly, did not attend the meeting, that bill was not taken up.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

March 2, 1982

The Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Room 125 - Capitol Building  
Juneau, Alaska

Dear Senator Rodey:

Re: Senate Bill No. 811

Senate Bill No. 811, an Act relating to compilation of the jury list, was introduced in the Senate on February 18, 1982 and was referred to the Senate Judiciary Committee.

For the consideration of the Senate Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. P. A. Wall, Director, Administrative Services Division, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson

Enclosure

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

P. A. Wall, Director  
Administrative Services Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SB 811  
 Title Relating to Compilation of The Jury List  
 Requested by Senate Judiciary Committee Date 3/26/82

II. FISCAL DETAIL  
 Agency Affected Revenue  
 Program Category Affected General Government  
 BRU, Program, Or Subprogram(s) Affected Admin. & Support, Admin. Services  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

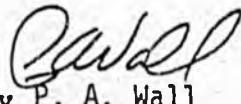
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The cost of producing lists from Alaska resident trapping, hunting or fishing license purchases and from filing for Alaska permanent fund income distribution is not increased by SB 811. Social Security Number already exists in the associated computer systems.

IV. DATE 3/1/82 PREPARED BY  P. A. Wall  
 AGENCY Revenue  
 Original: Legislative Finance PHONE 465-2313  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 811  
 Title Relating to Compilation of The Jury List  
 Requested by Senate Judiciary Committee Date 3/26/82

II. FISCAL DETAIL

Agency Affected Revenue  
 Program Category Affected General Government  
 BRU, Program, Or Subprogram(s) Affected Admin. & Support, Admin. Services  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The cost of producing lists from Alaska resident trapping, hunting or fishing license purchases and from filing for Alaska permanent fund income distribution is not increased by SB 811. Social Security Number already exists in the associated computer systems.

IV. DATE 3/1/82

*P. A. Wall*  
 PREPARED BY P. A. Wall  
 AGENCY Revenue

Original: Legislative Finance PHONE 465-2313

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HB 254 continued

**Yays:** 31 Abood, Adams, Anderson, Brown, Buchholdt, Carney, Cato, Chuckwuk, Clocksin, Cotten, Cuddy, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Halford, Haugen, Hayes, Hurlbert, Malone, Meekins, Miller, Montgomery, Moss, O'Connell, Phillips, Rogers, Smith, Vaska, Zharoff

**Not Voting:** 0

And so, Amendment No. 1 was not adopted.

Amendment No. 2 by Rogers:

Page 2, lines 10 - 11:

Delete "his social security number;"

Representative Rogers moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Miller objected and withdrew his objection.

Representative Cotten objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

## HB 254 AM2

**Yays:** 24 Abood, Barnes, Beirne, Bettisworth, Brown, Buchholdt, Bylsma, Carney, Cato, Chuckwuk, Fanning, Freeman, Fuller, Gardiner, Hurlbert, Malone, Metcalfe, Miller, Moss, O'Connell, Randolph, Rogers, Smith, Zharoff

**Nays:** 16 Adams, Anderson, Clocksin, Cotten, Cuddy, Duncan, Grussendorf, Halford, Haugen, Hayes, Martin, Meekins, Montgomery, Phillips, Sutcliffe, Vaska

**Not Voting:** 0

The proposed bill would amend AS 09.20.050(b) to include the social security number in the list of data elements that Department of Revenue provides to the court system for use in compiling the jury list.

The Department of Revenue forwards the annual permanent fund dividend tape for this purpose. Before creation of the permanent fund, the Department was required by AS 09.20.050(b) to supply the court with a copy of the income tax tape, which includes social security numbers. When the statute was amended last year to replace the income tax tape with the permanent fund dividend tape, the reference to social security numbers was deleted. Consequently, the Department is taking the position that it is no longer authorized to release social security numbers to the court system. Social security numbers are removed from the list now provided which essentially makes the tape valueless.

The jury list is made up of a merged set of tapes, which includes fish and game, voter registration, permanent fund dividend and drivers' licenses. Because the names of individuals frequently are spelled differently on the various tapes, or show initials rather than full first names, there are an unacceptably high number of duplicate names on the court master tape. Social security numbers are the one data element which can be used to eliminate duplicate names. Social security numbers are essential to avoid calling a person for jury service several times in the same year because his or her name appears several times on the master list.

HB 254 continued

Representative Haugen changed his vote from "yea" to "nay."

And so, Amendment No. 2 was adopted.

HB 254am

Representative Meekins moved and asked unanimous consent that HB 254am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

HB 254am was read the third time.

The question being: "Shall HB 254am pass the House?" The roll was taken with the following result:

HB 254AM

Yeas:	35	Abood, Adams, Anderson, Beirne, Bettisworth, Brown, Buchholdt, Bylsma, Carney, Cato, Chuckwuk, Clocksin, Cotten, Cuddy, Duncan, Freeman, Fuller, Gardiner, Grussendorf, Halford, Haugen, Hayes, Hurlbert, Malone, Martin, Metcalfe, Miller, Montgomery, O'Connell, Phillips, Rogers, Smith, Sutcliffe, Vaska, Zharoff
Nays:	5	Barnes, Fanning, Meekins, Moss, Randolph
Not Voting:	0	

And so, HB 254am passed the House.

Representative Meekins moved and asked unanimous consent that the roll call on the passage of HB 254am be considered the roll call on the effective date clause. There being no objection, it was so ordered.

HB 254am was referred to the Chief Clerk for engrossment.

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# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

### M E M O R A N D U M

TO: Sen. Pat Rodey, Chair  
Senate Judiciary Committee

FROM: Sen. Vic Fischer *VF*

DATE: Feb. 22, 1982

RE: BILL ON CONVENING OF SPECIAL SESSIONS **SB821**

At the time the State Affairs Committee considered SJR 6 to establish a constitutional limit on the length of regular legislative sessions, members agreed to sponsor the attached bill. It would permit the governor to convene a special session of the legislature immediately upon the adjournment of a regular session.

Under existing law, at least fifteen days notice must be given to call a special session. As we all know, the governor gave 15 days notice last year, when he called a special session to deal with the spending limit. The delay in the start of the session caused great expense to the state and much inconvenience to legislators.

It makes no sense to perpetuate that situation. With the proposed measure, the governor could keep legislators in the capital for a special session to be held right after the regular session.

I trust your committee will concur in this change.

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COMMITTEE REPORT

SENATE

3/10/82

FURTHER: Finance

Date: MARCH 22, 1982

Mr. President:

The Committee on JUDICIARY has had SB 845

reinstatement of certain dissolved Alaska Native Claims Settlement Act village corporations to corporate status

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

Wesley Anderson

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CHAIRMAN

DO PASS



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 22, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 845 - "An Act to provide for reinstatement of certain dissolved Alaska Native Claims Settlement Act village corporations to corporate status."
- SB 592 - "An Act providing that the parents of delinquent minors and children in need of aid have the right to counsel in certain proceedings under AS 47.10."
- SB 473 - "An Act relating to urban renewal and development projects of municipalities; and providing for an effective date."
- HB 640 - "An Act relating to games of chance and contests of skill; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Ray, Parr, and Anderson. Senator Bennett was absent.

003 - Chairman Rodey called the meeting to order.

005 - The first item of business, SB 845, was brought before the committee.

015 - James Kohler, Department of Community and Regional Affairs, testified in favor of the bill, stating that several corporations were dissolved at no fault of their own.

209 - Mr. Kirkpatrick, Director of Banking Securities Corporations, testified stating neither support nor opposition. He only wanted to see clarification of fees due.

443 - Senator Anderson moved that the bill be passed with individual recommendations. There was no objection and the bill was passed with Senators Anderson, Parr, and Rodey signing do pass, Senator Ray signed no recommendation.

463 - Next Chairman Rodey brought HB 640 before the committee.

470 - Chairman Rodey gave the amendments made to the bill.

552 - Chairman Rodey suggested moving the bill from committee and directed staff to prepare a committee substitute to include the new amendments previously adopted by the committee. There was no objection and the committee substitute was passed with Senators Parr, Ray, and Anderson signing do pass. Senator Rodey signed no recommendation.

650 - Chairman Rodey brought SB 473 before the committee.

727 - After discussion, Senator Ray moved that the committee substitute be passed with individual recommendations. There was no objection and the bill was passed with Senators Parr, Rodey, and Anderson signing do pass. Senator Ray signed no recommendation.

730 - The last item on the agenda was SB 592.

745 - Francis Still, representing herself, testified in favor of SB 592.

780 - Senator Parr moved that on Page 1, Line 12, the following be deleted: [to transfer custody, or to appoint a person other than the parent of a child as guardian of the child,]. There was no objection.

795 - Senator Parr moved that the committee pass SB 592 with a committee substitute to be drafted to include the new amendment. There was no objection and the bill was passed with Senator Parr signing do pass. Senators Ray, Rodey, and Anderson signed no recommendation.

802 - Chairman Rodey adjourned the meeting at 2:20 P.M.

WILKINSON, CRAGUN & BARKE  
LAW OFFICES  
SUITE 420

301 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 276-3360

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CLEH A. WILKINSON  
CHARLES A. MOBER  
LEON T. MAUER  
JERRY C. STRAUS  
PIERRE J. LAFORET  
DOROTHY C. COFFMAN  
STEPHEN R. BELL  
FOSTER G. BEITZ  
PHILIP A. WICK  
EDWARD M. FOGARTY  
JOSEPH A. BARKOBEI  
WILLIAM H. TIMME \*

ROBERT W. BARRER  
PAUL R. QUINN  
RICHARD A. RATTEN  
HEARST L. PAARS  
FRANCES L. HORN  
PATRICIA L. BROWN  
R. ANTHONY KOSKRE  
JOHN B. FAGGOLA  
THOMAS L. WILSON  
ROBERT E. MCKENNA, JR.  
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JAMES E. HAGEE  
CHARLES B. APPLER  
P. THOMAS MORAN  
JACQUELYN R. LUKK  
TIMOTHY C. BLOOM  
SUSAN G. BISHHOFF  
LUISA L. LANCETTI  
JAMES L. McHALLS

STEPHEN A. HILDEBRANDT  
LAUREL R. BERGOLD  
CAROL L. BARBERO  
JAMES L. CASSIDY  
KENNETH E. KATZ  
GLENN F. QUAMEN  
PAUL J. SHOCORRAN \*\*

March 22, 1982

\* Admitted in Alaska  
\*\* Admitted in New York  
All others admitted in  
the District of Columbia

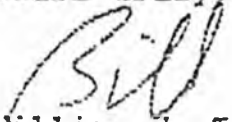
Mr. Mike Scott  
Pouch V  
Juncou, Alaska 99811

Re: Proposed Bill

Dear Mike:

Enclosed is a copy of the proposed Bill for the Reinstatement of Certain Dissolved Native Corporations Originally Organized Pursuant to the Alaska Native Claims Settlement Act.

Yours truly,

  
William H. Timme

Enclosure.

February 1, 1982

MEMORANDUM

Re: A Bill to Provide for the Reinstatement of Certain Dissolved Native Corporations Originally Organized Pursuant to the Alaska Native Claims Settlement Act

Purpose of Proposed Legislation

The purpose of this bill is to provide a mechanism whereby certain village corporations organized under the Alaska Native Claims Settlement Act, P.L. 92-903 ("ANCSA"), which have been involuntarily dissolved under Alaska law and missed the statutory deadline for reinstatement, may nevertheless have their corporate status restored. This objective can be accomplished by an amendment to AS 10.05.005, which contains certain special statutory provisions applicable to ANCSA corporations.

Background

All ANCSA corporations are subject to the requirements of Alaska's Business Corporation Act. During the past six years over forty ANCSA village corporations have been subject to involuntary dissolution procedures for failure to comply with certain formalities of state law.

AS 10.05.519 currently provides for what is, in effect, a two-year grace period during which a dissolved corporation may have its corporate status restored upon cure of the

omission which precipitated dissolution and payment of all taxes, fees and statutory penalties. Most of the dissolved Native corporations have been reinstated under this provision. However, five corporations, all dissolved in 1975 and 1976, did not become aware of their dissolution until after the reinstatement deadline had elapsed. They are: Nondalton Native Corporation, NGTA Incorporation, Umkumiute Ltd., Swan Lake Corporation and Ayskulik, Inc.

The problems of these dissolved corporations stem essentially from the negligence of their former registered agents. State law requires that every corporation designate a registered agent for service of process, notice or demand. However, the registered agents for these five corporations failed to diligently deal with the annual corporate report and tax forms. In many instances the agents involved moved. As a result, report forms and other communications from the State to the corporation were returned to Juneau undelivered.

The Commissioner of Commerce and Economic Development is required to notify all delinquent corporation of his intent to proceed with involuntary dissolution. Because of the problem outline above, however, the corporation never received these notifications. They were thus unaware of their own delinquencies and, ultimately, of their own dissolution.

Necessity for the Legislation

Under Section 8(a) of ANCSA

{the Native residents of each Native Village entitled to receive lands and benefits under this Act shall organize as a business for profit or nonprofit corporation under the laws of the State before the Native Village may receive patents to lands or benefits under this Act. . . .

The involuntary dissolutions of these five corporations seriously jeopardizes their entitlement to land and benefits under ANCSA. Unless the corporations have their corporate status restored, these benefits will be forever lost. Additionally, their other obligations under ANCSA would remain unfulfilled, for a dissolved corporation cannot convey property, enter into contracts, or otherwise transact business.

As noted, each of the five village corporations has missed the two-year deadline for reinstatement provided by state law. The state Attorney General has given his opinion that ANCSA corporations are subject to the state statute governing involuntary dissolution and that the Commissioner of Commerce and Development has no discretion to extend the two-year period for reinstatement to accommodate these corporations.

The only options available to these Native villages are reincorporation, or reinstatement through special legislation. Reincorporation generally is not a viable solution. Reincorporation entails formation of a new corporation to replace the dissolved entity. It is doubtful, however, whether the new corporation would in fact succeed to the rights and obligations of its predecessor, particularly rights conferred by ANCSA, and serious legal problems could arise.

The other option, reinstatement of corporate status, is the preferred solution and is that contemplated by the Alaska Business Corporation Act. Legislation, however, is needed to extend for the five corporations the statutory deadline for seeking reinstatement.

Detailed Analysis of the Bill

The bill first provides that each of these five corporations be given until one year from the effective date of the legislation within which to seek reinstatement. This one-year grace period would allow the five corporations, which were dissolved through no real fault of their own, to regain their corporate status. The bill accomplishes its goal without providing a blanket exemption for any other ANCSA corporation which in the future neglects its statutory duties. This "one time only" deadline extension seems adequate under the circumstances. There is now a general awareness of the problems encountered by Native Village corporations in complying with formalities of state corporate law. Through the efforts of the Department of Commerce and Development and the Alaska Native Foundation, a monitoring system has been devised to identify those ANCSA corporations threatened with involuntary dissolution. This should eliminate any repetition of the problem in the future.

The amendment contemplates reinstatement under the same procedures and subject to the same requirements as normally apply under AS 10.05.519: correction of the neglect or

delinquency which caused dissolution and payment of any sums delinquent, all sums which would have been paid but for dissolution, plus penalties.

The second sentence of paragraph (1) is designed to insure legislatively that the existence of these corporations will be deemed to be continuous. This provision will avoid the problem articulated earlier regarding reincorporation. It is in everyone's best interest that the identity of these corporations with the originally formed ANCSA corporations be unquestionable. This is accomplished by providing that the reinstated corporations succeed to all of the rights and obligations that would have applied if dissolution had never occurred.

Secondly, although generally under corporate law reinstatement of a forfeited corporate charter operates to validate all corporate acts back to the date of dissolution, Alaska courts have not yet addressed this specific question under current law. Because during most of the period of dissolution the five corporations were unaware of their legal status, the boards of directors continued to conduct business. Shareholders meetings were held, directors were elected, contracts were entered into and other obligations were incurred. These actions were taken in good faith. Therefore, in order to avoid unnecessary litigation over the validity of these corporate acts performed during the period of dissolution, the second sentence of paragraph (1) of the proposed bill expressly validates actions taken during this period. This provision will protect not only the corporation, but also persons who dealt with the dissolved

corporation, for the corporation will not be able to avoid its obligations on the ground that it was dissolved when the transaction occurred. The provision further operates to shield the directors and shareholders against individual liability for corporate acts carried out during the period of dissolution. Since they were acting on good faith, this is a valid legislative objective.

Paragraph (2) addresses the problem of any dissolved corporation which has reincorporated prior to the effective date of the proposed legislation. At least one of the five ANCSA villages here discussed has done this, by forming a new corporation with the same name as the dissolved corporation. This leads to the problems dealt with above, regarding whether the new corporation in fact succeeds to all the rights of the original ANCSA corporation. Paragraph (2) therefore expressly provides that the new corporation will succeed to all such rights, including the original corporation's status as an ANCSA corporation. To obtain the benefits of this provision the new entity must first meet the requirements applicable to a reinstatement.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

DATE: March 17, 1982

TO: Honorable Patrick Rodey, Chairman  
Judiciary Committee  
Honorable Tim Kelly, Chairman  
Rules Committee  
Honorable Don Bennett, Co-Chairman  
Finance Committee  
Honorable M. E. Dankworth, Co-Chairman  
Finance Committee

FROM: Edward W. Eboch, <sup>ewe</sup> Deputy Commissioner  
Department of Commerce & Economic  
Development

SUBJECT: SB 845

Attached is the department's position statement and proposed amendment on SB 845.

EWE/saE/35

**DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT**

OFFICE OF THE COMMISSIONER

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

POSITION PAPER

SB 845: An Act  
to provide for reinstatement of certain dissolved Alaska Native  
Claims Settlement Act village corporations to corporate status.

The Department of Commerce and Economic Development, Division of Banking, Securities, Small Loans and Corporations, has no objection to the suggested legislation but feels that the corporations affected by SB 845 should pay the approximate fees that would have been effective had they not allowed themselves to become delinquent. The department does not propose any penalty fees as are statutorily required from other corporations that have been involuntarily dissolved.

The suggested fee is based upon the current \$100 biennial filing fee. The suggested amendments will make it comparatively easy for the affected corporations and the department to compute the amount of fees to be paid.

As now written, it is not clear how the fee structure should apply. Would the present maximum penalty for corporations dissolved less than two years apply or should there be an additional penalty for corporations dissolved in excess of two years? The present two-year penalty fees, if applied, would be substantial.

*E.W. Eboch*

Edward W. Eboch, Deputy Commissioner

*3/19/82*

Date

*Willis F. Kirkpatrick*

Willis F. Kirkpatrick, Director

*3/18/82*

Date



Official Business

# Alaska State Legislature

Senate

Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

DATE: March 22, 1982

TO: Senate Judiciary Committee

FROM: Kevin Bruce

RE: SB 845

The following village corporations have been involuntarily dissolved and are no longer eligible for reinstatement:

Nondalton  
Nightmute  
Unkamiut  
Swan Lake  
Ayakuloh

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 845 - An Act to provide for reinstatement of certain Title Alaska Native Claims Settlement Act Village Corps. to corporate status.  
Requested by Rules Committee Date 3-16-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
Program Category Affected Consumer Protection  
BRU, Program, Or Subprogram(s) Affected Corporations  
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-				
200 TRAVEL	-0-	-0-				
300 CONTRACTUAL	-0-	-0-				
400 COMMODITIES	0	-0-				
500 EQUIPMENT	-0-	-0-				
600 LAND & STRUCTURES	-0-	-0-				
700 GRANTS, CLAIMS, ETC.	-0-	-0-				
TOTAL	-0-	-0-				

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	-0-				
FEDERAL FUNDS	-0-	-0-				
OTHER (Specify Source)	-0-	-0-				

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-				
PART TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

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

IV. DATE March 16, 1982

PREPARED BY Willie F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

Original: Legislative Finance

PHONE 465-2521

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

80-230

April 17, 1980

Mr. Julius Brecht, Director  
Division of Banking & Securities  
Department of Commerce & Economic Development  
Pouch D  
Juneau, Alaska 99811

RE: Reinstatement of Certain  
ANCSA Village Corporations

Dear Mr. Brecht:

During the past few months, the Alaska Native Foundation has been working with more than 40 ANCSA village corporations which were involuntarily dissolved for failure to file annual corporate reports and franchise taxes. Nearly all of these corporations have been reinstated because we learned of their problems within two years of dissolution; they were therefore eligible for reinstatement under A.S. 10.05.519(d). However, five corporations present special problems because they were dissolved in 1975 and 1976 and are no longer eligible for reinstatement.

Most business corporations can remedy this situation simply by reincorporating. However, Native villages which reincorporate might be challenged as ineligible for benefits under the Alaska Native Claims Settlement Act. Although the courts would almost certainly decide that these corporations are entitled to ANCSA benefits, the challenge would be a severe drain on corporate resources and could jeopardize projects requiring clear title to native land.

These problems could be avoided if the Commissioner of Commerce and Economic Development has discretion to extend the two year reinstatement period because of the circumstances causing these dissolutions and the public policy considerations involved. If the commissioner does not have this discretion, these corporations may need special legislation to prevent serious legal problems in the future. We urge you to seek an attorney general's opinion as to whether the commissioner can reinstate the five corporations dissolved in 1975 and 1976.

Mr. Julius Brecht  
April 17, 1980  
Page 2

### Public Policy Considerations

Land and other benefits are available only to villages recognized under ANCSA. No provision was made for receipt of benefits by corporations other than these original federally recognized entities. However, it is certainly not the public policy of either the state or federal government for Settlement Act benefits to be jeopardized by involuntary dissolutions.

A corporation which is not reinstated loses its corporate identity and technically becomes a new corporation upon filing the appropriate papers and fees. Even though village corporations in this situation would essentially be continuing their old identity, it is entirely possible that in the future someone might challenge their entitlement to land and money. Native corporations have already been subject to much litigation; they are justifiably concerned about creating the potential for future litigation.

If the dissolved corporations cannot be reinstated, problems might extend beyond the entitlement to ANCSA benefits. For instance their obligations to reconvey land for municipal governments, airports, native and non-native homes and businesses, etc. may be jeopardized. Without clear title to the land, a village corporation cannot effectively convey these properties under ANCSA Section 14(c).

### Circumstances Leading to Involuntary Dissolution

In addition to the public policy considerations, there are circumstances leading to the involuntary dissolutions which merit special consideration.

When villages were first incorporated, few were ready to cope with the difficulties of maintaining profit corporations. Many trusted that their lawyers, accountants and other advisors would take care of business matters, including the preparation and filing of necessary state and federal reports. Unfortunately, that trust was often misplaced.

As with nearly all of the 43 involuntary dissolutions of ANCSA village corporations, the five dissolutions prior to 1977 can be blamed in large part on the registered agents. Many lawyers who drew up incorporation papers named themselves as registered agent. Some of these attorneys were not diligent in handling the corporate report forms mailed to them annually from Juneau. Of the remaining five dissolved corporations, two were represented by one attorney and two by another attorney.

Knowing full well that village corporation boards were not familiar with corporate affairs, these attorneys should have ensured that reports and franchise taxes were submitted. Their responsibility should not have ended when they forwarded the reports to the village for signature and mailing. Since 60 day notice letters of intent to dissolve are also mailed

Mr. Julius Brecht  
April 17, 1980  
Page 3

to registered agents, these attorneys were notified that a problem existed with the corporate status of their client corporations. (Some agents did not even notify the state corporations office when their addresses changed, so report forms were returned to Juneau undelivered.)

The attorney who was registered agent for the two villages dissolved in 1976 was also the agent for more than a dozen other dissolved corporations which have been reinstated. It is disgraceful that village corporations often pay twice for the services of their "consultants": once when the initial bill is received and again when problems arise due to the poor service.

As I mentioned to you when we spoke in Juneau, our initial idea was to seek special legislation to remedy this problem. However, the problem could be handled much more easily if the commissioner has discretion to extend the reinstatement period for these unusual circumstances. We would very much appreciate your assistance in resolving this potentially troublesome situation.

Sincerely,

Annalee McConnell  
Special Projects Coordinator  
Village Management Assistance

AMc/ijm

CNRA(?) 4727

## MEMORANDUM

State of Alaska

TO: Julius J. Brecht, Director  
Division of Banking & Securities  
Dept. of Commerce &  
Economic Development

DATE: May 5, 1980

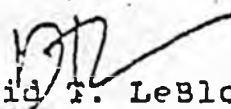
FILE NO. A66-430-80

TELEPHONE NO. 276-3550

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Dissolution of ANCSA  
Village Corporations

By:

  
David T. LeBlond  
Assistant Attorney General  
Anchorage - AGO

You have requested our opinion whether village corporations organized under Alaska law pursuant to the Alaska Native Claims Settlement Act (ANCSA) which have been involuntarily dissolved by the Department of Commerce and Economic Development, and for which the two-year statutory period for reinstatement has passed, may nonetheless be reinstated. In our opinion the answer is "no".

The Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 686; 43 U.S.C. 1601, et seq.) provides for the creation of village corporations. These corporations are organized under the laws of the state of Alaska.

The Native residents of each Native village entitled to receive lands and benefits under this chapter shall organize as a business for profit or nonprofit corporation under the laws of the State before the Native village may receive patent to lands or benefits under this chapter, except as otherwise provided.

43 U.S.C. § 1607(a). We understand that the village corporations with which you are concerned were organized as business for profit corporations under the Alaska Business Corporation Act, AS 10.05.

AS 10.05.519 provides that a corporation may be dissolved involuntarily by the Commissioner of the Department

of Commerce and Economic Development. 1/

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1/ AS 10.05.519 states as follows:

Involuntary dissolution. (a) A corporation may be dissolved involuntarily by the commissioner when

(1) the corporation is delinquent six months in filing its annual report or in paying a license filing fee or penalty;

(2) the corporation has failed for 30 days to appoint and maintain a registered agent in this state;

(3) the corporation has failed for 30 days after change of its registered office or registered agent to file in the office of the commissioner a statement of the change;

(4) the corporation has failed for two years to complete dissolution pursuant to a statement of intent to dissolve; or

(5) a vacancy in the board of directors of a corporation is not filled within six months or the next annual meeting whichever occurs first.

(b) No corporation may be involuntarily dissolved unless the commissioner has given the corporation at least 60 days' notice of its delinquency or omission by certified mail addressed to its registered office or in care of one of its principal officers or directors, at the last known address of the officer or director, as shown by the records of the commissioner, and the corporation has failed to correct the neglect, omission or delinquency before involuntary dissolution.

(c) When a corporation has given cause for involuntary dissolution and has failed to correct the neglect, omission or delinquency as provided in this section, the commissioner shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved, the date, and the reason for which

1/ (con't.)

it was dissolved. The original certificate of dissolution shall be placed in the department files and a copy of it mailed to the corporation at its registered office or in care of one of its principal officers or directors, at the last known address of the officer or director, as shown by the records of the commissioner. Upon the issuance of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this section, and its name shall be available to and may be adopted by another corporation no less than six months after the dissolution.

(d) A corporation dissolved by the commissioner under the provisions of this section may be reinstated by the commissioner at any time within two years from the date of the certificate of involuntary dissolution whenever it is established to the satisfaction of the commissioner that in fact there was no cause for the dissolution, or whenever the neglect or delinquency resulting in dissolution has been corrected and payment made of double the amount delinquent along with the amount the corporation would have paid had it not been dissolved during the two-year period. Reinstatement may not be authorized if the same or a deceptively similar corporate, limited partnership, reserved or registered name is currently on file with the commissioner, unless the corporation being reinstated contemporaneously amends its articles of incorporation to change its name to conform with the provisions of this chapter.

(e) Nothing in this section relieves a corporation reinstated under this section from penalty of forfeiture of its powers as a body corporate in cases of failure to pay subsequently accruing licenses and taxes imposed by a law of this state.

May 5, 1980

We understand that the commissioner has dissolved certain ANCSA village corporations under this section of the Alaska Business Corporation Act. It provides that a corporation dissolved by the commissioner may be reinstated by the commissioner at any time within two years from the date of the certificate of involuntary dissolution. We understand that many involuntarily dissolved village corporations have been reinstated, but that for certain other village corporations which were involuntarily dissolved, the two-year period for reinstatement has expired, and those corporations have not been reinstated.

The legislative history of ANCSA indicates that Congress intended to give the state jurisdiction over Native corporate affairs, except as otherwise limited in the Act. Calista Corp. v. DeYoung, 562 P.2d 338, 341 (Alaska 1977). Our review of the provisions of ANCSA does not disclose any limitation upon the application of the involuntary dissolution provisions of the Alaska Business Corporation Act to village corporations, albeit ANCSA implicitly presumes the undisturbed existence of the village corporations. In our view, neither that implicit presumption nor the specific provisions of ANCSA, for instance those forbidding the alienation of stock in the village corporations and otherwise preserving the inchoate rights of stockholders, dictate that village corporations may not be involuntarily dissolved as provided in the applicable law of the state of Alaska under which they were organized.

Inasmuch as we conclude that the involuntary dissolution provisions of the Alaska Business Corporation Act apply to village corporations organized under Alaska law pursuant to ANCSA, we necessarily conclude that the two-year statutory period for reinstatement of business corporations applies to village corporations just as it applies to other corporations generally. You have been asked to make a special exception for certain village corporations, however, and to reinstate them after the two-year period for reinstatement has passed. Our review of the Alaska Business Corporation Act and the powers and authorities of the Commissioner of the Department of Commerce and Economic Development does not reveal any basis for the reinstatement of an involuntarily dissolved business corporation after the two year statutory period for reinstatement has expired even if it is an ANCSA village corporation.

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Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MARCH 26, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 535 - "An Act relating to the criminal laws of the state."
- SB 774 - "An Act reducing the fee for a club license to sell alcoholic beverages."
- SB 855 - "An Act repealing the requirement that an applicant for a beverage dispensary license file a bond."
- SB 654 - "An Act relating to alcoholic beverage licenses; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Ray, Parr, Anderson. Senator Bennett was absent.

005 - Call to order.

008 - Chairman Rodey brought SB 535 before the Committee and the amendments which were offered by Senator Fischer: On Page 3, Line 15: Delete "a new paragraph" and insert "new paragraphs"; Page 3, Line 18: Change the period to a semi-colon; Page 3, following Line 18: Insert the following: (20) the defendant knowingly directed the conduct constituting the offense at a victim because of that person's race, sex, color, creed, ancestry, or national origin.

039 - Senator Fischer testified in favor of CSSB 535 stating that it would add aggravating factors the judge could consider in sentencing.

111 - Barry Sterr, Department of Law, testified stating that the Department is generally supportive of this legislation.

380 - Chairman Rodey set SB 535 aside.

400 - Chairman Rodey next brought SB 774 before the Committee.

433 - Don House, representing himself, testified, stating that it would be ridiculous to drop the fees.

471 - Chairman Rodey laid SB 774 on the table.

474 - The next item brought before the Committee was SB 855.

496 - Merle Jensen, Budget & Audit, testified in favor of SB 855.

546 - Pat Sharrock, representing the ABC Board, testified, stating that he had no opposition to the bill.

585 - SB 855 was laid on the table.

591 - Mr. Bruce distributed a bill relating to interest in eminent domain cases for the Committee member's approval of introduction. There was no objection.

603 - SB 654 was the last item before the Committee.

610 - Mr. Sharrock, Bill Gordon, and Mr. House, of the ABC Board, testified in favor of SB 654.

SIDE TWO

068 - After discussion, SB 654 was laid on the table.

074 - Adjournment at 2:25 P.M.

Prior Audit Recommendation No. 5

Renewals of licenses should be made in a timely manner.

The processing time delays for renewals were caused by: (1) all licenses being renewed at the same time each year, and (2) conflicting statutory requirements resulting in allowance of a 30-day protest period for local governing bodies. We recommend the need for the protest period be reviewed for merit, as the majority of protests were for nonpayment of local property taxes. If found to be of merit, the protest period should be run concurrent with, rather than subsequent to, the renewal application period to reduce processing delays.

Legislative Audit's Current Position

The conflicting statutory requirements for local protest of renewals were resolved by the 1980 revision of Title 4. The requirement for the protest period was retained, and a new provision listing delinquency in payment of taxes as grounds for denial of a renewal was added. Implementation of the alternative recommendation is precluded by a new provision which states the protest period begins with "receipt from the board of notice of filing of the application".

Prior Audit Recommendation No. 6

The requirement for a \$2500 cash or surety bond for a beverage dispensary license should be eliminated from AS 04.10.040.

The requirement for a \$2500 cash or surety bond was established in 1939 as a penal sum to be forfeited upon revocation of a license. Since that time, not only has the value of the dollar decreased substantially but beverage dispensary licenses have gained economic value in areas where the quota for that type of license has been reached making license revocation a financially penalizing action in its own right. These economic factors coupled with no record of forfeiture in the previous five years indicated the bond requirement should be eliminated as obsolete.

Legislative Audit's Current Position

The 1980 revision of Title 4 retained the requirement for a \$2500 cash or surety bond for beverage dispensary licenses.

┌ Prior Audit Recommendation No. 7

The Office of the Governor should keep appointments of members of the Alcoholic Beverage Control Board current and stagger them as required by AS 39.05.060.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

March 25, 1982

The Honorable Patrick M. Rodey  
Chairman  
Senate Judiciary Committee  
Room 125 - Capitol Building  
Juneau, Alaska

Dear Senator Rodey:

Re: Senate Bill No. 855

Senate Bill No. 855, an Act repealing the requirement that an applicant for a beverage dispensary license file a bond, was introduced in the Senate on March 12, 1982 and was referred to the Senate Judiciary Committee.

For the consideration of the Senate Judiciary Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Patrick L. Sharrock, Director, Alcoholic Beverage Control Board, Department of Revenue, Anchorage.

Sincerely,



R. D. Stevenson  
Special Assistant

Enclosure

cc: Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Patrick L. Sharrock, Director  
Alcoholic Beverage Control Board  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: SB 855

Title: Repealing requirement for beverage dispensary liquor license bond

Requested by: Senate Judiciary Committee

Date: 3/16/82

II. FISCAL DETAIL

Agency Effected: Department of Revenue

Program Category Effected: Consumer Protection

BRU, Program, or Subprogram(s) Affected: Alcoholic Beverage Control Board

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

Enactment of this legislation will not have any fiscal impact on this BRU.

IV. DATE: 3/24/82

PREPARED BY: Patrick L. Sharrock, Director  
AGENCY: Alcoholic Beverage Control Board  
PHONE: 277-8638

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

S

B

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Original sponsor: State Affairs  
Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 861 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse of power by public offi-  
7 cials and prescribing penalties; and providing for an  
8 effective date."

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

10 \* Section 1. AS 39.26.010 is amended by adding a new subsection to read:

11 (d) A violation of (a) of this section is a class A misdemeanor.

12 \* Sec. 2. AS 39.51 is amended by adding a new section to read:

13 ARTICLE 2. PROTECTIONS FOR REPORTING A VIOLATION.

14 Sec. 39.51.030. PROTECTIONS FOR REPORTING A VIOLATION. (a)

15 Unless the state or municipal <sup>105,</sup> employee knows the report is false, a state  
16 or municipal employee who <sup>N</sup> ~~knows~~ <sup>has acted reasonably</sup> that a public official has committed  
17 an act that constitutes a violation of a law or of a municipal ordinance  
18 arising out of duties of the public official <sup>and reported the violation</sup> is not, because of that  
19 reporting, subject to

- 20 (1) dismissal from office or employment;
- 21 (2) withholding of salary increases;
- 22 (3) withholding of promotions;
- 23 (4) demotion in employment status;
- 24 (5) transfer of employment location;
- 25 (6) denial of a right or benefit to which the person is
- 26 entitled; or
- 27 (7) any other type of retaliation. *[See section 10.10.010]*

28 (b) If a state or municipal employee who has reported that a  
29 public official has committed an act that constitutes a violation of a

1 law or of a municipal ordinance arising out of duties of the public  
2 official is subject to an action described in (a) of this section for a  
3 reason other than the reporting, the state agency or municipality shall  
4 establish by a preponderance of evidence that the action is not a sanc-  
5 tion imposed because of the reporting.

6 (c) Unless the person knows the report is false, a person who is  
7 not a public official who <sup>with reasonable diligence</sup> reports that a public official has committed  
8 an act that constitutes a violation of a law or of a municipal ordinance  
9 arising out of duties of the public official may not be disqualified  
10 because of that reporting from eligibility to

11 (1) bid on contracts with an agency of the state or of a  
12 municipality of the state;

13 (2) receive land under a law of the state or an ordinance of  
14 a municipality;

15 (3) receive any other right or benefit to which the person is  
16 entitled.

17 (d) If a person who is not a public official who has reported that  
18 a public official has committed an act that constitutes a violation of a  
19 law or of a municipal ordinance arising out of duties of the public  
20 official is determined to be ineligible for a right or benefit described  
21 in (c) of this section for a reason other than the reporting, the state  
22 agency or municipality shall establish by a preponderance of evidence  
23 that the determination of ineligibility is not a sanction imposed because  
24 of the reporting.

25 (e) A person who violates (a) or (c) of this section is subject to  
26 a civil penalty of not more than \$5,000.

27 (f) A person who alleges a violation of (a) or (c) of this section  
28 may bring a civil action in the superior court for appropriate injunc-  
29 tive relief or actual damages or both within 90 days after the occur-

1           rence of the alleged violation. The court may order reinstatement,  
2           payment of back wages, reinstatement of other rights or benefits in-  
3           cluding seniority rights, and other damages.

4           (f) A state agency or municipality shall post notices and use  
5           other means to keep its employees and other persons informed of the  
6           provisions of this section.

7           (h) As used in this section, "public official" includes each  
8           person employed by

9                   (1) a state department or agency, whether in the executive,  
10                  legislative, or judicial branch or by a political subdivision or muni-  
11                  cipality of the state, and

12                   (2) entities such as the University of Alaska, the Alaska  
13                  State Housing Authority, the Alaska Commercial Fishing and Agriculture  
14                  Park, and regional school boards.

15       \* Sec. 3. This Act takes effect July 1, 1982.

17                   [ ARTICLE 10 ]  
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