

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

2035 HSA SB 167 - SB 621

2035

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 19, 1982

SUBJECT: Public Offices Commission
(HCS CSSB 167 (SA))

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs Committee

FROM: Richard A. Bradley 
Legislative Counsel

You have requested a state affairs committee substitute for CSSB 167 (Rules) am.

Because it will not be possible to have a bill of this size (and complexity) prepared by 1:30 today, and because I gather that the committee has not completed its mark-up process, I decided that an analysis of what you have requested and my anticipated response to it would be useful to the committee.

I. Deletion of secs. 27 and 29 of SB 167. There are no particular difficulties with these deletions; these changes tie in with II, below.

II. Add in provisions of HB 89 am. Add references applying to school boards and charter commissions.

These changes present no particular policy problems. It is necessary to amend the provisions twice: first amending existing law and then amending provisions of the anticipated municipal code, with conditional effective dates.

III. Change \$250 to \$500 on page 5 of SB 167. No particular problem.

IV. Make the bill consistent with a one year statute of limitations. The committee asked that lines 1 - 5 on page 15 of SB 167 be deleted. If the committee wants to

Representative Ray H. Metcalfe

Page 2

March 19, 1982

make the statute of limitations for all offenses possible under the election code (AS 15, including AS 15.13), it will also be necessary to amend AS 15.13.120(e) down from its present four years to one year.

This is necessary because the existing provisions of AS 15.-56.130 are inconsistent with the existing provisions of AS 15.13.120(e). One provision or the other needs affirmative amendment to resolve the inconsistency.

V. Add in the provisions of HB 796 transferring the responsibilities of the APOC to the director of elections (as to AS 15.13) and to the commissioner of administration (as to AS 24.45 and AS 39.50). The merger of SB 167 and HB 796 will eliminate a number of sections in the earlier part of SB 167; sections that I anticipate deleting include secs. 2 - 5. I assume that the substantive changes accomplished in SB 167 in sec. 6 and following are to be incorporated into the provisions of HB 796 transferring the responsibilities out of APOC. The result is that each section in each bill needs careful review to see how these mergers are to be accomplished consistently.

I regret that it was not possible to prepare a bill of this complexity in the time permitted.

RAB:ljb

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY


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

MEMORANDUM

March 25, 1982

SUBJECT: Election campaigns and APOC
(HCS CSSB 167 (SA))

TO: Representative Ray H. Metralfe
Chairman, House State Affairs
Committee

FROM: Richard A. Bradley 
Legislative Counsel

This bill is provided to you at your request without review by the revisors. I expect the bill to be reviewed by the revisors before it is prepared in final form for your committee.

RAB:ljb

Enclosure

TELEPHONES
(907) 586-1325
586-6526

Alaska MUNICIPAL League

204 N FRANKLIN ST.
JUNEAU, ALASKA 99801

March 19, 1982

To: All members of the House State Affairs Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: HB 796 (now being incorporated into SB 167)

The Alaska Municipal League is an association of municipalities throughout Alaska. One of the services we provide our members is lobbying following a policy statement voted on at the annual conference each year. We have a staff of three, all of whom register with the Alaska Public Offices Commission and we report all expenditures involved in our lobbying activities according to the rules and regulations.

We are not protesting the provisions of HB 796 on our behalf. However, on the last page of HB 796, Section 47 calls for the repeal of AS 24.45.161(a)(2), which is the exemption provision for municipal elected and appointed officers. If this section was repealed, every mayor, council or assembly member, manager and other appointed official would have to register as a lobbyist and report under APOC regulations when working on behalf of their municipality unless specifically invited by a committee to address a particular subject.

Since all salaries, travel expenses, expense accounts, etc. of municipal elected and appointed officials are a matter of public record, we feel this is a duplication of time and effort. This would be the same as if the Federal government required state senators and representatives to report all travel expenses, etc. when visiting Alaska's Congressional Delegation. If you took your Congressman to lunch you would have to register and report all expenses involved. Since state government is an extension of Federal government, we feel there would be no need for this. By the same token, since local government is an extension of state government, we feel there is no need to subject municipal elected and appointed officials to the same regulations as a paid lobbyist. Some of our municipalities have paid lobbyists and these lobbyists register and report. I don't know of a single case where a paid lobbyist has not complied with the rules.

I respectfully ask that the reference to AS 24.45.161(a)(2) in line 16, page 20 of HB 796 be deleted.

Thank you.

ALASKA PUBLIC OFFICES COMMISSION
CHECKLIST OF CSSB 167(R1s) CHANGES IN AS 15.13, CAMPAIGN DISCLOSURE
February 15, 1982

- increasing the maximum annual contribution from \$1,000 to \$2,000;
- raising the threshold at which a contributor's name must be reported to over \$250;
- allowing expenditures of \$250 or less to be reported as a lump sum on each report;
- exempting candidates for service area boards from campaign disclosure requirements;
- allowing deputy treasurers, as well as treasurers and candidates, to certify reports;
- allowing candidates who plan to accept no more than \$250 in total contributions and to spend no more than \$250 to file one Campaign Exemption Report;
- allowing contributions which exceed \$100 in cash to be accepted if receipted;
- allowing candidates to use a "short form" of identification on political communications, i.e., "paid for by Pat. Candidate;"
- allowing expenditures before filing;
- establishing January 10 as the due date for Year-end Reports;
- deleting the requirement to report expenditures on 24 Hour Reports as well as changing such to "48 hour" reports;
- specifying which violations of AS 15.13 may result in criminal penalties;
- eliminating the requirement to record and report contributions returned within 72 hours;
- deleting the requirement that suppliers of services file reports;
- restoring the four-year statute of limitations for AS 15.13;
- requiring that APOC hearing process regulations be promulgated;
- prohibiting new regulations from taking effect later than 30 days before the filing deadline.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1982

SUBJECT: Election campaigns and APCC
(HCS CSSB 167 (SA))

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs
Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

At your request, I have not requested that HCS CSSB 167 (SA) be prepared in final form and delivered to you because I have been advised that the committee may be considering additional amendments.

At this time, I would like to call to your attention some defects in the clean draft of HCS CSSB 167 (SA) that I provided to you on March 25th. Further review brought the need for these changes to the light and they will be incorporated into the bill when it is prepared in final form.

In Sec. 1 of the bill there is a reference to a provision of AS 29: "at any regular election, as defined by AS 29.78.-010(14), . . ." It is clear that the new municipal code, if adopted this year, will render the reference obsolete.

But in our view, the phrase could be simplified and the reference obliterated without loss: "at any regular municipal election [, AS DEFINED BY AS 29.78.010(4),]". As the quote suggests, I want to delete the definitional phrase and add the term "municipal".

Sec. 7 of the draft provided to you last week has been deleted.

In explanation of the deletion, let me state that I was uncertain at first how to combine the provisions of SB 167

and HB 796. In places, both amend the same section of AS 15.13. I have understood that you wished the substantive changes requested in SB 167 (which is a reform bill proposed by the commission) with the elimination of the commission as the contribution received from HB 796. To the extent that HB 796 made policy changes to AS 15.13, I have not incorporated them into the resulting HCS CSS 167 (SA).

Thus since SB 167 repealed AS 15.13.040(f), I have deleted the amendment to sec. 40(f) from the bill and added AS 15.-13.040(f) to the repealer section.

I have proposed several changes to AS 15.13.115, a section added to AS 15.13 in this bill. The source of this section is existing AS 15.13.120(d); the section is minimally changed for clarity.

Further changes have been made since it was last provided to you. Sec. 115(b) suggests that a "determination" is a conclusion by the commission (or director under this bill) that there has been actual violation. The suggestion in (c) that only such a "determination" is reported to the complainant is undoubtedly inadequate to the complainant. The complainant wants to know what the results of the investigation were, whether or not a determination under (b) that a violation was found to exist has occurred.

As I say this, I am aware that the commission has not interpreted the provisions of existing law this way; they have sought to give meaning to an ambiguous law. But this is the time to clear up ambiguities.

And finally, I have deleted sec. 115(d). The decision of the commission (or director) should be a final administrative decision, just like the results of other administrative investigations are final.

If the determination is that a violation has occurred, the matter is transferred to the attorney general and it is unclear what the nature of an "appeal" by the person against whom a violation has occurred might mean; in that situation, the complainant would not ordinarily be appealing. If the determination is that a violation has not occurred, it is again unclear what it means to appeal the decision. The commission has discretion to refer a case to the attorney

Representative Ray H. Metcalfe
Page 3
March 29, 1982

general or not. That decision is not and should not be subject to review if the decision is to close a case.

HB 796 deleted AS 15.13.125: Civil Penalties. SB 167 did not; I have replaced the section in the bill and amended it consistently with the pattern of the bill.

And finally, I am uncertain that the amendment relating to residential units that you requested achieves your goal. As written, the Mendenhall Apartments, for example, would not qualify for the exclusion you seek because it is not (exclusively) a residential unit. I am continuing to work on the amendment and I believe that I will be able to achieve your request.

RAB:ljb

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

March 24, 1982

SUBJECT: APOC amendments
(HCS CSSB 167 (SA))

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs
Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

You have requested a draft of an amendment that removes the requirement to report income derived from occupants of single or multi-family units that are owned solely by the candidate.

In preparation of the amendment, I assumed that you would also wish the amendment to apply to the others required to report under AS 39.50 beyond a "candidate": for example, (existing) public officials and municipal public officials.

I have not taken your request that the units be owned "solely" by the candidate (or public official) literally. Thus, the amendment follows the style of AS 39.50.030 that usually treats property owned by a spouse or by a spouse and dependent child no differently for reporting purposes than that owned by the reporting official or candidate. Under the amendment you requested, if a spouse owned the units and the reporting official had no ownership interests in the units, the reporting official would have to report the interests owned by the spouse assuming the property was otherwise required to be reported under AS 39.50. Since this seems inconsistent with the logic of your request, I have dealt with this asset consistently with the other provisions of AS 39.50.030.

I suggest the following language:

Representative Ray H. Metcalfe

Page 2

March 24, 1982

* Sec. _____. AS 39.50.030 is amended by adding a new subsection to read:

(d) If a public official, a candidate for state elective office, or a candidate for elective municipal office or the spouse or dependent child of a public official, a candidate for state elective office, or a candidate for elective municipal office or a combination of them are the sole owners of a single or multi-family residential unit, the public official, a candidate for state elective office, or a candidate for elective municipal office is not required to report the income received from residential occupants of the unit.

I must also add that I doubt that this amendment which deals with the substantive aspects of the conflict of interest/financial disclosure requirements of AS 39.50 comes within the subject of the bill which is election campaigns and a reassignment of the responsibilities of the public offices commission.

If I may assist further, please advise.

RAB:ljb

S

B

/

9

3

COMMITTEE REPORT

HOUSE

FURTHER: Judiciary

(5)

4/15/81

Date: 4/21/81

Mr. Speaker:

The Committee on State Affairs has had CSSB 193 (Jud)

"An Act amending state personnel laws and providing for an effective date."

under consideration and reports it back as follows: Individual

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CS 111 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:

CHAIRMAN

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C

JUNEAU, ALASKA 99811

465-2200

April 20, 1982

Honorable Ray Metcalfe
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

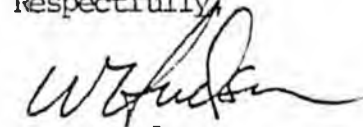
Dear Mr. Chairman:

CSB 193 (Jud) am, amending the State's personnel laws, has been referred to your committee. We request that you make the following changes:

1. Delete Sec. 39.25.120(17)
2. Delete Section 12
3. Add to Sec. 39.25.150(5)
(;) including preference for local residents under appropriate circumstances;
4. Delete Section 16

Your consideration of these changes is greatly appreciated.

Respectfully,



W. R. Hudson
Commissioner

WRH/mjc

cc: Honorable Ramona Barnes
Chairwoman, House Judiciary
Committee

Keith Specking
Legislative Assistant
Office of the Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 193 (Jud)
Title An Act amending state personnel laws; and an effective date
Requested by _____ Date 04-16-82

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel 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		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

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

Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
 - rewrite the current Personnel Rules to AAC standards
 - draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
Original: Legislative Finance PHONE 465-4430
cc: Budget and Management
Prime Sponsor (First Legislator Named)
12-001 (Rev. 12/81)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$.6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

SB 193 TITLE & SPONSOR SUMMARY 17:11 4/19/82 PAGE 1 OF 3
 AMENDED TITLE: CSSB 193(JUD)AM
 AN ACT AMENDING STATE PERSONNEL LAWS, AND PROVIDING FOR
 AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 4/15/82 IN (H) STATE AFFAIR REFERRAL: JUDICIARY

SB 193 SENATE ACTION 17:11 4/19/82 PAGE 2 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

02/20/81 01 0288 FIRST READING -- COMMITTEE REPORTS
 05/15/81 02 1092 S.A. -- CS04, NR01
 04/07/82 03 0813 JUD -- CS03, NR01
 04/14/82 04 0899 RLS -- NR01, OTHER02
 TAKEN UP IMMEDIATELY
 04/14/82 05 0902 SECOND READING
 04/14/82 06 0902 JUD CS ADOPTED BY UNAN CONSENT
 04/14/82 07 0903 AM01 ADOPTED BY DIV 17-01-02
 04/14/82 08 0903 AM02 ADOPTED BY UNAN CONSENT
 04/14/82 09 0904 AM03 PART01 ADOPTED BY UNAN CONSENT
 04/14/82 10 0904 AM03 PART02 ADOPTED BY UNAN CONSENT
 04/14/82 11 0904 ADVANCED TO 3RD READING BY UNAN CONSENT
 04/14/82 12 0904 THIRD READING
 04/14/82 13 0904 PASSED BY DIV 26 00-00
 04/14/82 14 0904 EFFECTIVE DATE VOTE SAME AS PASSAGE

*** ** ** **

SB 193 HOUSE ACTION 17:12 4/19/82 PAGE 3 OF 3
 DATE SEQ PAGE LEGISLATIVE ACTION

04/15/82 15 1296 FIRST READING -- COMMITTEE REPORTS
 STATE AFFAIRS
 JUDICIARY
 RULES

*** ** ** **



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 19, 1982

TO: House State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: CSSB 193 (Jud) am

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Page 3
Line 2 ff.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

This section does not change the existing membership of the exempt service. It does add statutory reference to employees of the Citizen's Advisory Commission

on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
Line 5

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 7
Line 20 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28)
The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 19 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10 (16) adds a requirement that the Personnel Rules
Line 25 include procedures for resolving disputes from the
general public.

Page 10 (19) sets out the provisions for veterans' preference
Line 29 in state employment in different form. The substance of
the preference is basically unchanged. The definition of
veteran is amended to require that an individual have
served 181 days in active service instead of the present
90 days. This is in conformance with federal veterans'
preference system. The definition of disabled veteran
is also changed slightly. It no longer requires that
an individual have a 10% service connected disability
but instead specifies that the individual be entitled
to compensation from the Veterans' Administration.

Page 12 (22) provides that the Personnel Rules shall include
Line 11 procedures for programs which may be set up to facilitate
the employment of disadvantaged persons and permits the
procedures to limit competition for hiring for those
programs.

Page 12 (24) adds a requirement that the Rules provide for
Line 17 assistance in finding work to partially exempt or exempt
employees whose positions are moved into the classified
service. Classified employees must pass examinations to
be hired. Exempt and partially exempt employees do not
have to meet these merit system standards and may be
unable to qualify for the positions which they previously
held.

Page 12 Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.
Line 23 ff Subsection (a) provides that all personnel officers
shall be employees of the department in which they
serve.

Subsection (b) amends the powers granted to the
personnel officers listed in the statute. These powers
have never been exercised. They are retained in limited
form by the Committee Substitute.

Page 13 Section 15. Amending AS 39.25.160. GENERALLY.
Line 18

Most of this section remains unchanged. The following
subsections have been amended.

Page 13
Line 26 Subsection (c) extends protection from being required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14
Line 2 Subsection (e) adds a requirement that partially exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14
Line 8 Subsection (f) extends protection from unlawful discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15
Line 1 ff Section 16. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Sub section (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3100

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1982

SUBJECT: Sunset of state agencies, boards and
commissions -- CSSSSB 630 (SA)

TO: Senator Arliss Sturgulewski

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked for a section-by-section analysis of
CSSSSB 630 (SA).

OK
Sec. 1. The title of AS 44.66.010 and the first sentence of
subsections (a), (b) and (c) have been amended to include
state agencies, and in subsections (b) and (c) also state
boards. The last half of the first sentence of sub-
section (a) has been reworded for purposes of clarity. In
Paragraph (11) the statutory reference to the Council on
Domestic Violence and Sexual Assault has been renumbered in
accordance with changes made during the interim by the
Revisor of Statutes.

In subsection (b) a new sentence has been added to provide
that during the year for which a "terminated" agency, board
or commission is extended for the purpose of concluding its
affairs, its powers and authority are not reduced. The
meaning of this sentence is not clear. One interpretation
is that it means that the agency, board or commission may
exercise its powers and authority only for the purpose of
concluding its affairs. Another interpretation is that the
agency, board or commission may continue to exercise all its
powers and authority and carry on "business as usual".

Subsection (c) provides that the legislature has authority
to continue or reestablish a state agency, board or
commission for a period not to exceed four years unless it
decides to continue or reestablish the agency, board or
commission for a period exceed for years.

from

Senator Arliss Sturgulewski
Page 2
February 24, 1982

Sec. 2 provides for an immediate effective date if the section is approved by a two-thirds vote of each house. The act would take effect on 12:01 am on the day after it is signed by the governor or the day after he gives written notice that he is allowing the act to become effective without his approval.

EHH:ljb



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 19, 1982

TO: House State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: CSSB 193 (Jud) am

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Lines 6-25

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The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Page 3
Line 2 ff.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

This section does not change the existing membership of the exempt service. It does add statutory reference to employees of the Citizen's Advisory Commission

on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
Line 5

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 7
Line 20 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28) The current law entirely exempts the Personnel Rules from the APA.

For the rules which are not matters of public policy, the committee Substitute maintains the current system of adoption, but adds that the Personnel Board may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 19 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10
Line 25 (16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 10
Line 29 (19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 11 (22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons and permits the procedures to limit competition for hiring for those programs.

Page 12
Line 17 (24) adds a requirement that the rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 12
Line 23 ff Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.
Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute. These powers have never been exercised. They are retained in limited form by the Committee Substitute.

Page 13
Line 18 Section 15. Amending AS 39.25.160. GENERALLY.
Most of this section remains unchanged. The following subsections have been amended.

Page 13
Line 26

Subsection (c) extends protection from being required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14
Line 2

Subsection (e) adds a requirement that partially exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14
Line 8

Subsection (f) extends protection from unlawful discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15
Line 1 ff

Section 16. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1982

SUBJECT: Sunset of state agencies, boards and
commissions -- CSSSSB 630 (SA)

TO: Senator Arliss Sturgulewsk

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked for a section-by-section analysis of
CSSSSB 630 (SA).

o/c
Sec. 1. The title of AS 44.66.010 and the first sentence of
subsections (a), (b) and (c) have been amended to include
state agencies, and in subsections (b) and (c) also state
boards. The last half of the first sentence of sub-
section (a) has been reworded for purposes of clarity. In
Paragraph (11) the statutory reference to the Council on
Domestic Violence and Sexual Assault has been renumbered in
accordance with changes made during the interim by the
Revisor of Statutes.

In subsection (b) a new sentence has been added to provide
that during the year for which a "terminated" agency, board
or commission is extended for the purpose of concluding its
affairs, its powers and authority are not reduced. The
meaning of this sentence is not clear. One interpretation
is that it means that the agency, board or commission may
exercise its powers and authority only for the purpose of
concluding its affairs. Another interpretation is that the
agency, board or commission may continue to exercise all its
powers and authority and carry on "business as usual".

Subsection (c) provides that the legislature has authority
to continue or reestablish a state agency, board or
commission for a period not to exceed four years unless it
decides to continue or reestablish the agency, board or
commission for a period exceed for years.

from

Senator Arliss Sturgulewski

Page 2

February 24, 1982

Sec. 2 provides for an immediate effective date if the section is approved by a two-thirds vote of each house. The act would take effect on 12:01 am on the day after it is signed by the governor or the day after he gives written notice that he is allowing the act to become effective without his approval.

EHH:ljb



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 19, 1982

The Honorable Ray Metcalfe
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. *Ray* Chairman:

CSSB 193 (Jud) am, amending state personnel laws, and providing for an effective date, has been referred to your committee. Please amend sec. 8, AS 39.25.110 by adding a new subsection to read:

employees of the Office of the Governor and the lieutenant governor, including the employees serving the governor's mansion, but not the employees of councils, boards, or commissions established by statute in the governor's or lieutenant governor's office.

Please amend sec. 9, AS 39.25.120(c) (5) to read:

employees of councils, boards, and commissions located by statute in the Office of the Governor or lieutenant governor, unless a different classification is specified by statute;

Thank you for your consideration of this amendment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith W. Specking".

Keith W. Specking
Legislative Assistant
to the Governor

cc: The Honorable Ramona Barnes
Chairwoman
House Judiciary Committee

REC'D APR 19 1982

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 193 (Jud)

Title An Act amending state personnel laws; and an effective date

Requested by _____ Date 04-16-82

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Personnel

BRU, Program, Or Subprogram(s) Affected Personnel, Personnel 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		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

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

Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
 - rewrite the current Personnel Rules to AAC standards
 - draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82

PREPARED BY Michael P. McMullen

AGENCY Administration - Division of Personnel

Original: Legislative Finance PHONE 465-4430

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

SB 193 TITLE & SPONSOR SUMMARY 17:11 4/19/82 PAGE 1 OF 3
 AMENDED TITLE: CSSB 193(JUD)AM
 AN ACT AMENDING STATE PERSONNEL LAWS; AND PROVIDING FOR
 AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 4/15/82 IN (H) STATE AFFAI REFERRAL: JUDICIARY

SB 193 SENATE ACTION 17:11 4/19/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/20/81	01	0288	FIRST READING -- COMMITTEE REPORTS
05/15/81	02	1052	S. -- CS04, NR01
04/07/82	03	0818	JUD -- CS03, NR01
04/14/82	04	0899	RLS -- NR01, OTHER02 TAKEN UP IMMEDIATELY
04/14/82	05	0902	SECOND READING
04/14/82	06	0902	JUD CS ADOPTED BY UNAN CONSENT
04/14/82	07	0903	AM01 ADOPTED BY DIV 17-01-02
04/14/82	08	0903	AM02 ADOPTED BY UNAN CONSENT
04/14/82	09	0904	AM03 PART01 ADOPTED BY UNAN CONSENT
04/14/82	10	0904	AM03 PART02 ADOPTED BY UNAN CONSENT
04/14/82	11	0904	ADVANCED TO 3RD READING BY UNAN CONSENT
04/14/82	12	0904	THIRD READING
04/14/82	13	0904	PASSED BY DIV 20-00-00
04/14/82	14	0904	EFFECTIVE DATE VOTE SAME AS PASSAGE

SB 193 HOUSE ACTION 17:12 4/19/82 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/15/82	15	1290	FIRST READING -- COMMITTEE REPORTS STATE AFFAIRS JUDICIARY RULES

*** ** ** ** **



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 19, 1982

TO: House State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: CSSB 193 (Jud) am

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Page 3
Line 2 ff.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

This section does not change the existing membership of the exempt service. It does add statutory reference to employees of the Citizen's Advisory Commission

on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
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Page 7
Line 20 ff

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The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28)
The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 19 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

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(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10 (16) adds a requirement that the Personnel Rules
Line 25 include procedures for resolving disputes from the
general public.

Page 10 (19) sets out the provisions for veterans' preference
Line 29 in state employment in different form. The substance of
the preference is basically unchanged. The definition of
veteran is amended to require that an individual have
served 181 days in active service instead of the present
90 days. This is in conformance with federal veterans'
preference system. The definition of disabled veteran
is also changed slightly. It no longer requires that
an individual have a 10% service connected disability
but instead specifies that the individual be entitled
to compensation from the Veterans' Administration.

Page 12 (22) provides that the Personnel Rules shall include
Line 11 procedures for programs which may be set up to facilitate
the employment of disadvantaged persons and permits the
procedures to limit competition for hiring for those
programs.

Page 12 (24) adds a requirement that the Rules provide for
Line 17 assistance in finding work to partially exempt or exempt
employees whose positions are moved into the classified
service. Classified employees must pass examinations to
be hired. Exempt and partially exempt employees do not
have to meet these merit system standards and may be
unable to qualify for the positions which they previously
held.

Page 12 Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.
Line 23 ff Subsection (a) provides that all personnel officers
shall be employees of the department in which they
serve.

Subsection (b) amends the powers granted to the
personnel officers listed in the statute. These powers
have never been exercised. They are retained in limited
form by the Committee Substitute.

Page 13 Section 15. Amending AS 39.25.160. GENERALLY.
Line 18

Most of this section remains unchanged. The following
subsections have been amended.

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Page 14
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Page 15
Line 1 ff

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This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

April 20, 1982

Honorable Ray Metcalfe
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

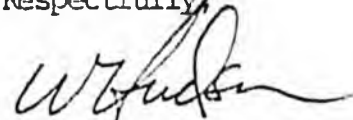
Dear Mr. Chairman:

CSSB 193 (Jud) am, amending the State's personnel laws, has been referred to your committee. We request that you make the following changes:

1. Delete Sec. 39.25.120(17)
2. Delete Section 12
3. Add to Sec. 39.25.150(5)
(;) including preference for local residents under appropriate circumstances;
4. Delete Section 16

Your consideration of these changes is greatly appreciated.

Respectfully,



W. R. Hudson
Commissioner

WRH/mjc

cc: Honorable Ramona Earnes
Chairwoman, House Judiciary
Committee

Keith Specking
Legislative Assistant
Office of the Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 193 (Jud)
 Title An Act amending state personnel laws; and an effective date
 Requested by _____ Date 04-16-82

II. FISCAL DETAIL

Agency Affected Administration
 Program Category Affected Personnel
 BRU, Program, Or Subprogram(s) Affected Personnel, Personnel 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		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.7				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

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

Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
 - rewrite the current Personnel Rules to AAC standards
 - draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
 AGENCY Administration - Division of Personnel
 Original: Legislative Finance PHONE 465-4430
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year. (\$42.2 Thous.)
- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code. (\$2.8 Thous.)
- 4) public notice of the hearings and proposed amendments. (\$.6 Thous.)
- 5) typing of drafts, revision and filing version. (\$2.0 Thous.)
- 6) printing of forms incorporating AAC references. (\$1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

5/C11/01

S

B

278

OF COUNSEL
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ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

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LEROY J. BARKER
L. G. BERRY
C. R. RICH
CARL W. WINNER

R. E. ROBERTSON (1885-1961)
F. O. EASTAUGH
J. B. BRADLEY
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JAMES F. CLARK
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May 20, 1981

The Honorable Mike Miller
Chairman, House State
Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

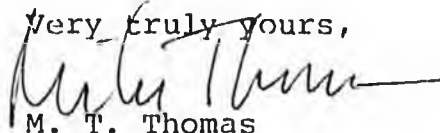
Re: Senate Bill 278

Dear Representative Miller:

The Beneficial Management Corporation is interested in the above bill. This letter is to request that someone in your Committee notify my office when the above-referenced bill is to be heard.

Thank you for your courtesy.

~~Very truly yours,~~


M. T. Thomas

S

B

280



ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUGH V, JUNEAU 99811

SB 280: "An Act relating to credit unions."

- Section 1: Declares the policy of the state regarding state-chartered credit unions. In addition, allows the division of banking to authorize for state-chartered credit unions, the same powers authorized by state-chartered institutions in other states, provided the division determines the powers serve a public purpose.
- Section 2: Provides for state-chartered credit unions to fall under the "wild card" statute, AS 06.01.020. That statute allows the division of banking to authorize for state-chartered credit unions, the same powers authorized for federally-chartered credit unions, provided the division determines the powers serve a public purpose.
- Section 3: Provides that the interest rate ceiling for state-chartered credit unions shall be the greater of 15 percent or the percent established under the state usury law, AS 45.45.010. This is the most important section of the bill, as it would allow state-chartered credit unions parity with federally-chartered credit unions. There are no state-chartered credit unions at this time, primarily because of this lack of parity. Once this act becomes law, it is expected there will be a number of conversions to state charter.
- Sections 4-6: Make technical changes in the credit union act; in the case of sections 4-5 for clarity, and in section 6 to comply with federal regulations.
- Section 7: Provides that state-chartered credit unions may, with the approval of the division of banking, seek insurance from other than the NCUA (National Credit Union Administration).

June 21, 1981
submitted by Senator Rodey



ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUGH V, JUNEAU 99874

SECTIONAL ANALYSIS: SB 278 "An Act relating to savings associations."

This bill proposes changes in chapter 30 of title 6 of the Alaska Statutes, the Alaska Savings Association Act. The changes are intended to provide parity for state-chartered savings associations.

* Section 1: Adds a declaration of policy which provides that the division of banking may, under certain conditions, allow our state-chartered savings associations the same powers possessed by state-chartered savings associations in other states.

* Section 2: Adds two powers to the list of general powers of savings associations: (1) conversion from a mutual to a stock association; and (2) conversion from a stock association to a commercial bank. The language is patterned after the language contained in AS 06.15.350 (9) and AS 06.45.240. For analogous provisions, see AS 06.05.162, AS 06.15.300-310 and AS 06.30.760-775. Although quite simple in form, the language leaves wide latitude for an association and the division of banking to work out the details of an appropriate conversion.

* Section 3: Accomplishes two changes: (1) removes dollar limits on residential loans thus providing parity with the federals; and (2) amends the loans-to-one-borrower-limitation; the language comes from the Model Savings Association Act.

* Section 4: Accomplishes three changes: (1) increases the loan-to-value limit from 80 percent to 90 percent on one-to-four family residences (parity with the federals); (2) extends the loan term to 40 years (parity with the federals); and (3) simplifies the insurance provisions to recognize the expanded role played in Alaska by AHFC.

✓ * Section 5: Deletes reference to a loan term limit of 30 years, and specifies that loans for one-to-four family residences must be for units located within Alaska.

* Section 6: Adds a new section which specifies that an association may make loans for multi-family and commercial real estate with a loan-to-value limit up to 90 percent and a maturity not to exceed 40 years (parity with federals).

* Section 7: Expands the loaning capability of state-chartered associations by allowing them to make "other loans" in excess of 30 percent of assets provided there is a commitment for take-out by a secondary investor. This change will continue to assure the safety of the depositors while allowing the associations the opportunity to take advantage of unique Alaskan institutions like AIDA. This section also deletes reference to dollar limits, and increases allowable percentage investment in mobile home mortgages.

* Section 8: Adds a section defining lending standards. The language comes from the Model Savings Association Act.

* Section 9: Expands the associations' lending capabilities in the area of property improvement and consumer loans. Deletes reference to dollar limits. The changes are intended to provide parity with the federals.

* Section 10: Simplifies language regarding servicing (parity with the federals).

* Section 11: Technical amendment

* Section 12: Rewrites the section on investment in service corporations to provide parity with the federals.

* Section 13: Makes changes in the definition section of the chapter; increases the loan term limit to 40 years, and lengthens the time allowed for payback of the principal on an interim construction loan.

* Section 14: Adds two new definitions in keeping with changes proposed in this bill.

* Section 15: Repeals unduly restrictive and redundant sections of the chapter, at the direction of the division of banking.



ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

SB 19: "An Act relating to rates of interest; and providing for an effective date."

The primary purpose of this bill is to amend the usury statute, AS 45.45.010, (1) to reduce the number of loans on which the interest rate is set by law rather than by free market forces; and (2) to adjust the procedure by which the legal rate of interest is set, by making it more timely.

Section 1: Deletes language in the small loans act to provide for an interest rate ceiling on loans between \$5,000 and \$25,000 of the greater of 18 percent or eight points above the discount rate on a daily basis. It is important to note that under the terms of "most favored lender" provisions of the national bank act, this ceiling on interest rates is actually the one which applies to all financial institutions in Alaska on loans between \$5,000 and \$25,000.

Sections 2-3: Inserted at the request of the small loan companies, and with the approval of the division of banking, these sections provide that small loan companies will not be unfairly penalized if they make a mistake in computing the legal rate of interest, provided they correct the mistake within 30 days.

Section 4: Corrects an existing inequity in the law relating to Alaskan landowners whose land is taken from them by the state through eminent domain proceedings. Provides that the judgement shall include lawful interest - a rate substantially higher than the presently-allowable six percent. This section was included at the suggestion of the Supreme Court for the State of Alaska.

Sections 5-6: Amends usury statute to reduce from \$100,000 to \$25,000 the limits on loans subject to an interest rate ceiling, and provides for a daily rather than a quarterly computation of that ceiling.

Sections 7-8: Override the federal preemptions of state usury ceilings.

Once this bill becomes law, interest rate ceilings will be as follow:

* loans up to \$5,000	AS 45.45.010
* loans from \$5,000 - \$25,000	AS 06.20.230
* loans over \$25,000	set by competition

Introduced: 3/31/81
Referred: Labor & Commerce

1 IN THE SENATE

BY RODEY AND STIMSON

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SENATE BILL NO. 280 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to credit unions."

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

* Section 1. AS 06.45 is amended by adding a new section to read:

Sec. 06.45.005. DECLARATION OF POLICY. In providing authority for the establishment of credit unions, it is the intent of the legislature to make available the benefits of credit unions which are cooperative, nonprofit corporations, encouraging thrift, creating a source of credit at fair and reasonable rates of interest, and providing an opportunity for their members to use and control their own organization on a democratic basis in order to improve their economic and social condition. For these purposes, the legislature intends by this chapter to vest in the Department of Commerce and Economic Development, in addition to other regulatory authority, the authority to allow by regulation those powers possessed by state-chartered credit unions in other states which the department determines have demonstrated will aid in the accomplishment of this declaration of policy.

* Sec. 2. AS 06.45.010(b) is amended to read:

(b) The commissioner may by regulator define the powers of state-chartered credit unions and adopt regulations to carry out the purposes of credit unions consistent with [FOR THE ADMINISTRATION OF] this chapter and AS 06.01.020.

* Sec. 3. AS 06.45.060(5)(A)(vi) is amended to read:

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified in AS 45.45.010(b)

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1 [ONE PERCENT A MONTH ON THE UNPAID BALANCE INCLUSIVE OF ALL
2 SERVICE CHARGES];

3 * Sec. 4. AS 06.45.060(5)(A)(x) is amended to read:

4 (x) the total dollar amount of real estate loans
5 and mobile home loans outstanding may not exceed 25 percent
6 of the assets [PAID-IN AND UNIMPAIRED CAPITAL AND SURPLUS] of
7 the credit union without the written approval of the commis-
8 sioner;

9 * Sec. 5. AS 06.45.060(5)(A)(xi) is amended to read:

10 (xi) a credit union with assets [A PAID-IN AND
11 UNIMPAIRED CAPITAL AND SURPLUS] of less than \$3,000,000 may
12 make real estate loans with maturities in excess of 15 years
13 only with the approval of the commissioner;

14 * Sec. 6. AS 06.45.060(6) is amended to read:

15 (6) receive from its members and from others payments on
16 shares which may be issued at varying dividend rates, and payments on
17 share certificates which may be issued at varying dividend rates and
18 maturities, and establish share draft accounts, subject to terms,
19 rates, and conditions as may be established by the board of directors
20 of the credit union, within limitations prescribed by the commissioner;

21 * Sec. 7. AS 06.45.250 is amended to read:

22 Sec. 06.45.250. INSURANCE OF MEMBER ACCOUNTS. A credit union
23 organized under this chapter shall, under regulations adopted by the
24 commissioner, participate in insurance of member accounts under pro-
25 grams offered by the National Credit Union Administration Board or
26 a program of comparable insurance approved by the commissioner.

- will is
Knutson
State Banks Director
(in favor)

"Wildcat"
bill

covers: Banks
S & L's
Credit Union

Introduced: 3/13/81
Referred: Labor & Commerce
and Judiciary

1 IN THE SENATE BY RODEY

2 SENATE BILL NO. 279

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the general powers of the Depart-
7 ment of Commerce and Economic Development."

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

9 * Section 1. AS 06.01.020 is amended to read:

10 Sec. 06.01.020. GENERAL POWERS OF DEPARTMENT. (a) Notwithstand-
11 ing other provisions of this title, the [THE] commissioner may by
12 regulation authorize financial institutions, except licensees subject
13 to AS 06.20 or AS 06.40, to exercise any of the powers conferred or to
14 be subject to any of the limitations imposed upon a federally chartered
15 bank, trust company, savings association, federally chartered credit
16 union, or other federally chartered institution doing business in this
17 state which is subject to the regulations of the United States Comp-
18 troller of the Currency, the Federal Reserve Board, the Federal Home
19 Loan Bank Board, the Federal Deposit Insurance Corporation, the National
20 Credit Union Administrator, or the successor or successors of them, if
21 the commissioner finds that the exercise of the power or imposition of
22 the limitation both

23 (1) serves the public convenience and advantage; and

24 (2) equalizes and maintains the quality of competition

25 between state-chartered financial institutions and corresponding feder-
26 ally chartered financial institutions.

27 (b) The authority granted to the commissioner by this section may
28 not be limited by law unless that law expressly refers to this section.

29 * Sec. 2. AS 06.01.020(b) enacted in sec. 1 of this Act applies only to

1 statutes enacted after the effective date of this Act.

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*Face charge
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 w/ deposits.*

*Allow fed. pd. to
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 establish parity
 allow ab-initio
 acquire capitals
 issue stock.*

Introduced: 3/13/81
 Referred: Labor & Commerce
 and Finance

1 IN THE SENATE

SENATE BILL NO. 278

BY RODEY

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IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to savings associations."

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

* Section 1. AS 06.30 is amended by adding a new section to read:

Sec. 06.30.003. DECLARATION OF POLICY. In providing authority for the establishment and regulation of state-chartered associations, it is the intent of the legislature to make available the benefits of savings and loan associations, promote a sound and competitive association system, and encourage the practice of thrift, savings, investment, home financing, and the security of depositors in these associations. For the accomplishment of these purposes, the legislature intends by this chapter to vest in the department, in addition to other regulatory authority, the authority to allow by regulation those powers possessed by state-chartered associations in other states which the department determines have demonstrated will aid in the accomplishment of this declaration of policy.

* Sec. 2. AS 06.30.280(a) is amended by adding new paragraphs to read:

- (20) convert from a mutual association to a stock association under a plan approved by the department in accordance with this chapter;
- (21) convert from a stock association to a commercial bank under a plan approved by the department in accordance with AS 06.05.

* Sec. 3. AS 06.30.500(1) is amended to read:

(1) No investment in mortgages executed by any one mortgagor may exceed in the aggregate the net worth of the association or an amount equal to 10 percent of the savings liabilities of the associa-

1 tion, whichever is less, except that a mortgage investment in the
2 aggregate amount of \$100,000 or less may be made notwithstanding the
3 provisions of this paragraph [TWO PERCENT OF THE ASSETS OF THE ASSOCIA-
4 TION AT THE TIME THE INVESTMENT IS MADE, OR \$90,000 ON A SINGLE-FAMILY
5 DWELLING OR \$90,000 PER UNIT ON A MULTIPLE-FAMILY DWELLING OR OTHER
6 IMPROVED REALTY, WHICHEVER IS GREATER, OR OTHER MAXIMA ESTABLISHED BY
7 THE COMMISSIONER BY REGULATION].

8 * Sec. 4. AS 06.30.500(2) is amended to read:

9 (2) No investment in any one mortgage may exceed 90 [TWO
10 PERCENT OF THE ASSETS OF THE ASSOCIATION AT THE TIME THE INVESTMENT IS
11 MADE, OR AS SPECIFIED IN (1) OF THIS SECTION, WHICHEVER IS GREATER, OR
12 MORE THAN 80] percent of the appraised value of a one-to-four family
13 residence securing a conventional loan; however, an association may
14 make 95 percent of appraised value loans if the term of the loan does
15 not exceed 40 [30] years, and the loan is secured by an amortized
16 mortgage, deed of trust, or other instrument under the terms of which
17 the installment payments are sufficient to amortize the entire princi-
18 pal of the loan within the period ending on the date of its maturity
19 and, in addition, the loan is either

20 (A) insured by a mortgage insurer authorized to do
21 business in Alaska with coverage in an amount acceptable to the
22 department [INSURANCE IN AN AMOUNT EQUAL TO 20 PERCENT OF THE LOAN
23 ISSUED BY A MORTGAGE INSURER AUTHORIZED TO DO BUSINESS IN ALASKA];

24 or

25 (B) secured in addition to the amortized mortgage by a
26 savings account held by the lending institution in an amount equal
27 to 15 [10] percent of the loan or other collateral acceptable to
28 the department.

29 * Sec. 5. AS 06.30.500(3) is amended to read:

1 (3) No [EXCEPT AS PROVIDED IN (1) OF THIS SECTION, NO]
2 investment may be made in a conventional loan secured by a mortgage on
3 a one-to-four family residence unless the mortgaged property is located
4 inside the state [AND THE MORTGAGE HAS A MATURITY NOT EXCEEDING 30
5 YEARS FROM THE DATE THE LOAN IS MADE].

6 * Sec. 6. AS 06.30.500 is amended by adding a new paragraph to read:

7 (7) No investment may be made in a conventional loan secured
8 by a mortgage on a multiple-family dwelling or improved real estate if
9 the loan exceeds 90 percent of the appraised value of the property or
10 has a maturity exceeding 40 years from the date the loan is made.

11 * Sec. 7. AS 06.30.505 is amended to read:

12 Sec. 06.30.505. OTHER LOANS. (a) An association may use for
13 loans other than those specified in AS 06.30.500 an aggregate amount
14 not exceeding 30 percent of the assets at the time of use, or a larger
15 amount if a loan made after 30 percent of the assets of the association
16 have been used is made with a written commitment by a secondary
17 investor to purchase the loan within a reasonable time and with the
18 approval of the commissioner as follows:

19 (1) home loans, whether direct-reduction or not, which
20 exceed 90 percent of the appraised value of [\$90,000 EACH, REGARDLESS
21 (OF WHERE)] the home property securing the loan [IS SITUATED];

22 (2) [deleted]

23 (3) home loans of any amount, which are not direct-reduction
24 home loans, regardless of where the home property securing the loan is
25 situated;

26 (4) other real estate loans, whether amortized or unamor-
27 tized, regardless of amount or location of real estate securing the
28 loan.

29 (b) [THE POWER REFERRED TO IN (a) OF THIS SECTION IS REFERRED TO

1 AS THE "30 PERCENT OF ASSETS LENDING POWER."] A subsequent reduction
2 of savings liability does not affect outstanding loans made under this
3 section [THE 30 PERCENT OF ASSETS LENDING POWER].

4 (c) An association may, subject to regulations adopted by the
5 commissioner, invest not to exceed 20 [10] percent of its assets in
6 loans secured by mobile homes.

7 (d) The loans referred to in (a) of this section may not exceed
8 90 [80] percent of appraised value of the property securing the loans
9 except as provided in AS 06.30.500 and 06.30.510.

10 * Sec. 8. AS 06.30 is amended by adding a new section to read:

11 Sec. 06.30.507. LENDING STANDARDS. An association may not make a
12 loan unless it has determined that the type, amount, purpose, and
13 repayment provisions of the loan in relation to the resources and
14 credit standing of the borrower support the reasonable belief that the
15 loan is financially sound, will be repaid according to its terms, and
16 is lawful.

17 * Sec. 9. AS 06.30.520 is amended to read:

18 Sec. 06.30.520. PROPERTY IMPROVEMENT AND CONSUMER [SMALL] LOANS.
19 An association may make property improvement loans to property owners
20 for maintenance, repair, modernization, improvement, and equipment of
21 their properties. In addition, an association may make consumer loans.
22 A property improvement or consumer loan may be made with or without
23 security [, EXCEPT THAT A LOAN WITHOUT SECURITY MAY NOT EXCEED \$4,500].
24 An association may not make property improvement loans exceeding 25
25 percent of its assets [. AN ASSOCIATION MAY MAKE SMALL LOANS TO MEMBERS
26 WITH OR WITHOUT SECURITY NOT EXCEEDING \$2,500. HOWEVER, AN ASSOCIATION
27 MAY NOT MAKE] or consumer [SMALL] loans exceeding 40 [15] percent of
28 its assets. [THE TOTAL AMOUNT OF LOANS MADE UNDER THIS SECTION MAY NOT
29 EXCEED 25 PERCENT OF THE ASSETS OF THE ASSOCIATION.]

1 * Sec. 10. AS 06.30.540 is amended to read:

2 Sec. 06.30.540. SERVICING LOANS. An association may service
3 loans [MORTGAGES AND TRUST DEEDS MADE BY THE ASSOCIATION AND LATER SOLD
4 SUBJECT TO REGULATIONS AND RESTRICTIONS PRESCRIBED BY THE COMMISSIONER.
5 THE MAXIMUM PRINCIPAL AMOUNT OF MORTGAGES AND TRUST DEEDS SERVICED BY
6 AN ASSOCIATION AT ANY ONE TIME SHALL NOT EXCEED TWO-THIRDS OF THE
7 AMOUNT OF THE SAVINGS LIABILITY OF THE ASSOCIATION].

8 * Sec. 11. AS 06.30.555(b)(2) is amended to read:

9 (2) the total of the balance of the loan secured by the
10 first lien and the loan secured by the second lien does not exceed the
11 maximum percentage of appraised value permitted under AS 06.30.500(2)
12 [AS 06.30.505(d)];

13 * Sec. 12. AS 06.30.616 is repealed and reenacted to read:

14 Sec. 06.30.616. INVESTMENT IN SERVICE CORPORATIONS. An associa-
15 tion may, subject to the approval of the commissioner, invest in capital
16 stock, obligations, and securities of any service corporation organized
17 under the laws of this state if: (1) the entire capital stock of the
18 service corporation is available for purchase only by one or more
19 savings and loan or banking institutions having their home offices in
20 the state; and (2) substantially all of the activities of the service
21 corporation are similar or incident to activities which may be engaged
22 in by a service corporation in which a federal savings and loan associa-
23 tion may invest or such other activities as the commissioner may approve.
24 Investments in service corporations may not exceed five percent of the
25 assets of an association.

26 * Sec. 13. AS 06.30.910(4) is amended to read:

27 (4) "direct-reduction loan" means a loan repayable in con-
28 secutive equal or unequal monthly installments beginning not later than
29 90 days after the date of the advance of the loan, which are sufficient

1 to retire the debt, interest, and principal within 40 [30] years;
2 however, the initial loan contract may [SHALL] not provide for a monthly
3 installment of an amount larger than a previous monthly installment and
4 in the case of construction loans the first payment of the principal
5 shall not be later than 24 [18] months after the date of the first
6 advance and 36 months after the date of first advance if the construc-
7 tion loan is on improved real estate, and a direct reduction loan is an
8 amortized loan;

9 * Sec. 14. AS 06.30.910 is amended by adding new paragraphs to read:

10 (28) "consumer loan" means a secured or unsecured loan to an
11 individual for personal, family, or household uses;

12 (29) "multiple-family dwelling" means a dwelling for more
13 than four families, the principal use of which is for residential
14 purposes.

15 * Sec. 15. AS 06.30.240, 06.30.430, 06.30.500(4), and 06.30.535, are
16 repealed.

MEMORANDUM

State of Alaska

RE: WILD CARD POWERS

TO: Julius J. Brecht
Division of Banking & Securities
Department of Commerce & Economic
Development

DATE: August 4, 1980

FILE NO: J-99-096-80

TELEPHONE NO: 465-3600

SK 279

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Adoption of Proposed
Regulations 3 AAC 05
Servicing Loans.

By: *Lauri J. Adams*
Lauri J. Adams
Assistant Attorney General

You have requested this department's advice regarding the addition of a new section to the Alaska Administrative Code, 3 AAC 05.165, relating to the requirements for servicing loans by savings associations. The regulation in question permits state-chartered savings associations to service mortgage and trust deeds in an amount greater than two-thirds the total savings liability of an association, provided that the debt servicing requirements which apply to federal savings and loan associations are complied with. The proposed regulation reads:

3 AAC 05.165 Servicing Loans. An association may service mortgages and trust deeds beyond two-thirds of the amount of savings liability of the association specified in AS 06.30.540 if the servicing by the association complies with the provisions of 12 C.F.R. § 545.11 as amended July 15, 1971.

This proposed regulation supersedes AS 06.30.540, which establishes the maximum amount of mortgages and trust deeds which may be serviced by a savings association. That statute provides that the amount of mortgages and trust deeds serviced by a savings association at any one time may not exceed two-thirds of the savings liability of the association. AS 06.30.540 reads:

Servicing Loans. An association may service mortgages and trust deeds made by the association and later sold subject to regulations and restrictions prescribed by the commissioner. The maximum principal amount of mortgages and trust deeds serviced by an association at any one time shall not exceed two-thirds of the amount of the savings liability of the association.

As a general rule of law, the powers of an administrative agency to promulgate regulations are limited by the statutes conferring authority on the agency to implement the law. Thus, an administrative regulation is valid only if the particular matter which is the subject of the regulation is intended to be committed to agency discretion by the legislature. 1/ Where the statute is plainly inconsistent with what the regulation attempts to accomplish, it must be presumed that the legislature intended to withhold authority from the agency to provide otherwise by regulation.

This appears to be the situation in this instance. AS 06.30.540 specifically prohibits what the proposed regulation attempts to accomplish with regard to maximum limits on servicing of mortgages and trust deeds. The question remains, however, whether other provisions of the Banks and Financial Institutions Title, AS 6, confer authority on the commissioner, notwithstanding the express statutory limits in AS 06.30.540, to adopt regulations which are inconsistent with the statute.

AS 06.30.025, recently repealed re-enacted by Sec. 1, ch. 105, SLA 1980, describes the specific policies of the Savings Association Act which are to be implemented through the commissioner's rule-making authority. AS 06.30.025 provides:

Declaration of Policy; Rule-Making Authority. (a) In giving authority for the establishment of associations, it is the intent of the legislature to make available to the people of the state the benefits of savings and loan associations, thereby promoting a sound and competitive association system, the practice of thrift, savings, investment, home financing, and the security of persons saving through associations.

(b) The commissioner may by regulation define the powers of associations and adopt regulations to carry out the purposes of associations consistent with this chapter and AS 06.01.202.

1/ See, Hootch v. Alaska State-Operated School System, 536 P.2d 793, 807 N. 55 (Alaska 1975); Kelly v. Zamarello, 436 P.2d 906, 911 (Alaska 1970).

AS 06.30.030, as amended by sec. 3, ch. 105, SIA 1980, further provides:

Standards for Regulations. The commissioner in the exercise of the power to issue regulations under this chapter shall act in the interests of a sound and competitive savings and loan system and in the interest of promoting and encouraging thrift, savings, investment, home financing, and the security of persons saving through savings associations.

Although these statutory provisions confer broad, discretionary authority on the commissioner to adopt regulations in the interests of a "sound and competitive" state savings association system, the commissioner is expressly limited in his administrative authority to adopt regulations that are "consistent with this chapter." Thus, the general rule-making authority of the commissioner under AS 06.30, the Savings Association Act, is insufficient to allow the adoption of proposed 3 AAC 05.155 relating to maximum limits on servicing of loans by associations, since it is in direct conflict with the maximums established in AS 06.30.540.

One other section of AS 6 must be also considered as a possible source of a grant of authority to the commissioner to adopt regulations varying the specific requirements of AS 06.30.540.. AS 06.01.020 provides:

The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successors or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions.

This provision was adopted by the legislature in 1978 for the purpose of expanding the powers of the commissioner to maintain a state-chartered banking system which would be competitive with federally-chartered financial institutions through regulations granting identical authority to state-chartered banks and financial institutions. The question which must be resolved in interpreting this statute is whether it is intended as a grant of administrative authority only where the Alaska statutes are silent with respect to the exercise of a particular type of function or whether it constitutes a broader grant of power which enables the commissioner to promulgate regulations superseding express statutory requirements whenever, (1) the regulations will serve the public convenience and advantage; and (2) will equalize the quality of competition between state and federally chartered financial institutions.

In analyzing the effect of AS 06.01.020 on other sections of Title 6, it is useful to review briefly the evolution of this provision in the Alaska Statutes and also similarly worded statutes adopted by other states. The concept of permitting the department to adopt regulations which allow state-chartered banks to function in the same manner as federal institutions originated in the 1951 version of the Banks and Financial Institutions Title. In § 2.104A of ch. 129, SLA 1951, which added section 06.05.005(3)(B) to the Alaska Statutes, the legislature provided that the department could authorize a bank "to engage in any banking activity in which a bank subject to the jurisdiction of the federal government may be authorized by federal legislation to engage" until the close of the next legislative session. Thus, this provision was intended to grant interim power to the commissioner to expand the authority of state-chartered banks only until the legislature had a chance to act on the matter in its next session. In 1970, this provision was amended by ch. 157, SLA 1970 to delete the limitation restricting the department's regulatory authority to the period ending with the close of the next legislative session. The judiciary committee report on the amendment explained that the change was necessary "to improve the competitive balance between state and national banks and to allow state-chartered banks to make loans and extend services to customers not authorized at the present time." 1970 H.J. 1085.

Section 54, ch. 169, SLA-1978, repealed AS 06.05.005(3)(B) of the Banking Code and added the new provision quoted above in AS 06.01.020 which authorizes the commissioner to adopt regulations to allow any state-chartered financial institution regulated under AS 06 (except licensees subject to ch. 20 of the title) to exercise any of the powers conferred upon similar federally chartered institutions. The apparent purpose of this new section was to extend the provisions previously applied only to commercial banks in AS 06.05.005(3)(B) expressly to cover mutual banks, trust companies and savings and loan associations regulated under Title 6. 2/

AS 06.01.020, as originally proposed in HCS CSSB 93 (Commerce) am. H, was modeled on a similar Oregon statute, and was intended to provide the department with the flexibility necessary to allow the state banking system to keep pace with new developments in the federal system. 3/ Statutes of this type are known generally as "wild card" provisions. Thirty-one other states have enacted similar provisions, with some variations, authorizing state administrative agencies to allow state banks to engage in any activity permitted national banks. 4/

Although AS 06.01.020, as originally proposed by the department, closely tracked Oregon's wild card statute in ORS § 706.555(1979), one significant deviation from the language of the Oregon statute is contained in Alaska's statute. Oregon law provides:

§706.555. Notwithstanding any other provision of law, the superintendent may . . . make reasonable rules authorizing a financial institution to exercise any of the powers conferred upon a federally chartered bank

In the Alaska version of this provision, the "notwithstanding any other provision of law" language was deleted before the legislature acted on the bill.

2/ See, Memorandum of the Director of the Division of Banking, Securities and Corporations to the Committee dated June 9, 1978, summarizing the intent of this provision.

3/ See, the Department of Law's Memorandum to the Governor dated December 8, 1977, explaining the intent of the provision.

4/ See, 1977 State Banking Law Service, Profile of State Chartered Banking (Conference of State Bank Supervisors). See also, K. Scott, The Dual Banking System, A Model of Competition in Regulation, 30 Stan. L. Rev. 1, 36 (1977).

It is not clear from the legislative history of AS 06.01.020 whether the "notwithstanding" language was removed specifically to avoid the possibility that it would be construed as granting authority to the commissioner to adopt regulations contrary to other statutory provisions of the chapter. However, without that language, the statute gives no indication that it is intended to supersede all other requirements of state law relating to state chartered financial institutions. 5/

The silence of AS 06.01.020 on this point is particularly significant in light of the great variety of wild card statutes from other jurisdictions which on their face indicate exactly how broad a grant of authority is intended. For example, Florida's wild card statute reads:

658.051. State Banks; competitive equality with national banks.--With the approval of the department, state banks subject to the Florida Banking Code may make any loan or investment or exercise any power which they could make or exercise if they were incorporated and operating in Florida as national banks under federal statutes and regulations. The provisions of this section may take priority over, and be given effect over, any other general or specific provisions of the banking code to the contrary, except for s. 659.062 and any other state statute governing the electronic transfer of funds. Nothing contained herein shall be construed to grant the power or right to establish any branch not otherwise specifically authorized by this code. (3 Fla. Stat. ch. 658 (1979)).

The language of this statute clearly expresses the legislative intent to allow the adoption of regulations which supersede specific statutory provisions. Similar language is also found in Hawaii's wild card provision which states:

5/ See, *Warren v. Thomas*, 568 P.2d 400, 403 (Alaska 1977) and *Hafling v. Inlandboatman, Union of the Pacific*, 585 P.2d 870, 876 (Alaska 1978) where the Alaska Supreme Court declined to construe later statutory provisions in a manner which would effect an implied repeal of former legislative enactments.

The provisions of this section are in addition to, and not in limitation of, any other provision in this chapter, and the powers granted by this section may be exercised notwithstanding any other provision in this chapter . . . " (Title 22, Hawaii Rev. Stat. ch. 405 (1976))

Since AS 06.01.020 does not contain language evidencing the legislature's intent to allow a state statute to be repealed by an administrative regulation, the grant of administrative authority must be interpreted as limited to promulgating regulations which do not effect a repeal of existing state statutes. Without an express grant of authority from the legislature, an administrator may not repeal statutes by regulation. Therefore, the wild card statute does not empower an administrator to promulgate regulations overriding earlier statements of legislative intent. In order to repeal an earlier statute by the enactment of a later, more general, statute, the legislative intent to override the earlier provisions must be clearly manifested. That is not the case in the instant wild card provision. As currently drafted, AS 06.01.020 does not create an express grant authority to override earlier statutory enactments, and therefore must be construed in harmony with the earlier statutory provisions.

LJL/ab

MEMORANDUM

State of Alaska

TO: Willis Kirkpatrick
Director

DATE: February 19, 1981

Division of Banking, Securities and Corporations
FILE NO: J-66-321-81

Department of Commerce and Economic Development
TELEPHONE NO:

FROM:

WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT:

"Wild Card" Legislation --
Amendments to AS 06.01.020

By: Arthur H. Peterson
Assistant Attorney General

By means of an October 27, 1980 memo from your department's information officer, Katy Wallen, your predecessor, Julius Brecht, asked us to review the language of a draft of an amendment to AS 06.01.020. Julius and I have talked about this general subject several times on the telephone, but I have not written anything until now. This memo is not a thoroughly researched one, and should not be construed as an "opinion of the attorney general." It should be read in conjunction with Assistant Attorney General Lauri J. Adams' August 4, 1980 memorandum to Julius regarding a proposed regulation (3 AAC 05.165) on servicing loans. (Department of Law File Nos. J-99-096-80 and J-66-051-81.)

Here is Julius's draft, with a very slight rewording by me:

Sec. 06.01.020. GENERAL POWERS OF DEPARTMENT.

- (a) Notwithstanding any other provision of this title, the [THE] commissioner may by regulation authorize financial institutions [, EXCEPT LICENSEES SUBJECT TO AS 06.20,] to exercise any of the powers conferred upon, and may by regulation impose upon financial institutions any of the limitations and service requirements imposed upon, a federally chartered bank, trust company, savings association, federally chartered credit union, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the National Credit Union Administrator, or the successor or successors of them, if the commissioner finds that the exercise of the power both
- (1) serves the public convenience and advantage;
- and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions.

(b) No statute enacted after the effective date of this subsection will be effective as a limitation on the authority of the commissioner under (a) of this section unless it expressly refers to this section.

(c) This section does not apply to licensees subject to AS 06.20 or 06.40.

The "notwithstanding" language makes clear that it is the legislative intent to have this authority supersede any statutory specification of a power, limitation, or requirement. The next underlined language broadens the commissioner's authority by expanding upon the kinds of statutes he can override by regulation. The new subsection (b) is intended to make clear that the legislature does not intend any future enactments to supersede the commissioner's authority unless they expressly say that they do so. The new subsection (c) merely relocates language which appeared near the beginning of subsection (a) and adds a reference to AS 06.40.

I cannot guarantee exactly how our supreme court will deal with this statute if it is amended as proposed. It is clear that our court does not like implied amendments or repeals; by requiring limitations on the commissioner's authority to be express, part of this amendment reinforces that position. It is also clear that our court readily accepts the notion of a delegation of law-making authority (i.e., for administrative regulations); this statute is consistent with that position. But it is clear that our court gives substantial weight to the procedural requirements for law-making, set out in Art. II of the Alaska Constitution, and this cuts against the amendment since it not only authorizes the commissioner to fill the gaps left by legislation it authorizes him to override legislation.

If the old cliché about one legislature not binding a future legislature were to be used in argument against subsection (b), the response might appropriately be that this is merely a rule of construction. In other words, rather than being a binding rule of substantive law, it could be treated as an expression of legislative intent. If a question arises in the future about the application of a statute which does not refer to this one, but which appears on its face to be a limitation on the commissioner's authority, the question for a court or an administrator would be whether the legislature intended that future enactment to be such a limitation. Reference to subsection (b) of this statute expresses the legislature's intent with regard to such a question, and thus would help to answer it. A statutory expression of legislative intent is perhaps of the best way of expressing that intent.

Willis Kirkpatrick
Re: Wild Card Legislation

February 19, 1981
Page 3

Our statutes already contain variations of the general idea contained in subsection (b). See, for example, AS 29.13.100 (limitations on home rule municipal powers), 44.62.280 (procedures for adopting administrative regulations), and 44.62.330(a) (procedures for administrative adjudication). And AS 17.12.090, for example, is somewhat similar to subsection (a) in that it authorizes the commissioner of health and social services to exempt from the coverage of AS 17.12 drugs which would otherwise be covered by that chapter. (Also see AS 17.12.040(b) and (c).)

WLC:AHP:cjs

cc: Katy Wallen
Information Officer
Department of Commerce
and Economic Development

responsibility for enforcing compliance with Alaska law. In the annotations supplied by the league, it is stated that, at least eight other states have exempted a "corporate central" from the requirement of this type of insurance, I would be interested in seeing how the other 42 states handle this issue.

- f) AS 45.45.010(b). Usury Statute. The only misgiving I have over the proposed change is that a private individual who proposes to lend money to another individual may have some difficulty in finding out what the usury ceiling is on a given day. That is, that information would ultimately come from the Seattle Branch of the Federal Reserve Bank of San Francisco. Whether or not an individual could obtain that information timely would be one consideration. I suppose that the individual could get that information from a local bank. However, the only way the individual could be assured that his or her transaction does, in fact, comply with the state usury law would be to verify the information through an office of the Federal Reserve. At least under the present quarterly recalculation procedure, the public is aware, or has reasonable access to the maximum rate allowed under the state law. It should be noted that if nothing is done to the Alaska usury statute, then at least the portions dealing with business and agriculture loans and home mortgage lending may lapse under legislation enacted by Congress earlier this year.
- g) AS 06.45.060. Powers of a Credit Union. The recommended addition to paragraph 6 of this section establishing share draft accounts appears to be unnecessary in that this department had already established this authority by regulation. However, I have not as yet seen a copy of the written policy statement of NCUA, which, purportedly, requires an amendment to the Alaska law to allow state-chartered credit unions to offer share drafts. However, aside from this point, I have no issue with the proposed change.
2. Explanation as to how the proposed "wildcard" amendment would work. The present "wildcard" can be used where a present provision of AS 06 is unclear or where AS 06 is silent on an issue. The proposed amendment would allow

the "wildcard" to be used in addition in situations where, notwithstanding a provision of a chapter within AS 06, the Commissioner could, after making the appropriate findings required under the "wildcard," adopt regulations to allow a given type of financial institution, e.g., commercial bank, savings association, credit union, etc., to take advantage of certain innovations set out in the regulations or statutes governing the appropriate federally-chartered counterpart. For example, where there is a specified prohibition against certain activity, e.g., prohibiting a state-chartered savings and loan association from servicing more than two-thirds of its loans, or restricting the loan-to-value ratio of loans made by commercial and mutual banks to less than 90%, or specifying a definite interest ceiling for credit unions, the department could make findings of fact as required in AS 06.01.020 and adopt a regulation which incorporates the regulations of the appropriate federal agency which it applies in regulating the appropriate federally-chartered financial institutions. That is, a 95% loan-to-value ceiling for commercial banks, no restriction on servicing of loans by a savings association, or raising the interest ceiling for credit unions from 12% to 15% per annum.

3. The statistics from the 1970-1980 period on commercial banks and mutual banks have already been provided to the committee in the form of call reports and spread sheets. Information on credit unions can be obtained directly from the Alaska Credit Union League and the information on savings and loan associations may be obtained directly from the Alaska League of Insured Savings and Loan Associations.
4. Alaska's options, vis-a-vis, Federal Usury Preemption. In March 1980, the Congress enacted the Financial Institutions Deregulation and Monetary Control Act (PL96-221), a part of which preempts state usury laws throughout the country, if they are lower than a federally prescribed formula of five points above the Fed discount rate. That rate can vary daily. The Alaska law is similar; however, the rate is recalculated only once a quarter. There have been times during the past when the Alaska law was effective at the beginning of the quarter, but during a period of rapid increase in the Fed discount rate, the federal law preempted it during that three-month span. The options available to Alaska at this time, in light of this preemptive law are as follows:
 - a) do nothing and, very likely, lose the opportunity, at some time in the future, to establish a usury ceiling in the context of business and agricultural loans or home mortgage loan restrictions;
or

S B

299

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

(5)

Date: _____

2/8/82

r. Speaker:

The Committee on STATE AFFAIRS has had CSSB 299 (Jud)

"An Act relating to elections."

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 ^{HOUSE} CS for CS SB 379 same title new title

and recommends DO PASS

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING

DO PASS

MEMBERS HAVING

OTHER RECOMMENDATIONS:

CHAIRMAN

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: State Affairs

TO: CAS HOUSE BILL No. CSSB 299

SENATE BILL No. _____

PAGE: _____

LINE: _____

Page 2, line 2

delete [and affidavit] and insert "or affirmation in a form"

Page 2, lines 8 & 9

delete [taken the oath and signed the affidavit,] and insert "executed the oath or affirmation"

Page 2, line 10

delete [take the oath or sign the affidavit,] and insert "execute the oath or affirmation,"

Add an immediate effective date.



Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

NOTIFICATION SHEET
BILL NO. SB 299

NAME	ORGANIZATION	PHONE NO.
Steven / Ann Kelly's		3822
Catherine Kelly	87 message re. schedule change Div of Elections	
Karin Slack	Div. of Soc. Sec.	3500
Tally Miller	Lewis Jan	3520

*Clean up language
updated, but not
reworked*

Original sponsor: Kelly

Offered: 2/4/82
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 299 (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 elections."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 15.10.180 is amended to read:

9 Sec. 15.10.180. APPOINTMENT OF PARTY REPRESENTATIVES FOR STATE
10 BALLOT COUNTING REVIEW [CANVASS]. The director shall appoint two persons
11 from each political party to participate in the state ballot counting
12 review [CANVASSING OF THE VOTE]. Each person who is appointed and
13 serves is entitled to compensation as provided in AS 15.15.380. Each
14 political party may present to the director a list of three or more
15 names from which he shall select the persons to represent the party.
16 The list of names may be submitted in writing at least 30 days before
17 the date of the election. The persons to represent the party on the
18 state ballot counting review [CANVASSING] board may be selected by the
19 state party central committee or in any other manner prescribed by the
20 bylaws of the party. The list of names shall be certified by the chair-
21 man of the state central committee of the party or by the person autho-
22 rized by the party bylaws to act in the absence of the chairman.

23 * Sec. 2. AS 15.15 is amended by adding a new section to read:

24 Sec. 15.15.210. QUESTIONING OF VOTERS OF SUSPECT QUALIFICATION.
25 Every election judge and election clerk shall question, and every watcher
26 and any other person qualified to vote in the precinct may question a
27 person attempting to vote if the questioner has good reason to suspect
28 that the questioned person is not qualified to vote. All questions
29 regarding a person's qualifications to vote shall be made in writing

1 setting out the reason the person has been questioned. A questioned
2 person before voting shall subscribe to an oath ^{or affirmation} and affidavit provided
3 ^{in a form} by the director attesting to the fact that in each particular the person
4 meets all the qualifications of a voter, that he is not disqualified,
5 and that he has not voted at the same election. He shall also state the
6 place from which he came immediately before living in the precinct in
7 which he now offers to vote and the length of time of his residence in
8 the former place. After the questioned person has ^{refused the oath} taken the oath and
9 ^{or affirmation} signed the affidavit the person may vote. If the questioned person
10 refuses to ^{take} take the oath or sign the affidavit, the person may not vote.

11 * Sec. 3. AS 15.20 is amended by adding a new section to read:

12 Sec. 15.20.220. PROCEDURE FOR STATE REVIEW. (a) When the direc-
13 tor and appointed party representatives have completed the review of
14 ballots cast at the voting precincts, they shall proceed to review the
15 absentee and questioned ballot votes certified by the district counting
16 boards. The review of the absentee and questioned ballot vote certified
17 by the district counting boards shall be accomplished by reviewing the
18 tallies of the recorded vote to check for mathematical error and by
19 comparing the totals with the election certificate of results.

20 (b) The state review board shall review and count absentee and
21 questioned ballots which have been forwarded to the director and which
22 have not been reviewed or counted by a district counting board. Absen-
23 tee and questioned ballots not received in the office of the director by
24 4:00 p.m. on the 15th day following the election may not be counted in
25 the review.
26
27
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S B

35/

STATE OF ALASKA

State Affairs

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

April 15, 1981

MEMORANDUM

TO: Senator Arliss Sturgulewski

FROM: *J.M.H.* J. M. Hogan, Director
Legislative Finance Division

SUBJECT: SB 351

You have requested additional information pertaining to the history of SB 351. From my personal knowledge, there have been four different employees of the Legislature who have exhausted their leave and been unable to be assisted by fellow employees with any transfer of leave to their account. This occurred in the middle 1970's in Legislative Finance, somewhat later in Legislative Audit, and fairly recently similar circumstances occurred in Legislative Affairs Agency and again in Legislative Finance. The most recent occurrence prompted me on my own initiative to seek an amendment to the Alaska statutes that would allow employees of the Legislature to donate leave to the account of a fellow employee who was absent from work for bonafide medical reasons and had no leave on account.

As "precedent" for this request I used the example of two of the state's larger bargaining units both of which cover employees whose jobs are similar to ours, namely, the General Government Unit Employees Contract, 1980-1982, and the Supervisory Unit Employees Contract, 1980-1982. The provisions for each are somewhat different. General Government employees fill out a leave slip for the amount of leave they wish to donate and indicate the name of the employee to whom they wish the leave donated. The leave is transferred as follows:

"5. The Employer will, for purposes of computation, convert the leave donated to dollars at the hourly rate of the donor. The dollars will then be converted to leave at the hourly rate of the recipient of the donation and the appropriate hours of sick leave will be added to the recipients sick leave account for use as sick leave."

Supervisory unit employees work from what is called a Sick Leave Bank. Employees donate leave to the bank and member employees are allowed to withdraw up to forty days in any one calendar year or a total of 180 days during his or her entire employment with the State. These two units of government workers cover 7,369 State employees.

In 1978 the statutes affecting leave for "officers and employees of the state", which includes legislative employees, were changed. Under the prior system, we had separate annual and sick leave accounts. As a result of the 1978 amendments, sick leave was abolished and by statute we were "entitled" to personal leave. AS 39.20.225(a) and (b), attached, set out the approved use of personal leave. The first use mentioned is: "An officer or employee may take personal leave for medical reasons, regardless of whether business permits. . ." So, the use of personal leave in lieu of sick leave is perfectly consistent with AS 39.20.225. Should not its donation be the same?

One final point--AS 39.20.245 provides these same officers and employees may donate leave to the memorial scholarship revolving loan fund, and that "The Commissioner of Administration shall pay to the account. . .an amount equal to the value of the day or days of personal leave contributed by the officer or employee." This is the same accounting procedure prescribed in the General Government contract and in SB 351. I submit, if it's a proper to donate the cash value of personal leave to the scholarship revolving loan fund, it's proper to donate the cash value of personal leave to another employee's sick leave account.

JHH/pw

Attachments: Statute sections

Sec. 39.20.185. State employees who are members of certain boards. A state official or employee who is a member of the judicial council or a state official or employee appointed by the governor to a state board, commission, or committee established under the authority of law is not entitled to per diem when the meeting or other business takes place in the community of which the member is a resident. (§ 1 ch 139 SLA 1968)

Sec. 39.20.190. Definitions. In AS 39.20.110 — 39.20.170

(1) "employee" or "state employee" means a person employed by a state agency;

(2) "official" or "state official" means the appointive head of a state agency;

(3) "official travel" means travel inside or outside the state on official business of the state, for which payment or reimbursement is expected or authorized;

(4) "per diem allowance" means a daily flat rate of payment instead of actual expenses;

(5) "state agency," "agency," or "department" means department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government;

(6) "subsistence" means lodging, meals, and other necessary expenses incidental to the personal sustenance or comfort of the traveler;

(7) "traveler" means the official or employee engaged in official travel for the state. (§ 3 ch 60 SLA 1957)

Article 3. Leaves of Absence.

Section	Section
200. Computation of personal leave	270. Court leave
210. Determining years of service	280. [Repealed]
220. Requirement that employment be continuous	290. Definition of days of leave
225. Use of personal leave	295. Special regulations on leave period
230. [Repealed]	300. Personal and banked medical leave transfers with officer or employee
240. Accumulation of personal leave	310. Exceptions
245. Donation of personal leave	320. Adoption of regulations
250. Terminal leave	330. Departments to keep leave records
255. Conversion of accrued annual leave to personal leave	340. Leave of absence for reserve or auxiliary members of armed forces
256. Transfer of accrued medical leave	350. Restoration of reserve members to former positions
260. [Repealed]	

Sec. 39.20.200. Computation of personal leave. Officers and employees of the state are entitled to personal leave with pay which accrues as follows:

(1) two days for each full monthly pay period in the case of officers and employees with less than two years of service;

(2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

(3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

(4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1978 amendment rewrote this section.

Cited in *State v. Worden*, 7 Alas. L.J. No. 9, p. 641 (Sept., 1969).

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 158, 403.

Sec. 39.20.210. Determining years of service. In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave"

for "annual leave" in the first and second sentences.

Sec. 39.20.220. Requirement that employment be continuous. Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to him equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave"

for "annual leave" and "30 days" for "90 days" in the first and second sentences.

Sec. 39.20.225. Use of personal leave. (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which he works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which he works. A

department or agency head shall grant personal leave for medical reasons if he is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted.

(1) Medical disability of an officer or employee is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee which makes his presence at work a danger to the health of his fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. A female officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If the officer's or employee's accrued personal leave is insufficient for this purpose, she is entitled to take leave without pay for the balance of the nine-week period.

(5) Death of a member of an officer's or employee's immediate family is a medical reason for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave he did take shall be cancelled without pay unless his department or agency head certifies in writing that he was denied the opportunity to take five days of personal leave during the 12-month period. (§ 4 ch 136 SLA 1978; am § 60 ch 94 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "Workers' Compensation Act" for "Workmen's Compensation Act" in the introductory paragraph of subsection (b).

Sec. 39.20.230. When annual leave may be taken.

Repealed by § 15 ch 136 SLA 1978.

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 39.20.225.

Editor's note. — The repealed section derived from § 11-5-6 d, ACLA 1949; § 1, ch. 182, SLA 1957; § 1, ch. 145, SLA 1960.

Sec. 39.20.240. Accumulation of personal leave. Except as provided in AS 39.20.225(c) personal leave which is not taken by an officer or employee during a 12-month period accumulates for use in succeeding 12-month periods. (§ 11-5-6 e ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 37 SLA 1967; am § 1 ch 31 SLA 1971; am § 1 ch 151 SLA 1972; am § 5 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 39.20.245. Donation of personal leave. An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.40.810 — 14.40.845. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee. § 2 ch 33 SLA 1969; am § 23 ch 136 SLA 1974; am § 6 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "An officer or" for "A state" in the first sentence, substituted

"personal leave" for "annual leave" in the first and second sentences, and inserted "officer or" in the second sentence.

Sec. 39.20.250. Terminal leave. (a) Terminal leave for unused personal leave shall be allowed upon separation from service. The payment equals the compensation that the officer or employee would have received if he had remained in the service until the expiration of the period of unused personal leave. A payment of terminal leave to an employee shall be made as a lump sum payment or in installments over a period of time, as the employee elects.

(b) If the officer or employee is re-employed in the state service before the expiration of the period covered by the balance of the unused leave payment, he shall refund to the state an amount equal to the leave payment covering the period between the date of re-employment and the expiration of the unused leave period which has been paid to him. The leave represented by a refund shall be recreated to the officer or employee by the employing department or agency.

(c) The payment authorized by this section is not considered salary or compensation except for purposes of taxation. (§ 11-5-6 f ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 7 ch 136 SLA 1978; am § 1 ch 16 SLA 1979)

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THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 621 (SA)

Title "An Act providing incentives to hire Alaskans."

Requested by House State Affairs Committee

Date 6/1/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Labor Standards & Safety

(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		418.9	452.4	488.6	527.7	569.9
200 TRAVEL		24.0	25.9	28.0	30.2	32.7
300 CONTRACTUAL		169.2	182.7	197.4	213.1	230.2
400 COMMODITIES		5.5	5.9	6.4	6.9	7.5
500 EQUIPMENT		13.2	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	630.8	666.9	720.4	777.9	840.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	630.8	666.9	720.4	777.9	840.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	11.0	11.0	11.0	11.0	11.0
PART TIME						
TEMPORARY						

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

Sections 2 and 3 of this bill provide for resident tax credits and require the Department to issue residency cards. Past experience by the Department in administering AS 38.40, Local Hire Under State Leases, reflects that the issuance of residency cards is a highly intensive workload procedure. The Department estimates that as many as 50,000 residency cards may be requested.

1. Assumes an effective date of July 1, 1982.
2. Personal Services based on salary schedules effective March 16, 1982.
3. Assumes an annual inflation rate of 8 percent.
4. The Contractual Services cost includes Attorney Fees for FY '83 (\$35.0), Hearing Officers (\$11.3), Printing (\$20.5).
5. Equipment is an one-time expense to purchase desks, chairs, etc., for the 11 new positions.

IV. DATE June 1, 1982

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PREPARED BY Nico Bus, Finance Officer

AGENCY Labor

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Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)