

ALABAMA LEGISLATURE COMMITTEE FILES 1903-1900 00/2

3366

HJUD

HB

514

-

HB

515

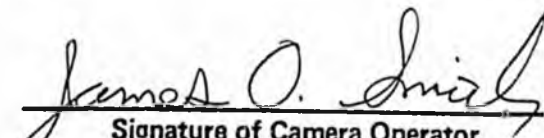
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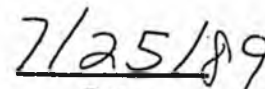


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Date

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STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/27/86	3pm
" " "	4/21/86	1:30pm

HOUSE
COMMITTEE REPORT

(7)

Date referred: 2/28/86

FURTHER REFERRALS: FINANCE

DATE: _____

The JUDICIARY Committee has considered HB 514

"An Act relating to fire prevention activities; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSHB 514 (JUD) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Chairman

Original sponsors: Cato, Koponen,
Hurley and Wallis

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 514 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to fire prevention activities; and
providing for an effective date."

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

* Section 1. AS 09.65.070(c) is amended to read:

(c) An [NO] action may not be maintained against an employee or member of a fire department operated and maintained by a municipality or village, or a fire department registered under AS 29.60.130, if the claim is an action for tort [OR BREACH OF A CONTRACTUAL DUTY] and is based upon the act or omission of the employee or member of the fire department in the execution of a function for which the department is established.

* Sec. 2. AS 18.70.075 is amended to read:

Sec. 18.70.075. AUTHORITY OF MUNICIPAL OR REGISTERED FIRE DEPARTMENT OFFICERS [AND THEIR PERSONNEL]. (a) An officer of a municipal fire department or a fire department registered under AS 29.60.130 [OR HIS AUTHORIZED REPRESENTATIVE], while providing fire protection services, has the authority to

- (1) control and direct activities at a [THE] fire;
- (2) order a person to leave a building or place in the vicinity of a [THE] fire, for the purpose of protecting the person from injury;
- (3) blockade a public highway, street, or private right-of-way temporarily while at a fire;
- (4) trespass upon property at or near the scene of a fire

1 at any time of the day or night;

2 (5) enter a building, including a private dwelling, or
3 [UPON] premises where a fire is in progress, or where there is reason-
4 able cause to believe a fire is in progress, to extinguish [FOR THE
5 PURPOSE OF EXTINGUISHING] the fire;

6 (6) enter a building, including a private dwelling, or
7 premises near the scene of a [THE] fire for the purpose of protecting
8 the building or premises or for the purpose of extinguishing the fire
9 which is in progress in another building or premises;

10 (7) upon 24-hour notice to the owner or occupant, inspect
11 for preplanning all buildings, structures, or other places within the
12 municipality or the registered fire department's district, except the
13 interior of a private dwelling, where combustible material is or may
14 become dangerous as a fire menace to the building;

15 (8) direct the removal or destruction of a fence, house,
16 motor vehicle, or other thing judged [WHICH HE MAY JUDGE] necessary
17 [TO REMOVE OR DESTROY] to prevent the further spread of a [THE] fire.

18 (b) An owner or occupant of a building or place specified in
19 this section or any other person on the site of a fire or other fire
20 department emergency who refuses to obey the order of an officer of a
21 municipal or registered fire department [OR HIS AUTHORIZED REPRESENTA-
22 TIVE] in the exercise of [HIS] official duties is guilty of a class B
23 misdemeanor [, AND UPON CONVICTION, IS PUNISHABLE BY IMPRISONMENT FOR
24 ONE YEAR, OR BY A FINE OF NOT MORE THAN \$1,000, OR BY BOTH].

25 (c) In this section, "inspect for preplanning" means to conduct
26 limited examinations [INSPECTIONS] for purposes of preparing a fire
27 attack plan in the event of a future emergency, but does not include
28 inspections for purposes of determining compliance with statutory or
29 municipal fire code requirements.

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* Sec. 3. AS 18.70.080 is amended to read:

Sec. 18.70.080. RELATIONS. The Department of Public Safety shall adopt [RULES AND] regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

(1) fire detection and suppression equipment;

(2) fire and life safety plan check criteria in commercial, industrial, business, institutional or other public buildings [BUILDING], and buildings used for residential purposes containing four or more dwelling units that are to be built, or are to be substantially remodeled in a way that will affect a fire or life safety feature;

(3) fire and life safety inspection criteria in the following types of buildings:

(A) a building used for public assembly, with a capacity of more than 50 persons;

(B) a building used for educational or child care purposes for more than six children;

(C) an institutional building, including structures for the full-time care of more than five children, hospitals, nursing homes, and adult and juvenile correctional facilities;

(D) a residential building that is more than two stories in height, and that has more than 15 dwelling units or 20 guest rooms;

(E) a high-rise building with a floor level used for human occupancy, which is 35 feet above the lowest level of fire department vehicle access;

(4) any activity in which combustible or explosive materials are stored or handled in commercial quantities;

(5) [(4)] conditions or activities carried on outside a

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building described in (2), (OR) (3), or (4) of this section likely to cause injury to persons or property.

* Sec. 4. AS 18.70.080 is amended by adding a new subsection to read:

(b) The Department of Public Safety may establish, by regulation, reasonable fees to be charged for the fire and life safety plan check as described in (a)(2) of this section.

* Sec. 5. AS 18.70.090 is amended to read:

Sec. 18.70.090. ENFORCEMENT OF REGULATIONS. The Department of Public Safety and the chief of each municipal or registered [CITY] fire department and their authorized representatives [IN THEIR RESPECTIVE AREAS] may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property [AGAINST FIRE OR PANIC]. All state peace officers may assist the Department of Public Safety in the enforcement of AS 18.70.010 - 18.70.100 and the regulations adopted under those sections [IT]. The authority conferred in AS 18.70.010 - 18.70.100 extends to the enforcement of the provisions of AS 11.46.400 - 11.46.450, 11.46.484(a)(4), and AS 11.56.200(a)(3) [AS 11.46.400 - 11.46.430].

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.070(c).

HOUSE BILL 514

POSITION PAPER

DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety supports passage of House Bill 514, "An Act relating to fire prevention activities; and providing for an effective date."

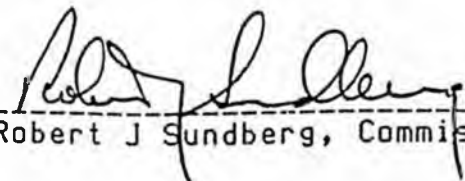
The bill is primarily a housekeeping measure, bringing some of the statutes dealing with fire protection into the current definitions and practices.

Sections 1 and 2 insert the term "registered" fire departments, including them in the protection from liability that municipal departments have. Section 2 also gives "registered" fire departments the same authority as municipal fire departments. It is believed that, by including the term "registered," all fire departments in Alaska are provided the same protection and authority.

Two significant changes are made in AS 18.70.080, by Section 3. Buildings subject to fire and life safety plan reviews are defined in (2), while (3) refines the definition of the types of buildings inspected by the department for fire and life safety criteria. These more accurately define the scope of effort by the department than the current statute. This scope was defined by policy several years ago at the urging of the Legislative Audit Division, and is achieving their recommendation of inspecting "high-risk" facilities.

New AS 18.70.080(b) specifically gives the department the authority to charge fees for plan reviews of new construction or major remodeling for fire and life safety. Charging fees was begun in 1979 at the recommendation of the Governor's Efficiency Review Committee. The Ombudsman, during an investigation of the Division of Fire Prevention in 1984, felt that while we have the authority to charge, it should be made specific.

Finally, the bill repeals AS 18.70.082, fire detection and alarm requirements for remote housing facilities. The department believes the current regulations and adopted codes provide equivalent protection.



Robert J Sundberg, Commissioner

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. : HB 514
 Title : An act relating to fire prevention activities.
 Sponsor : Cato & Koponen
 Requestor : H Comm & Regional Affairs
 Date of Request : _____

Agency Affected : Public Safety
 BRU : Fire Prevention
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No fiscal impact is anticipated.

Prepared by : G.E. BRUNTON *bur*
 Division : Fire Prevention

Phone : 465-4331
 Date : 1/28/86

Approved by Commissioner : *[Signature]*
 Agency : Public Safety

Date : 11/29/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



Ombudsman

John B. Chenoweth

April 18, 1984

Sylvester Neal, Director
Division of Fire Prevention
Department of Public Safety
Pouch 6313
Anchorage, Alaska 99502

RECEIVED
APR 23 1984
DIRECTOR'S OFFICE
DIVISION OF FIRE PREVENTION
ANCHORAGE, ALASKA

RE: Ombudsman Complaint F83-1433

Dear Mr. Neal:

The above-referenced complaint, filed on November 10, 1983, in my Fairbanks office, alleged that the Division of Fire Prevention was improperly collecting plan review fees.

In filing this complaint, the complainant related that to build a small day care center the division required him to pay for the review and approval of his construction plans. The complainant felt that the mandated fee was unreasonable, particularly since the division is a public agency funded by the legislature, and argued that it was unfair for the state to force him to utilize and pay for the service of a state agency.

Preliminary examination of the complaint indicated to me that the complaint presented raised a question of whether the plan review fee was imposed by the division in accordance with law and not a question of whether the fee amount collected by the division in this particular instance was reasonable.

At the center of the complaint is the plan check fee levied and collected by the Department of Public Safety under 13 AAC 50.027:

13 AAC 50.027. PLAN CHECK AND APPROVAL. (a) Before beginning construction of all occupancies and buildings, plans and specifications regarding location on property, area, height, number of stories, type of construction, fire-resistive construction, interior finish, exit facilities, electrical systems, mechanical systems, automatic fire-extinguishing systems and fire alarm systems must be submitted to the state fire marshal for examination and approval.

(1) Upon application for a plan check, a plan check fee must be paid to the state fire marshal if

State of Alaska

Reply to:

3201 C Street, Suite 606
Anchorage, Alaska 99503
(907) 563-3673

Pouch W0
Juneau, Alaska 99811
(907) 465-4970

P. O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

the value of the proposed construction exceeds \$25,000; the value of the proposed construction will be determined by the state fire marshal.

(2) The plan check fee is 40 percent of the building permit fee schedule as set forth in Table No. 3-A of the U.B.C.

13 AAC 50.027 specifically allows the Division of Fire Prevention to collect fees for plan checks. The regulation recites that it has been adopted under authority of AS 18.70.080:

AS 18.70.080. REGULATIONS. The Department of Public Safety shall adopt rules and regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

(1) fire detection and suppression equipment;

(2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;

(3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;

(4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property.

On December 5, 1983, Ombudsman Assistant Debbie Miller, to whom investigation of this complaint was assigned, wrote to you asking that you furnish an explanation of your understanding of the relationship between the regulation and the statute. Ms. Miller asked if there were statutory authority other than AS 18.70.080 on which administration of this program relied.

In your December 14 response, you explained that there was no other statutory authority aside from AS 18.70.080 which grants the Division of Fire Prevention the right to charge fees for plan reviews. You stated that it was the opinion of the division's legal advisors that the right to promulgate regulations to effectively carry out the division's statutory duties is clear. By way of a brief history of the provision, you noted that a Governor's Management and Efficiency Review Committee report of 1976 recommended that the division implement a standard fee schedule for plan reviews and also noted statutory authority for such regulations. Subsequently, emergency regulations were adopted in June of 1979 adopting the fee schedule model set out in the Uniform Building Code. You noted that other state agencies, such as the Department of Labor, charge an inspection fee for certain services and that the Division of Fire Prevention has adopted a "common, nationally, popular

procedure for recovering administrative costs associated with plan reviews." Finally, you suggested that the fees imposed under the fee schedule followed by the division were reasonable, noting that the fees imposed were less than those set by some of the larger municipalities in Alaska.

INVESTIGATION:

Based upon the response received to her letter of inquiry, Ms. Miller pursued four interrelated points relating to his letter and the complainant's allegations. Specifically, Ms. Miller

(1) reviewed the procedures by which the regulations were formally adopted in 1979;

(2) sought a legal perspective from the Department of Law regarding the relationship between AS 18.70.080 and 13 AAC 50.027;

(3) reviewed current statutes and regulations which authorize other state agencies to collect fees for services rendered; and

(4) examined other sources bearing on the issue presented.

Briefly, the regulation in question, 13 AAC 50.027, was initially adopted as an emergency regulation on June 14, 1979. The Department of Public Safety issued a finding that an emergency existed within the Division of Fire Prevention in that regulations were necessary for the "immediate preservation of public peace, health, safety or general welfare," thereby purporting to meet the legal requirements justifying adoption of the regulation. The statement noted that in 1978 Alaska led the nation in deaths and property losses resulting from fire, and that

... due to an insufficient general fund appropriation in the fire safety operating budget, for fiscal year 1980, and delays in promulgating substantive regulation changes in 13 AAC 50-55, one of which would have allowed the department to charge a plan check fee thus providing additional monies, the department finds it will be necessary to layoff at least two of its seven professional fire safety field personnel and reduce the level of programs and services accordingly, unless sufficient additional operating monies can be obtained. [Emphasis added.]

In accordance with AS 44.62.060, the permanent regulations were formally approved by the Department of Law and, on August 31, 1979, Avrum M. Gross, designee of the lieutenant governor, signed the certification of compliance and accepted and filed the regulations.

The record relative to the filing of the permanent regulations is noteworthy only in one other respect: The Department of Law file had four letters on file which opposed or strongly objected to the adoption of 13 AAC 50.027. The Alaska Professional Design Council, the City of Dillingham, an Anchorage based engineering consulting firm, and one

citizen, all submitted written comments. Additionally several municipalities requested that they be exempted from 13 AAC 50.027 because those municipalities had already assumed the responsibility of inspecting or reviewing construction plans for fire prevention. For the record, the objections filed by or on behalf of the municipalities were duly considered, for municipalities were granted exempt status pursuant to 13 AAC 50.027(b).

On February 22, 1984, Ms. Miller contacted Assistant Attorney General Art Peterson, the regulations attorney for the Department of Law. Mr. Peterson had reviewed and approved 13 AAC 50.027 in an August 24, 1979, memorandum to the Commissioner of Public Safety. Mr. Peterson verified that he signed the transmittal memorandum to Public Safety Department Commissioner Nix which approved the adoption of 13 AAC 50.027 in accordance with AS 44.62.060. A duplicate original of the memorandum was also sent to the lieutenant governor.

Responding to Ms. Miller's inquiry, Mr. Peterson confirmed that AS 18.70.080 was the correct and only citation for 13 AAC 50.027. In Mr. Peterson's opinion the regulation is valid and not contrary to statute. To Ms. Miller, Mr. Peterson noted that the consistency between AS 18.70.080 and 13 AAC 50.027 is in concert with AS 44.62.030:

AS 44.62.030. CONSISTENCY BETWEEN REGULATION AND STATUTE. If, by expressed or implied terms of a statute, a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute. [Emphasis added.]

Mr. Peterson considered the collection of fees for plan reviews to be a "reasonable implementation" of AS 18.70.080. He did acknowledge to Ms. Miller that the relationship between the statute and the regulation was questionable but expressed the opinion that, if the regulation were challenged in court, the challenger would not succeed because the nature of the fire prevention program is reasonable.

DISCUSSION:

The leading Alaska case that describes a procedure for determining the validity of regulations through judicial review is Kelly v. Zamarello, 486 P.2d 906 (1971). In testing the validity of a regulation, the opinion notes the key factors to be utilized during the review process:

. . . We hold, therefore, that when a regulation has been adopted under a delegation of authority from the legislature to the administrative agency to formulate policies and to act in the place of the legislature, we should not examine the content of the regulation to judge its wisdom, but should

exercise a scope of review not unlike that exercised with respect to a statute.

Certain provisions of the Alaska Administrative Procedure Act provide guidance as to the standard of review for regulations adopted pursuant to an administrative agency's quasi-legislative rule-making function. AS 44.62.020 states in part:

To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

AS 44.62.030 states:

If, by express or implied terms of a statute, a state agency has authority to adopt a regulation to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute.

Thus, where an administrative regulation has been adopted in accordance with the procedures set forth in the Administrative Procedure Act, and it appears that the legislature has intended to commit to the agency discretion as to the particular matter that forms the subject of the regulation, we will review the regulation in the following manner: First, we will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency. This aspect of review insures that the agency has not exceeded the power delegated by the legislature. Second, we will determine whether the regulation is reasonable and not arbitrary. This latter enactment is proper in the review of any legislative enactment.

486 P.2d 906, 911.

Under this so-called "scope of authority" test set out in Kelly v. Zamarello, before it may be determined that a regulation is "reasonable and not arbitrary," it must first be ascertained whether or not the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions. This first step in the review process serves the purpose of assuring that the adopting agency has not exceeded the power delegated by the legislature. A regulation may be

reasonable but if it is not consistent with statute and not reasonably necessary to carry out the purpose of the statutory provisions then it would be found invalid. Thus, the test of AS 44.62.030 is composed of two parts, one of evaluating "reasonable necessity" for carrying out the purpose of the statute, and one of "consistency" with the statute being interpreted or implemented.

Alone, the statute cited as authority for adoption of the regulation has little bearing on the department's authority to prepare and adopt regulations relating to the collection of fees for the services provided by it. AS 18.70.080 expressly grants the Department of Public Safety the authority to adopt regulations for the purpose of protecting life and property from fire and explosion. However, the statute addresses only the manner in which this should be accomplished, specifying that the department may adopt regulations by establishing minimum standards for fire equipment, fire and life safety criteria, and other conditions and activities noted in the statute.

There are case decisions in a number of jurisdictions concluding that a state may impose a reasonable fee or charge to meet the expenses of inspection. The principle that the ability of a state agency to impose a fee or charge for that purpose exists as an incident to the right to enact and enforce the law is well recognized in numerous court decisions. Those cases are reported, for example, at note 4, 42 Am. Jur. 2d § 11, "Inspection Laws," and 127 A.L.R. 330. One Utah case, Salt Lake City v. Bennion Gas & Oil Co., 15 P.2d 648 (Utah, 1932), summarizes the case law, the Utah Supreme Court, citing numerous authorities, concluding

. . . that the authority delegated to the [City of Salt Lake City] by the state to pass inspection ordinances carries with it as an incident to said power the right and power to charge and exact a fee to defray the cost of said inspection.

15 P.2d 648, 650.

It is doubtless true that the regulation in question, 13 AAC 50.027, is not an "inspection" ordinance as the term "inspection" is usually understood for, by its terms, the regulation is intended to apply principally to the plans applicable to unconstructed or proposed facilities.

In my judgment, however, there are two reasons to suggest that the distinction between "inspection" (which in context refers to examination of existing structures) and "plan approval" consistent with previously developed "minimum standards" for buildings not yet constructed or completed should not be permitted to make a difference, and that the regulation can be said to meet the test of "consistency."

First by case decision in Alaska, the courts have indicated that a regulation is to enjoy a presumption of validity:

[A]n administrative regulation must be accorded a presumption of validity, and the challenger of the regulation must demonstrate its invalidity. Kingery v. Chapple, 504 P.2d 831, 834 - 835 (Alaska, 1972); United States v. Lkberg, 291 F.2d 913, 921 (8th Cir., 1961), cert. denied, 368 U.S. 920, 82 S. Ct. 242, 7 L. Ed. 135 (1961). . . .

Cited in Union Oil Co. of California v. State, 574 P.2d 1266, 1271 (Alaska, 1978).

Second, 13 AAC 50.027 should not be read (as you and Mr. Peterson have) as a provision wholly dependent on AS 18.70.080. In context, AS 18.70.080 was enacted in 1955 as one section of a more comprehensive set of statutes defining the duties of the fire marshal in matters relating to fire prevention and investigation. The enacting statute, first adopted as Ch. 66, SLA 1955, included three other provisions relevant to our consideration of this matter:

AS 18.70.050. POWER OF DEPARTMENT TO INSPECT BUILDINGS. The Department of Public Safety may enter any building subject to regulation under AS 18.70.080 during reasonable hours for the sole purpose of inspecting the property or abating a fire hazard.

AS 18.70.070. ABATEMENT OF FIRE HAZARDS. The Department of Public Safety may require the owner of a commercial business or public property to abate a fire hazard which exists in violation of law or regulations, and the Department of Public Safety may take appropriate action to assure such abatement.

AS 18.70.090. ENFORCEMENT OF REGULATIONS. The Department of Public Safety and the chief of each city fire department and their authorized representatives in their respective areas may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property against fire or panic. . . .

As part of a multi-section bill, AS 18.70.080 should be interpreted in context with these related provisions.

I am of the view that AS 44.62.020 and AS 18.70.090 save this regulation. Under AS 44.62.020, it is required only that "[t]o be effective, a regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law." Legal authority for the adoption and implementation of 13 AAC 50.027 is not limited to the statement of authority set out following the regulation. In this case, it is clear to me that 13 AAC 50.027 is also dependent on AS 18.70.090. Section 90 is the principal means by which officials and employees of the Department of

Public Safety (and others) may be expected to compel adherence to the minimum standards otherwise established by regulation. And, as earlier indicated by my references to the case decisions in other jurisdictions, when the power to regulate is expressly granted, the weight of legal authority favors the ability to impose a reasonable fee or charge for services associated with the act of regulating.

Allowing, then, for the correction of the statement of authority on which the regulation in question is based as earlier indicated, I am of the view that the fee requirement meets the "consistency" element of the "scope of authority test" of Kelly v. Zamarello. The history of the regulation suggests that it also meets the companion test of "reasonable necessity." The fact that "regulation" under 13 AAC 50.027 takes the form of a "plan check" rather than the more common form of "inspection" should not disturb the result, and I believe the imposition of the fee under authority of the regulation is within the scope of agency authority.

FINDING:

This is an unusual question. On the record as I understand it, however, I cannot say that, as to 13 AAC 50.027, the Division of Fire Protection's authority to adopt an applicable regulation has been implemented in error.

I propose to advise the complainant that his complaint is unsupported. Again, I express no opinion on the merits as to the reasonableness or fairness of the dollar amount of the fee imposed. For reasons earlier mentioned, no such expression seems necessary.

*

It is, as you noted in your correspondence to Ms. Miller, undisputed that other state agencies charge inspection fees for certain services. However, there is one major distinction between the Division of Fire Prevention's plan check and approval schedule and other agencies authorized to charge fees, for, according to Ms. Miller, research shows that all other state agencies collecting fees are specifically authorized by statute to collect revenues from citizens. In the case of the Department of Labor, for example, fees are collected for several types of safety inspections including boiler, elevator, and plumbing inspections. For each type of inspection the Department of Labor conducts, the department is authorized specifically by statute to collect fees for services rendered (See AS 18.60.360(a), AS 18.60.-715(d), and AS 18.60.800(b)(3)). As a general rule, where the legislature contemplates imposition of fees for services, the legislature has, by law, specifically authorized an agency to collect fees for licenses and services rendered.

It is, of course, the legislature that may render final judgment on this issue. There are, I am certain, a number of legislators who would, as a matter of administrative policy, disagree that an agency may, in the absence of express statutory authority, levy fees or charges for services. In my letter to the complainant, I will suggest that he

April 18, 1984

direct this matter to the attention of any legislators whom he may know. Separately, because of the unusual issue presented, I anticipate advising the Administrative Regulation Review Committee of my finding on this matter, inviting the committee to consider the regulation in question in accordance with law.

SUGGESTION:

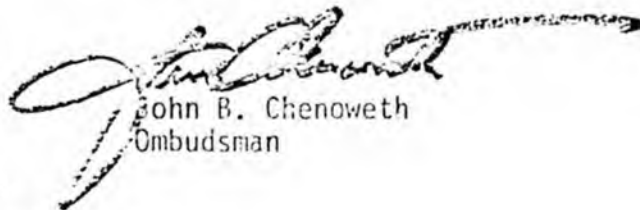
I would urge you to consider one matter:

The regulation in question is one applicable to enforcement of minimum standards. While defending the regulation, I am of the view that 13 AAC 50.027 is insufficient in that it omits citation of statutory authority directly pertinent to enforcement of "minimum standards," AS 18.70.090. As circumstances permit, you may want to add AS 18.70.090 as a citation of authority for adoption and subsequent implementation of the regulation.

I am concluding this investigation and closing the file in this matter. In doing so, Ms. Miller has asked to express her appreciation to you for your assistance earlier in the course of her work.

Please contact me if you have any questions concerning this investigation or its disposition.

Sincerely,



John B. Chenoweth
Ombudsman

JBC:pjc



RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

7/25/89
Date

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 2-24-86 1:30 pm

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HR515
 Title: "An Act increasing the number of superior court judges..."
 Sponsor: Rep. Sund
 Requestor: Judiciary
 Date of Request: 2/14/86

FISCAL DETAIL

Agency Affected: Dept. of Administration
 BRU: Office of Public Advocacy
 Components: Office of Public Advocacy

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	152.7	161.9	171.6	181.9	192.8
TRAVEL		5.0	5.3	5.5	5.9	6.3
CONTRACTUAL		186.7	197.9	209.8	222.4	235.7
SUPPLIES		3.0	3.2	3.4	3.6	3.8
EQUIPMENT		16.7	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	364.1	368.3	390.4	413.8	438.6

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	364.1	368.3	390.4	413.8	438.6
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	364.1	368.3	390.4	413.8	438.6

POSITIONS :

FULL-TIME	-0-	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Erant McGee, Public Advocate *Erant McGee* Phone: 274-1684
 Division: Office of Public Advocacy Date: 2/20/86

Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: _____
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB515

This bill establishes four new superior court judgeships: one for the First Judicial District to be located in Ketchikan, two for the Third Judicial District to be located in Palmer and Kenai, and one for the Fourth Judicial District to be located in Bethel. The addition of judges in any court location results in a substantial increase in required court appearances for Office of Public Advocacy staff attorneys and contract professionals who provide guardian ad litem representation for abused and neglected children. The OPA must have staff attorneys and contract professionals available to appear in the additional court hearings scheduled before the new judges.

BUDGET ANALYSIS

First District - Ketchikan

Additional Contract Professionals

300- Contractual Services 47.5

Third District - Kenai & Palmer

Additional Anchorage Staff to Cover Kenai & Palmer Courts

Attorney IV	72.2
Associate Attorney II	53.1
Clerk Typist III	27.4
	<u>152.7</u>

100- Personal Services	152.7
200- Travel	5.0
300- Contractual Services	80.2
400- Supplies	3.0
500- Equipment (One-Time)	16.7

Fourth District - Bethel

Additional Contract Professionals

300- Contractual Services 59.0

TOTAL 364.1

Position Title Attorney IV - Anchorage			No. of Positions 1	Range/Step 24/A	Bar# Unit 8	Obj.	Agency	Month
Time Status PFT	Staff Months 12.0	RP Number	Location EBA		Election District 8			
Type of Expenditure			Amount					
1			3					
Salary	4,687/PER MO.	56.24						
Benefits		15,997						
Premium Pay								
Other								
Total Personal Services			72,234					
Travel			2,500					
Contractual			7,600					
Commodities			1,000					
Equipment			3,100					
Other								
Total Cost			86,434					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		D. P. Match 1003						
		General Funds 1004 86,434						
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number								

Justification

The increase in criminal caseloads in the Palmer and Kenai areas necessitates the addition of another felony trial lawyer in the Anchorage office. This single attorney could provide cost effective staff coverage of these locations. This position will enable OPA to absorb the increased caseload to be anticipated from the addition of Superior Court judges and court appearances for these areas.

**Request For
New Position**

Agency Department of Administration
 DRU Office of Public Advocacy
 Component Office of Public Advocacy

FY 87

Page 3 of 5
 Revised Date _____

Position Title Associate Attorney II - Anchorage			No. of Positions 1	Range/Step 19/A	Org. Unit X	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location EBA		Election District 8	Leg.		
Type of Expenditure			Justification					
			<p>The increase in children's proceedings in the Palmer and Kenai areas necessitates the addition of another Associate Attorney II position in the Anchorage office. This single position would provide guardian ad litem representation to abused and neglected children in children's proceedings in Kenai and Palmer.</p>					
1	2	3						
Salary 3,353/Mo.	10,236							
Benefits	12,849							
Premium Pay								
Other								
Total Personal Services		53,085						
Travel		2,500						
Contractual		7,600						
Commodities		1,000						
Equipment		3,100						
Other								
Total Cost		67,285						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	Q. F. Match 1003							
	General Funds 1004		67,285					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only Key Number								

**Request For
New Position**

Agency Department of Administration
 BRU Office of Public Advocacy
 Component Office of Public Advocacy

FY 87

Page 4 of 5
 Revised Date

Position Title Clerk Typist III - Anchorage			No. of Positions 1	Range/Step 08/A	Burg. Unit C	Gov. Approv.	Disapp.
Time Status PFT	Start Months 12.0	RP Number	Location EBA	Election District 8	Est.		
Justification							
<p>The addition of two professional positions in the Anchorage office necessitates an additional clerk typist position. Presently, the Anchorage office has three legal secretary positions who are providing clerical support to 12 professional positions. The Anchorage office has no receptionist position and these duties are covered by the legal secretaries. The addition of two professional positions will increase the secretarial workload substantially. The present secretary positions will be able to absorb this additional workload only if they are relieved from receptionist duties.</p>							
Type of Expenditure		Amount					
1	2	3					
Salary	1,631/Mo.	19,572					
Benefits		7,805					
Premium Pay							
Other							
Total Personal Services			27,377				
Travel			0				
Contractual			0				
Commodities			1,000				
Equipment			10,500				
Other							
Total Cost			38,877				
Receipt Code	Funding Source						
	Federal Receipts 1002						
	Q. F. Match 1003						
	General Funds 1004						
	I-A Receipts 1005						
	Program Receipts 1028						
	CIP Receipts 1061						
	Other						
For B&M Use Only Key Number							

**Request For
New Position**

Agency Department of Administration
 BRU Office of Public Advocacy
 Component Office of Public Advocacy

FY 87

Page 5 of 5
 Revised Date

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 515
 Title : An Act Relating to the Number
of Judges

 Sponsor : _____
 Requestor : _____
 Date of Request : 2/3/86

FISCAL DETAIL

Agency Affected : Alaska Court System
 BRU : Trial Courts

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		1,171.8	1,242.1	1,316.6	1,395.6	1,479.3
TRAVEL						
CONTRACTUAL		23.6	25.0	26.5	28.1	29.8
SUPPLIES		8.0	8.5	9.0	9.5	10.1
EQUIPMENT		68.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		1,271.6	1,275.6	1,352.1	1,433.2	1,519.2

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		1,271.6	1,275.6	1,352.1	1,433.2	1,519.2
FEDERAL FUNDS						
OTHER						
TOTAL		1,271.6	1,275.6	1,352.1	1,433.2	1,519.2

POSITIONS :

FULL-TIME		16	16	16	16	16
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Robert G. Fisher Phone : 264-8215
 Division : Alaska Court System Date : 2/3/86
 Approved by Commissioner : Arthur H. Snowden, II Date : 2/3/86
 Agency : Alaska Court System

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ALASKA COURT SYSTEM
 HB 515 - AN ACT INCREASING
 THE NUMBER OF JUDGES

FISCAL IMPACT

PERSONAL SERVICES:	Salary	Benefits	Total Costs
Kenai: Superior Court Judge	\$82,716	\$96,245	\$178,961
In-Court Clerk (PFT, range 12B)	27,432	9,247	36,679
Secretary (PFT, range 12B)	27,432	9,247	36,679
Law Clerk (PFT, range 13A)	28,380	9,462	37,842
Palmer: Superior Court Judge	80,004	96,155	176,159
In-Court Clerk (PFT, range 12B)	26,604	9,059	35,663
Secretary (PFT, range 12B)	26,604	9,059	35,663
Law Clerk (PFT, range 13A)	27,432	9,247	36,679
Ketchikan: Superior Court Judge	77,304	93,066	170,370
In-Court Clerk (PFT, range 12B)	25,740	8,864	34,604
Secretary (PFT, range 12B)	25,740	8,864	34,604
Law Clerk (PFT, range 13A)	26,604	9,059	35,663
Bethel: Superior Court Judge	90,828	96,512	187,340
In-Court Clerk (PFT, range 12B)	33,816	10,695	44,511
Secretary (PFT, range 12B)	33,816	10,695	44,511
Law Clerk (PFT, range 13A)	34,920	10,945	45,865

Total Personal Services			1,171,793
CONTRACTUAL:			
Telephone and postage costs			8,000
Word processors			15,600

Total Contractual			23,600
SUPPLIES:			
			8,000
EQUIPMENT: (one-time items)			
Office furniture			49,256
Reference materials (chambers and courtroom)			18,924

Total Equipment			68,180

TOTAL COST			\$1,271,573
			=====

Subsequent fiscal years adjusted to reflect 6% inflation.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB515
 Title : "An Act increasing the number of superior court judges..."
 Sponsor : Rep. Sund, etc.
 Requestor : H. Judiciary
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Alaska State Troopers
 Components : Judicial Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		191.3	200.9	210.9	221.5	232.5
TRAVEL		6.0	6.3	6.6	6.9	7.3
CONTRACTUAL		33.6	35.3	37.0	38.9	40.8
SUPPLIES		9.9	10.4	10.9	11.5	12.0
EQUIPMENT		57.6				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		298.4	252.9	265.4	278.8	292.6

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		298.4	252.9	265.4	278.8	292.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See Attachment

Prepared by : Francis C. Allan G.C.A.
 Division : Alaska State Troopers

Phone : 259-5691
 Date : 2/13/86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 2/17/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

The additional three judges will force an increase in work load for for the Judicial Services Component that will need to be covered by three additional State Trooper personnel. Current staffing levels will be unable to cover any increases. The positions will be used to provide court security, move prisoners and serve civil and criminal process. Related clerical activities can be handled by current staff. These positions will be located in Palmer, Ketchikan, Bethel and Kenai/Soldotna at the same locations as the judges. Additional workload in Bethel can be handled by the current staff. Costs are as follows:

Alaska State Troopers
Judicial Services

	Palmer	Kenai	Ketchikan	FY87 Total
Personal Services	\$63.8	\$ 65.9	\$61.6	\$191.3
Travel	2.0	2.0	2.0	6.0
Contractual	11.2	11.2	11.2	33.6
Supplies	3.3	3.3	3.3	9.9
Equipment	19.2	19.2	19.2	57.6
Total	\$99.5	\$101.6	\$97.3	\$298.4

Assumptions: The fiscal note was prepared on the basis that equipment would be needed in the first year only and that a 5% inflation will take place each year after FY87.

PALMER

Trooper

PERSONAL SERVICES - 100

\$3,363 x 12 months =	\$40,356	
+ 180 hours OT	5,587	
SUB TOTAL	<u>\$45,943</u>	
+ .261327% Benefits	12,006	
+ .0613 SBS	2,800	
+ Health Benefits	<u>3,006</u>	
TOTAL PERSONAL SERVICES		\$63,755

TRAVEL & PER DIEM - 200

Average - This will vary		
TOTAL TRAVEL & PER DIEM		2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance	636	
HWCF Vehicle - Monthly Cost Replacement \$292 per month + 1,500 miles x .29	<u>8,724</u>	
TOTAL CONTRACTUAL		11,160

SUPPLIES AND MATERIALS - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL SUPPLIES AND MATERIALS		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>19,200</u>

TOTAL TROOPER COST TO THE BRU		\$99,415
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Position Title State Trooper			No. of Positions 1	Range/Step 76/A	Base Unit PSEA	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Kenai		Election District 16	Leg.		
Justification								
This commissioned State Trooper will be needed to provide court security, move prisoners and serve criminal and civil process. The position will provide coverage for the increased workload created by the additional superior court judge proposed. Current staff cannot handle the increase.								
Type of Expenditure			Amount					
1	2	3						
Salary	41,880							
Benefits	18,266							
Premium Pay	5,799							
Other								
Total Personal Services			65.9					
Travel			2.0					
Contractual			11.2					
Commodities			3.3					
Equipment			19.2					
Other								
Total Cost			101.6					
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			101.6					
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Public Safety
 BRU Alaska State Troopers
 Component Judicial Services

Page 2 of 3
 Revised Date _____

FY 87

Kenai/Soldotna

Trooper

PERSONAL SERVICES - 100

\$3,990 x 12 months =	\$41,880	
+ 180 hours OT	5,799	
SUB TOTAL	<u>\$47,679</u>	
+ .261327% Benefits	12,460	
+ .0613 SBS	2,800	
+ Health Benefits	<u>3,006</u>	
TOTAL PERSONAL SERVICES		\$65,945

TRAVEL & PER DIEM - 200

Average - This will vary		
TOTAL TRAVEL & PER DIEM		2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance	636	
HWCF Vehicle - Monthly Cost Replacement \$292 per month + 1,500 miles x .29	<u>8,724</u>	
TOTAL CONTRACTUAL		11,160

SUPPLIES AND MATERIALS - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL SUPPLIES AND MATERIALS		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>19,200</u>

TOTAL TROOPER COST TO THE BRU

\$101,605

Position Title State Trooper			No. of Positions 1	Range/Step 76/A	Base Unit PSEA	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Ketchikan		Election District 1	Leg.		
Type of Expenditure			Justification					
Amount			<p>This commissioned State Trooper will be needed to provide court security, move prisoners and serve criminal and civil process. The position will provide coverage for the increased workload created by the additional superior court judge proposed. Current staff cannot handle the increase.</p>					
1	2	3						
Salary	38,904							
Benefits	17,300							
Premium Pay	5,400							
Other								
Total Personal Services		61.6						
Travel		2.0						
Contractual		11.2						
Commodities		3.3						
Equipment		19.2						
Other								
Total Cost		97.3						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		97.3					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Public Safety
 BRU Alaska State Troopers
 Component Judicial Services

Page 3 of 3
 Revised Date _____

FY 87

KETCHIKAN

Trooper Costs

PERSONAL SERVICES - 100

\$3,242 x 12 months =	\$38,904	
+ 180 hours OT @ \$30 per hr	5,400	
SUB TOTAL	<u>\$44,304</u>	
+ .261327% Benefits	11,578	
+ .0613 SBS	2,716	
+ Health Benefits	<u>3,006</u>	
TOTAL PERSONAL SERVICES		\$61,604

TRAVEL & PER DIEM - 200

Average - This will vary		
TOTAL TRAVEL & PER DIEM		2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance	636	
HWCF Vehicle - Monthly Cost Replacement \$292 per month + 1,500 miles x .29	<u>8,724</u>	
TOTAL CONTRACTUAL		11,160

SUPPLIES AND MATERIALS - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL SUPPLIES AND MATERIALS		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>19,200</u>

TOTAL TROOPER COST TO THE BRU		\$97,264
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STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB515
 Title : "An Act increasing the number
 of superior court judges..."
 Sponsor : Rep. Sund
 Requestor : Judiciary
 Date of Request : 2/14/86

FISCAL DETAIL

Agency Affected : Dept. of Administration
 BRU : Public Defender Agency
 Components : First Judicial District
Third Judicial District
Fourth Judicial District

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		388.2	403.7	419.9	436.7	454.2
TRAVEL		15.0	15.6	16.2	16.9	17.6
CONTRACTUAL		32.0	33.3	19.0	19.8	20.6
SUPPLIES		7.5	7.9	9.3	9.6	9.9
EQUIPMENT		17.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	459.7	460.4	463.4	482.0	501.3

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	459.7	460.4	463.4	482.0	501.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME	-0-	7.0	7.0	7.0	7.0	7.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

(See attached page.)

Prepared by : Dana Fabe, Public Defender *OK*
 Division : Public Defender Agency *Dana Fabe (BS)*

Phone : 279-7541

Date : Feb. 14, 1986

Approved by Commissioner : *Marion Hubbard*
 Agency : _____

Date : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB515

The Alaska Court system is requesting four new superior court judges, one for the First Judicial District to be located in Ketchikan, two for the Third Judicial District to be located in Palmer and Kenai, and one for the Fourth Judicial District to be located in Bethel. The addition of judges in any court location results in a substantial increase in required court appearances for attorneys in the Public Defender Agency. The Agency must have attorneys available to appear at the additional court hearings scheduled before the new judges along with necessary support staff in order to avoid unnecessary delays and continuances.

FUDGET ANALYSIS

<u>First District:</u>	<u>Ketchikan-</u>	Attorney III	64.0
		100 Personal Services	64.0
		200 Travel	2.5
		300 Contractual	6.0
		400 Supplies	1.0
		500 Equipment (one time)	1.5
		Total	75.0
<u>Third District:</u>	<u>Kenai-</u>	Attorney III	68.0
		Clerk/Typist	28.9
	<u>Palmer-</u>	Attorney III	66.1
		Paralegal II	44.9
		100 Personal Services	207.9
		200 Travel	7.5
		300 Contractual	16.0
		400 Supplies	4.0
		500 Equipment (one time)	9.0
		Total	244.4
<u>Fourth District:</u>	<u>Bethel-</u>	Attorney III	82.3
		Clerk/Typist	34.0
		100 Personal Services	116.3
		200 Travel	5.0
		300 Contractual	10.0
		400 Supplies	2.5
		500 Equipment (one time)	6.5
		Total	140.3
		GRAND TOTAL	459.7

Position Title Attorney III			No. of Positions 1	Range/Step 22A	Barg. Unit PX	Gov.	Approv.	Disapp.																																																											
Time Status PFT	Staff Months 12.0	RP Number	Location Ketchikan		Election District 1	Leg.																																																													
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**Request For
New Position**

Agency Department of Administration
BRU Public Defender Agency
Component First Judicial District

Page 3 of 9
Revised Date _____

FY 87

Position Title Attorney III			No. of Positions 1	Range/Step 22A	Base Unit PX	Gov.	Approv.	Disapp.																																							
Time Status PFT	Staff Months 12.0	RP Number	Location Kenai		Election District 5	Leg.																																									
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**Request For
New Position**

Agency Department of Administration
 BRU Public Defender Agency
 Component Third Judicial District

Page 4 of 9
 Revised Date _____

FY 87

Position Title Clerk/Typist III			No. of Positions 1	Range/Step 8A	Barg. Unit CG	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Kenai		Election District 5	Leg.		
Justification								
Type of Expenditure			Amount					
1			2			3		
Salary \$1731 x 12			20,772					
Benefits			8,098					
Premium Pay								
Other								
Total Personal Services			28,870					
Travel			-0-					
Contractual			1,000					
Commodities			1,000					
Equipment			4,500					
Other								
Total Cost			35,370					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004						
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

HB 515 establishes a new Superior Court judge in Kenai. This is in addition to the present Superior Court judge and a magistrate. The Agency has three attorneys and a paralegal assigned here and the new judicial position would require another assistant public defender and a clerk/typist. They are necessary to cover the caseload and mandatory court appearances.

**Request For
New Position**

Agency Department of Administration
 BRU Public Defender Agency
 Component Third Judicial District

Page 5 of 9
 Revised Date _____

FY 87

Position Title Attorney III			No. of Positions 1	Range/Step 22A	Barg. Unit PX	Gov.	Approv.	Disapp
Time Status PFT	Staff Months 12.0	RP Number	Location Palmer		Election District 16	Leg.		
Type of Expenditure			Justification					
Amount			HB 515 establishes a new Superior Court judge in Palmer. This is in addition to the present Superior Court judge and District Court judge. The Agency has two permanent attorneys assigned here and the new judicial position would require another assistant public defender and a paralegal assistant.					
1	2	3						
Salary \$4246 x 12	50,952							
Benefits	15,142							
Premium Pay								
Other								
Total Personal Services		66,094						
Travel		2,500						
Contractual		6,000						
Commodities		1,000						
Equipment		1,500						
Other								
Total Cost		77,094						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004	77,094						
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	Other							
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Department of Administration
 BRJ Public Defender Agency
 Component Third Judicial District

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 Revised Date

FY 87

Position Title Paralegal II			No. of Positions 1	Range/Step 16A	Barg. Unit GG	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Palmer		Election District 16	Leg.		
Type of Expenditure			Justification					
		Amount	HB 515 establishes a new Superior Court judge in Palmer. This is in addition to the present Superior Court judge and District Court judge. The Agency has two permanent attorneys assigned here and the new judicial position could require another assistant public defender and a paralegal assistant.					
1	2	3						
Salary	\$2804 x 12	33,648						
Benefits		11,240						
Premium Pay								
Other								
Total Personal Services		44,888						
Travel		2,500						
Contractual		3,000						
Commodities		1,000						
Equipment		1,500						
Other								
Total Cost		52,888						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		52,888					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
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Key Number _____								

**Request For
New Position**

Agency Department of Administration
 BRU Public Defender Agency
 Component Third Judicial District

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 Revised Date _____

FY 87

Position Title Attorney III			No. of Positions 1	Range/Step 22A	Barg. Unit PX	Gov.	Approv.	Disapp.																																							
Time Status PFT	Staff Months 12.0	RP Number	Location Bethel		Election District 25	Leg.																																									
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**Request For
New Position**

Agency Department of Administration
 BRU Public Defender Agency
 Component Fourth Judicial District

Page 8 of 9
 Revised Date _____

FY 87

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Time Status PFT	Staff Months 12.0	RP Number	Location Bethel		Election Distri. 25	Leg.						
Type of Expenditure			Justification									
			<p>HB 515 establishes a new Superior Court judge in Bethel. This is in addition to the present Superior Court judge and a magistrate. The Agency has three attorneys and a paralegal assistant assigned here and the new judicial position would require another assistant public defender and a clerk/typist. They are necessary to cover the caseload and mandatory court appearances. Additional office space would be required.</p>									
Amount												
1	2	3										
Salary	\$2072 x 12	24,864										
Benefits		9,096										
Premium Pay												
Other												
Total Personal Services		33,960										
Travel		--0--										
Contractual		1,000										
Commodities		1,500										
Equipment		4,500										
Other												
Total Cost		40,960										
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			40,960									
For B&M Use Only												
Key Number												

**Request For
New Position**

Agency Department of Administration
 BRU Public Defender Agency
 Component Fourth Judicial District

FY 87

Page 9 of 9
 Revised Date _____

Introduced: 1/27/86
Referred: Judiciary and
Finance

BY SUND, TAYLOR, RINKLEY,
HURLEY, GRUSSENDORF, DUNCAN,
M.M.MILLER, GOLL AND LARSON

1 IN THE HOUSE

2

HOUSE BILL NO. 515

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act increasing the number of superior court
7 judges; and providing for an effective date."

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

9 * Section 1. AS 22.10.120 is amended to read:

10 Sec. 22.10.120. NUMBER OF JUDGES. The superior court consists
11 of 33 [29] judges, six [FIVE] of whom shall be judges in the first
12 judicial district, three of whom shall be judges in the second judi-
13 cial district, 18 [16] of whom shall be judges in the third judicial
14 district, and six [FIVE] of whom shall be judges in the fourth judi-
15 cial district. At the time of submitting the names of nominees to the
16 governor to fill a vacancy on the superior court bench, the judicial
17 council shall also designate the district in which the appointee is to
18 reside and serve.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).



ALASKA STATE LEGISLATURE
Katie Hurley, House of Representatives

Pouch V
Juneau, Alaska 99811
Ph: (907) 465-4763
Box 870157
Wasilla, Alaska 99687

Chair, State Affairs Committee
Member, Health Education & Social Services
Member, Alaska Legislative Council
Member, House Special Committee on Fisheries

M E M O R A N D U M

TO: Representative Mike M. Miller
Chair, House Judiciary Committee

FROM: Representative Katie Hurley *Katie Hurley*

SUBJECT: HB 509 and HB 515 (increasing
number of superior court judges)

DATE: February 4, 1986

I am enclosing back-up material in support of House Bill No. 509 and House Bill No. 515 (increasing the number of superior court judges) which I have co-sponsored.

As you can see from reading the attached, the numbers are staggering. The filings per judge in the Palmer area are 6374, in contrast to Juneau, which has 2975, and Anchorage, which has 2720, for example.

I would appreciate being notified when these bills are scheduled in your committee as I would like to testify.

Chambers of
BEVERLY W. CUTLER, Judge



Superior Court
State of Alaska

(907) 745-5071

THIRD JUDICIAL DISTRICT
BOX 860
PALMER, ALASKA 99645-0860

January 28, 1986

Mr. John D. Shaw
P. O. Box "V"
Palmer, Alaska 99645

Dear Mr. Shaw:

Thank you very much for giving me the opportunity to write to you about the Mat-Su Valley's need for a second judge.

First, I should emphasize that it is imperative that we obtain a new court building as soon as possible. We desperately need both that and another judicial officer.

There is not enough room in the Hillstrom Building for us even now. Many of our current functions are compromised by our lack of space, particularly the functions that must be private, such as Grand Jury and all juvenile proceedings. We lack sufficient hallway and conference room space for attorneys, witnesses and litigants. We also lack sufficient space for jurors, and for file and exhibit storage. We have had several escapes from the court house within the last year due to a lack of adequately secured areas.

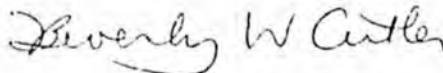
I imagine you are well versed on the present plans for obtaining a new court house. The City of Palmer and the court are working together on this but the politics of getting it funded never seem to cease. Right now the City of Palmer is attempting to get grant money from the legislature, or to obtain authority to enter into a lease/purchase option with the state.

Mr. John D. Shaw
January 28, 1986
Page Two

In response to your request for specific data on our caseload, the latest statistics show we have surpassed Kenai in filings, and in fact have more filings than Juneau, which has two Superior Court judges and one District Court judge. We have only one Superior Court, no District Court judge, and one magistrate. Printed statistics from the Alaska Court System 1985 annual report are included. You might note that Palmer is almost off the chart in the column "Filings Per Judge." The statistics justify at least two new judges! (I note that Fairbanks has only 150% of our case load but 500% as many judicial officers and 500% as much court space, with a new building planned.)

I have found it very helpful to emphasize that we are the court for the Mat-Su Valley, not just for Palmer, or even for Palmer and Wasilla. Please let me know if there is anyone else I should be communicating our needs to.

Very truly yours,



Beverly W. Cutler
Superior Court Judge

BWC:pah
cc: Senator Kerttula
Enclosures

ALASKA COURTS FILINGS

FY 85

LOCATION	SUPERIOR COURT	DISTRICT COURT	TOTAL	% OF STATE-WIDE TOTAL	FILINGS PER JUDGE
Anchorage	11602	69992	81594	49.5	2720
Barrow	285	574	859	.5	430
Bethel	469	1585	2054	1.2	1027
Cordova		501	501	.3	501
Dillingham		317	317	.5	317
Fairbanks	3448	14660	18108	11.0	1646
Glennallen		882	882	.5	882
Homer		2779	2779	1.7	2779
Juneau	1211	7714	8925	5.4	2975
Kenai	928	7570	8498	5.2	4249
Ketchikan	813	4669	5482	3.3	1827
Kodiak	455	3733	4188	2.5	2094
Kotzebue	263	1109	1372	.9	686
Nome	330	814	1144	.7	572
Palmer	1148	11600	12748	7.8	6374
Petersburg		598	598	.4	598
Seward		3121	3121	1.9	3121
Sitka	322	2371	2693	1.6	1347
Tok		1044	1044	.6	1044
Unalaska		429	429	.3	429
Valdez	133	743	876	.5	876
Wrangell	219	599	818	.5	409
OTHER (Low Vol.)		5042	5042	3.1	140
TOTAL	21626	142946	164570	100	1496

BY JUDICIAL DISTRICT

First	2565	17427	19992	12.1	1052
Second	878	2797	3675	2.2	245
Third	14266	103096	117362	71.3	2395
Fourth	3917	19626	23543	14.3	872

FISCAL YEAR JULY 1 — JUNE 30

ALASKA COURTS AUTHORIZED PERSONNEL POSITIONS

FY 85

LOCATION	POSITIONS BY RANGE					% OF STATEWIDE TOTAL
	BELOW 10	10 THROUGH 12	13 THURGH 16	OVER 16	TOTAL	
Anchorage	36	105	33	7	181	46.6
Barrow	1	4	1		6	1.5
Bethel	1	4	1		6	1.5
Cordova		1			1	.3
Diillingnam	1	1			2	.5
Fairbanks	12	50	11	4	77	19.8
Glennailen	1	1			2	.5
Homer	1	1	1		3	.8
Juneau	2	12	5	1	20	5.2
Kenai	2	10	1	1	14	3.6
Ketchikan	0	10	3	1	14	3.6
Kodiak	3	4	2		9	2.3
Kotzebue	1	3	1		5	1.3
Nome	1	4	1		6	1.5
Palmer	4	7	2		13	3.4
Petersburg	1	1			2	.5
Seward	1	1			2	.5
Sitka	1	4	2		7	1.8
Tok		1			1	.3
Unalaska		1			1	.3
Valdez	1	2			3	.8
Wrangell	1	2			3	.8
OTHER (Low Vol)	2	8			10	2.6
TOTAL	73	237	64	14	388	100

Alaska Court System Personnel, Foster June 30, 1985
BY JUDICIAL DISTRICT

First	6	31	10	2	49	12.6
Second	3	11	3	0	17	4.4
Third	51	135	39	8	233	60.1
Fourth	13	60	12	4	89	22.9

FISCAL YEAR JULY 1 — JUNE 30

ALASKA COURTS
AUTHORIZED JUDICIAL POSITIONS

FY 85

LOCATION	SUPERIOR COURT	DISTRICT COURT	MAGI-STRATES	MASTERS	TOTAL	% OF STATE-WIDE TOTAL
Anchorage	12	9	5	4	30	27.2
Barrow	1		1		2	1.8
Bethel	1		1		2	1.8
Cordova			1		1	.9
Dillingham			1		1	.9
Fairbanks	4	4	2	1	11	10.0
Glennallen			1		1	.9
Homer		1			1	.9
Juneau	2	1			3	2.7
Kenai	1		1		2	1.8
Ketchikan	1	1	1		3	2.7
Kodiak	1		1		2	1.8
Kotzebue	1		1		2	1.8
Nome	1		1		2	1.8
Palmer	1		1		2	1.8
Petersburg			1		1	.9
Seward			1		1	.9
Sitka	1		1		2	1.8
Tok			1		1	.9
Unalaska			1		1	.9
Valdez	1				1	.9
Wrangell	1		1		2	1.8
OTHER (Low Vol.)			36		36	32.7
TOTAL	29	16	60	5	110	100

Alaska Court System Personnel Roster June 30, 1985

BY JUDICIAL DISTRICT

First	5	2	12	0	19	17.3
Second	3	0	12	0	15	13.6
Third	16	10	19	4	49	44.5
Fourth	5	4	17	1	27	24.5

FISCAL YEAR JULY 1 — JUNE 30

ALASKA COURTS
AUTHORIZED JUDICIAL POSITIONS

FY 85

LOCATION	SUPERIOR COURT	DISTRICT COURT	MAGISTRATES	MASTERS	TOTAL	% OF STATE-WIDE TOTAL
Anchorage	12	9	5	4	30	27.2
Barrow	1		1		2	1.8
Bethel	1		1		2	1.8
Cordova			1		1	.9
Dillingham			1		1	.9
Fairbanks	4	4	2	1	11	10.0
Glennallen			1		1	.9
Homer		1			1	.9
Juneau	2	1			3	2.7
Kenai	1		1		2	1.8
Ketchikan	1	1	1		3	2.7
Kotliak	1		1		2	1.8
Kotzebue	1		1		2	1.8
Nome	1		1		2	1.8
Palmer	1		1		2	1.8
Petersburg			1		1	.9
Seward			1		1	.9
Sitka	1		1		2	1.8
Tok			1		1	.9
Unalaska			1		1	.9
Valdez	1				1	.9
Wrangell	1		1		2	1.8
OTHER (Low Vol.)			36		36	32.7
TOTAL	29	16	60	5	110	100

Alaska Court System Personnel Roster June 30, 1985

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FISCAL YEAR JULY 1 — JUNE 30

bcc: Al Szal

M E M O R A N D U M

RECEIVED

JAN 20 1986

Office of Trial Court Administrator
3rd Judicial District

TO: Arthur Snowden
Administrative Director

FROM: Dick Delaplain *RWD*
Manager, Technical Operations

SUBJECT: Review of need for superior court judgments for
Palmer, Kenai, Ketchikan and Dillingham

DATE: January 18, 1986

Per your instructions my staff have reviewed relevant statistical and workload data in these four sites regarding the need for additional superior court judges in Palmer, Kenai and Ketchikan and the creation of a superior court in Dillingham.

It is our conclusion that current and projected workload data would support the creation of superior court judgments in each of these sites if budget was not a consideration. Given the reality of declining state revenues/budgets, it our recommendation that additional superior court judgments be placed in Palmer and Kenai. Palmer would be the number one priority due to the tremendous recent growth in this area and the probable short term future growth.

Ketchikan has required more than one judge to stay current with superior court workload for the last two years. This support has been supplied by using approximately 75% of the Wrangell/Petersburg judges time in Ketchikan. This is not a long term solution to Ketchikan's workload, but will suffice for the next year.

Dillingham could be the central hub for a "service area" (similar to Bethel) that would serve Dillingham, the Bristol Bay area and the Aleutian Chain court sites. Workload in such a court would be equivalent to the workload in Bethel. The major drawback to recommending such a court is the lack of adequate routine transportation between Dillingham and the Aleutian Chain courts (Unalaska, Cold Bay, etc.). Current transportation patterns would require a Dillingham judge to travel via Anchorage to service most of his/her district court sites. Until more convenient transportation patterns are available this area should be serviced by Anchorage judges.

Statistical data regarding Ketchikan and Dillingham follows under separate cover.

cc: Stephanie Cole
Karla Forsythe

REVIEW OF NEED FOR SUPERIOR COURT JUDGSHIPS IN KENAI AND PALMER

Attached are statistical analyses regarding additional superior court judges in Kenai and Palmer.

In evaluating the following statistics for the either location it is assumed there will be a continued growth in the coming years or at the least no decrease in current activity levels. None of the statistical sources makes any specific predictions for the future. However, the Department of Labor does predict a 2 - 3% per year increase in the labor force for the entire state.

The current workload and statistical data from both Kenai and Palmer was compared to Juneau because it is our only two Superior Court judge location.

Sources of statistics used in these reviews include the following:

Population:	1980 Census 1981 - 1984 Alaska Population Overview Alaska Department of Labor
Labor Force:	1980 - 1983 Alaska Planning Information Alaska Department of Labor
Attorneys:	Alaska Bar Association
Police/Troopers:	Local Police Departments and local Trooper Posts (Palmer and Kenai)
Judges Travel:	Judges' travel claims filed in the Administrative Accounting Office
Jury Costs:	Jury pay amounts from the Jury Transaction Computer File
Caseload Statistics:	Case filings reported to the Technical Operations Office by the individual courts.

COMPARISON STATISTICS - 1985 TRIAL COURT STATISTICS

	JUNEAU
Population	: 25,964
Labor Force	: 12,853
Attorneys In Area	: 178
Police/Troopers	: 43
Judge Travel Days To	: 105 days
Judge Travel Days From	: 69 days
Net support days	: 36 days
% of FTE Judge	: 16%
Jury Costs FY85	: \$59,757

FY 85 Caseload Statistics (Filings)

	JUNEAU
Felony	162
Misdemeanor	2243
Civil	1295
Small Claims	1671
Children	28*
TOTAL	<u>5399</u>
Traffic	3404

PALMER JUDGSHIP

(Includes Matanuska Borough Census Division)

The Matanuska Borough Census Division has experienced the largest population growth of any census division in Alaska during the past five years. Palmer experienced a 68% increase in population between 1980 and 1984. Its' 1984 population of 29,836 is now larger than Juneau's population of (25,964).

The available labor force in the Palmer area has experienced a 91% increase between 1981 and 1985. Their August 1985 estimated labor force of 14,601 is 13% larger than Juneau's (12,853).

There are 33 practicing attorneys in the Matanuska Valley which is a 106% increase over 1980. There are 39 law enforcement officers which is a 117% increase over 1980 and comparable to Juneau's 43 officers.

In 1984 Palmer had 44 days of visiting judge time which was a 120% increase over 1980. Partial year 1985 reports show 41 days of visiting judge time in Palmer. These partial reports would project out to approximately 55 days of visiting judge time for the entire calendar year. Fifty-five days of judge time is approximately 25% of a full-time-equivalent judgeship. Need for visiting/pro tem judges can be projected to increase significantly due to the significant increases in superior court civil filings in Palmer. The portion of these cases that will go to trial will not be evident in workload for the next 1-2 years.

Jury costs in Palmer have increased 264% between FY81 and FY85. Total FY85 jury costs in Palmer of \$67,251 were 9% greater than Juneau (\$59,737).

Total non-traffic citation caseload for the Palmer court has increased approximately 120% during the last five years. Traffic citations have approximately doubled during this same period.

The rate of growth in the valley is expected to slow down in the next five years, however it is likely to level off at least a 2 to 3% annual population growth rate with no decline projected by any State agency. It can be anticipated that the workload in this court will continue to increase although at a hopefully slower rate than the last five years.

There is currently sufficient workload to justify a second Superior Court judge for this location. Demand for service can be expected to continue to increase significantly in each of the next five years.

It is our recommendation that a second superior court judge be placed in Palmer at this time. This judge should be expected to handle both superior and district court duties.

Wanted to note visiting judge costs if Palmer has a courtroom available plus staff. C.N.J.

PALMER AREA STATISTICAL DATA

Population		Labor Force	
	Matsu Census Area		Matsu Borough
1980 Census	17766	1980	7664
1981 Dept Labor	19123	1981	7321
1982 Dept Labor	25212	1982	10540
1983 Dept Labor	24734	1983	11765
1984 Dept Labor	29836(+68%)	Aug 1984	13925
		Aug 1985	14601(+91%)

Attorneys		Police/Troopers	
1980	16	1980	18
1981	14	1981	27
1982	22	1982	n/a
1983	28	1983	n/a
1984	31	1984	36
1985	33 (+106%)	1985	39(+117%)

Visiting/Pro Tem Judge Days

CY	Days
1980	20 days
1981	29 days
1982	37 days
1983	2 days
1984	44 days (20% of Judge)
1985	41 days partial year through 8/31/85.

Jury Costs

FY	Cost
81	\$18,462
82	37,512
83	43,666
84	58,060
85	\$67,251(+264%)

Caseload Statistics

	FY 81	FY 82	FY 83	FY 84	FY 85	% CHANGE '81-'85	% CHANGE '84-'85
CRIMINAL							
Felony	68	79	170	141	136	+100%	- 4%
Misdemeanor	766	1059	1313	1808	2163	+182%	+ 20%
Criminal Sub Totals	834	1138	1483	1949	2299	+176%	+ 18%
CIVIL							
D.C. Civil	310	419	67	49	104	- 66%	+112%
S.C. Civil	*	*	92	139	229	*+149%	+ 65%
Dom. Relations	*	*	314	442	578	*+ 84%	+ 31%
Probate	*	*	58	72	98	*+ 69%	+ 36%
Small Claims	931	841	578	651	1158	+ 24%	+ 78%
Civil Sub Totals	1241	1250	1109	1353	2167	+ 75%	+ 73%
CHILDREN'S MATTERS	*	*	25	71	107	*+328%	+ 51%
TOTAL NON-TRAFFIC	2075	2388	2617	3373	4573	+120%	+ 36%
TRAFFIC CITATIONS	4470	3085	5170	4970	8049	+ 80%	+ 62%
COURT TOTALS	6545	5473	7787	8343	12622	+ 93%	+ 51%

* Superior court established in Palmer as of 7/1/82. Superior court judgeship filled effective 10/26/82. Percentage change from FY81-FY85 for Superior Court Civil, Domestic Relations, Probate and Children's Matters categories are actually the percentage change in filings between FY83 and FY85 for these categories.

KENAI JUDGSHIP

(Includes Kenai Cook Inlet Census Division)

The Kenai Cook Inlet Census Division had a total population of 38,285 in 1984 which was a 51% increase over the 1980 census. Kenai itself had a population of 24,502 which is comparable to Juneau's 1985 population of 25,964. The Kenai court services the entire Kenai Cook Inlet Census Division.

The Kenai Peninsula Borough had an estimated August 1985 labor force of 20,044 which is a 90% increase over 1980s labor force. Juneau's labor force on the other hand is only 12,853.

There are 34 attorneys with resident practices in Kenai in 1985 which is a 21% increase over 1980. There has been a 64% increase in the number of police/troopers assigned in the Kenai area during the period 1980 to 1985. The current force of 46 law enforcement personnel in the Kenai area is slightly higher than Juneau's 43 law enforcement personnel.

Kenai has required approximately 1.6 superior court judges to stay current with with caseload for the last several years. The additional judge needs have been met through utilization of considerable amounts of visiting and pro tem judge time. In 1984 there were 132 visiting/pro tem judge days which was an 120% increase over 1980 and equals approximately 60% of a FTE judge. The partial data for 1985 already shows 98 visiting judge days utilized. Projecting this data out for the full 1985 year (final '85 data is not available as of this writing) would indicate that Kenai will require approximately the same visiting/pro tem judge resources in 1985 as in 1984.

Kenai jury costs have increased by 40% over the years FY 81 to FY 85. This figure does not include any judge time or jury costs associated with the existing Kenai judge trying cases in either Homer or Seward.

The total caseload for Kenai has increased 57% for non-traffic cases and 51% overall since FY 81. There has been a 42% increase in felony filings and a 73% increase in civil filings. The construction of a high security prison facility in Seward will no doubt add additional caseload to Kenai in that it will be the nearest superior court site to the prison.

It is evident that the large increases in population, labor force and resident law enforcement personnel have created a significant increase in the superior court caseload in Kenai. A review of visiting/pro tem judge days show that the need for an additional judge in Kenai has existed for the last 2-3 years.

The dramatic increases in population and workforce that have occurred on the Kenai Peninsula in the last 5 years will probably not be as sharp in the next few years, however they should continue at a reduced rate of increase. A second superior court judge in Kenai is needed to handle the current workload in superior court and to assist in handling the continuing growth of district court work.

It is our recommendation that a second superior court judge be placed in Kenai at this time. This judge should be expected to handle both superior and district court duties.

KENAI AREA STATISTICAL DATA

(4)

Population					Labor Force	
	Kenai Area	Other Kenai Cook Inlet Census	Total Kenai Cook Inlet Census Area	Kenai Peninsula Borough		
1980 Census	19785	5497	25282	1980	10534	
1981 Dept Labor	20686	5834	26520	1981	10204	
1982 Dept Labor	20791	11695	32486	1982	12349	
1983 Dept Labor	22488	12649	35137	1983	13494	
1984 Dept Labor	24502	13783	38285	Aug 1984	19036	
			(+51%)	Aug 1985	20044(+90%)	

Attorneys	
1980	26
1981	26
1982	28
1983	32
1984	33
1985	34 (+21%)

Police/Troopers	
1980	28
1981	32
1982	n/a
1983	n/a
1984	38
1985	46(+64%)

Visiting/Pro Tem Judge Days	
CY	Days
1980	60 days
1981	65 days
1982	44 days
1983	40 days
1984	132 days (+120%) 60% of Judge
1985	98 days partial year - as of 8/31/85

Jury Costs		
FY		
81	\$32620	
82	31137	
83	41205	
84	50326	
85	45794(+40%)	

Caseload Statistics

	FY81	FY82	FY83	FY84	FY85	% Change '81-'85	% Change '84-'85	
Criminal	Felony	81	95	100	102	115	+42%	+13%
	Misdemeanor	1149	1268	1797	2315	1995	+74%	-14%
Criminal Sub Totals		1319	1363	1897	2417	2110	+60%	-13%
Civil	D.C. Civil	83	79	98	34	121	+46%	+256%
	S.C. Civil	134	126	203	207	248	+85%	+20%
	Dom. Relations	272	341	354	425	484	+78%	+14%
	Probate	61	49	81	88	96	+57%	+9%
	Small Claims	455	405	308	426	592	+30%	+39%
Civil Sub Totals		1005	1000	1044	1180	1541	+53%	+31%
Children's Matters		110	81	81	129	25(NC)	--	--
Non Traffic Total		2434	2444	3022	3726	3676	+51%	-1%
Traffic		6033	4106	4810	5218	4747	-21%	-9%
COURT TOTALS		8467	6550	7832	8944	8423	-1%	-6%

NC - not complete reporting on Children's matters.

KEN CUSACK

CUSACK & MOLLOY
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
110 SOUTH WILLOW STREET
SUITE 102
KENAI, ALASKA 99611
TELEPHONE
(907) 283-7373

ROBERT J. MOLLOY

January 27, 1986

JAN 29 1986

Senator Jay Kerttula
Pouch V, State Capitol
Juneau, AK 99811

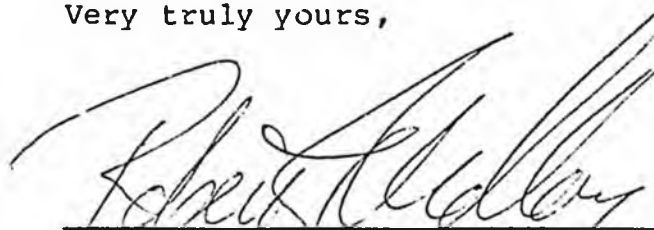
RE: SB 344

Dear Senator Kerttula:

Thank you for your letter of January 21, 1986 in regard to SB 344. As a former law clerk for Judge Hanson in Kenai and a lawyer in private practice for the last five years practicing primarily in Kenai, Alaska, I know that Kenai is in dire need of a second Superior Court Judge on a full-time basis as a result of the tremendous increase in population in the area over the past five years. Since the Mat-Su Valley has had a corresponding increase in population growth, I am sure that the Mat-Su Valley also needs a second Superior Court Judge at this time. I support SB 344 and your expressed intent that the two new Superior Court Judgeships will be placed in the Mat-Su Valley and in Kenai.

Thank you for your assistance with this legislation.

Very truly yours,



ROBERT J. MOLLOY

cc: Hon. Charles K. Cranston
Superior Court Judge in Kenai

corporations, refuse to recognize the claim. The battle — with miners and pro-development interests siding with the state and environmentalists backing the park service — is just warming up. It could last for years.

A symbol of the conflict sits rusting on the tundra of the Yukon-Charley Rivers National Preserve, northeast of Fairbanks.

Joe Vogler, a Fairbanks placer miner, refused to apply for a National Park Service permit to move mining equipment across the preserve. He started across the tundra in July 1984 with a bulldozer and a large-tired transporter, "just as happy as a clam at high tide," he said. Park officials, armed with rifles and a judge's restraining order, stopped him inside the preserve's border.

Vogler said he needed no permission to use a historic trail. The park service said he strayed from the trail, but added that even if

law's repeal, the state had to follow the trail.

In Alaska, about 85 percent of the old trails were access routes to mines, Gustafson said. Others, such as the Iditarod Trail from Seward to Nome, were used by dog-sledding mail carriers. Hundreds of shorter trails connected villages.

Since statehood in 1959, many of the federal government's unreserved holdings have become state land, or private homesteads, Native land, national parks, preserves, monuments and wildlife refuges.

Most of the new landowners assumed they controlled old trails on their property. But in 1974, the state released a list of 1,400 possible trails and asserted its right to them.

Not much has been resolved in the 12 years since the state released its list.

The state recently persuaded the National

Several historic trails fall within the expanded boundaries of Denali National Park.

Park Service to include maps of more than a hundred possible trails in park management plans due this spring. But state and federal officials are haggling over what the maps mean.

The park service said it has the right to regulate trails crossing national parks and preserves.

The Wilderness Society's Susan Alexander put it this way: "If a trail was used by horses in the past, it cannot be used by bulldozers in the future. RS 2477 was simply not intended to provide for the construction of superhighways."

Natives, meanwhile, say Alaska's claim to

trails is overridden by the 1971 Alaska Native Claims Settlement Act, which recognized their claims to 44 million acres.

A public meeting set for mid-March in Fairbanks may resolve some questions, Gustafson said.

Under its draft, the state would assess a potential trail's value to the public, then consider prior uses, alternative routes and the necessity of asserting a claim.

Alaska would be willing to defend in court any assertion it makes — an important point, Gustafson said, since more legal battles like Vogler's are likely.

Palmer Courthouse handles more cases with fewer resources than any other in Alaska

Continued from Page C-1

ten said, and small claims cases can't be heard sooner than nine months after filing.

By comparison, disputed small claims cases in Ketchikan Court must wait 30 to 60 days, in Nome 60 to 120 days, and in Fairbanks 30 to 40 days, according to court workers in those localities.

The Palmer building is also considerably smaller than other courthouses with comparable case loads, according

to Gerry Dubie, manager of materials operation for the state court system. Palmer has 6,810 square feet of usable space, compared to 13,400 for Kodiak, 26,200 for Kenai, and 77,000 for Juneau.

Because little space exists for waiting areas, jurors, defendants, witnesses and lawyers often find themselves elbow to elbow, Cutler said.

"You shouldn't have to sit in a hallway and stare at your ex-husband 'til you practically have DV (domestic vio-

lence)," Cutler said.

"I've been left with literally no room for attorney-client conferences unless you go to the men's room or stand outside," said Randy Luffberry, a Palmer attorney and president of the Mat-Su Bar Association.

Luffberry said that less time is usually available for presenting evidence in the Palmer court than in Anchorage or other facilities. Cutler also has fewer opportunities to confer with attorneys in

the case, he said.

Children's proceedings, which would get 30 minutes of hearing time in Anchorage, get 15 minutes in Palmer, Cutler said.

"It's better to have 15 minutes than no hearing at all," she said.

Growth is the reason behind Palmer's glut of cases, according to Al Szal, area court administrator for the Third Judicial District.

"The kind of growth that took place in the Mat Valley I

don't think anyone could have predicted," Szal said.

The number of court filings increased by 32 percent from 1984 to 1985, and 73 percent from 1983 to 1984, according to the annual report.

Sen. Jay Kertula, D-Palmer, introduced a bill Jan. 16 that would provide two new Superior Court judges for the Third Judicial District, which includes Anchorage and Kenai. If passed, state court system administrator Art Snowden II has guaranteed one

judge each for Kenai and Palmer, Kertula said.

The new judges would cost the state at least \$250,000 a year, Kertula said.

With its single courtroom, however, the Palmer courthouse couldn't possibly accommodate additional judges in its present building, Cutler said.

The City of Palmer planned construction of a new, \$4.5 million courthouse four years ago, but hasn't lined up funding yet.

Tailgate entrepreneurs promise bargains

Continued from Page C-1

"I just kept thinking, 'This stuff's got to be hot.' Aren't these guys illegal or something?"

They may seem pushy and their setup may seem just a hair to the far side of respectability. But police have

them aren't guys doing the same thing out there that aren't legitimate, though. People just have to be careful."

These industrious salesmen must have graduated with honors from the hard-sell school of merchandising, judging from those who've said "no" to their "don't-

sold sometime.

"They called out to me while I was getting in my blue-and-white (police cruiser)," said Officer Cathy Brewster, who was targeted a few weeks ago as she walked to her department take-home car. "The guy asks me if I want a tape deck, and I said 'NO.' Then he asks if I need

Legislators consider pay bill

Continued from Page C-1

the interim panel's proposal won't fly because it wouldn't really reduce pay for the legislature.

"Frankly, there's virtually no difference," said Rep. Pat Pourchot, D-Anchorage.

Pourchot and Hurley are among the sponsors of a bill to repeal the 1983 legislative

raise and return to 1983 pay levels is scheduled to go before voters on the November ballot.

Efforts by some lawmakers to repeal the raise were blocked last year, but the legislature did create an interim committee to study the problem and propose alternatives.

The committee, chaired jointly by Sen. Mitch Aboud,

Mackay

Continued from Page C-1

judge after Judge Seaborn Buckalew Tuesday removed himself from consideration because of past associations with people involved in the case.

All remaining Anchorage judges already have heavily loaded calendars extending a year in advance, Serdahely said. He said Greene was cho-

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Page C-1

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Children's proceedings,
which would get 30 minutes
of hearing time in Anchorage,
get 15 minutes in Palmer,
Cutler said.

"It's better to have 15 min-
utes than no hearing at all,"
she said.

Growth is the reason be-
hind Palmer's glut of cases,
according to Al Szal, area
court administrator for the
Third Judicial District.

"The kind of growth that
took place in the Mat Valley I

don't think anyone could
have predicted," Szal said.

The number of court filings
increased by 32 percent from
1984 to 1985, and 73 percent
from 1983 to 1984, according
to the annual report.

Sen. Jay Kerttula, D-Paim-
er, introduced a bill Jan. 16
that would provide two new
Superior Court judges for the
Third Judicial District, which
includes Anchorage and Ken-
ai. If passed, state court sys-
tem administrator Art Snow-
den II has guaranteed one

judge each for Kenai and
Palmer, Kerttula said.

The new judges would cost
the state at least \$350,000 a
year, Kerttula said.

With its single courtroom,
however, the Palmer court-
house couldn't possibly ac-
commodate additional judges
in its present building, Cutler
said.

The City of Palmer planned
construction of a new, \$4.5
million courthouse four years
ago, but hasn't lined up fund-
ing yet.

Te entrepreneurs promise bargains

Page C-1

ot thinking, "This
be hot." Aren't
illegal or some-

seem pushy and
may seem just a
ar side of respect-
it police have

there aren't guys Joing the
same thing out there that
aren't legitimate, though.
People just have to be care-
ful."

These industrious salesmen
must have graduated with
honors from the hard-sell
school of merchandising,
judging from those who've
fallen victim to their "don't-

sold sometime.

"They called out to me
while I was getting in my
blue-and-white (police cruis-
er)," said Officer Cathy
Brewster, who was targeted a
few weeks ago as she walked
to her department take-home
car. "The guy asks me if I
want a tape deck, and I said
'NO!' Then he asks if I need
a... and I said

Legislators consider pay bill

Continued from Page C-1

the interim panel's proposal
won't fly because it wouldn't
really reduce pay for the leg-
islature.

"Frankly, there's virtually
no difference," said Rep. Pat
Pourchot, D-Anchorage.

Pourchot and Hurley are
among the sponsors of a bill
to repeal the 1983 legislative

raise and return to 1983 pay
levels is scheduled to go be-
fore voters on the November
ballot.

Efforts by some lawmakers
to repeal the raise were
blocked last year, but the
legislature did create an inter-
im committee to study the
problem and propose alterna-
tives.

The committee, chaired
jointly by Sen. Mitch Aboud,

Mackay

Continued from Page C-1

judge after Judge Seaborn
Buckalew Tuesday removed
himself from consideration
because of past associations
with people involved in the
case.

All remaining Anchorage
judges already have heavily
loaded calendars extending a
year in advance, Serdahely
said. He said Greene was cho-

Doing more with less

Too much work, too little space in Palmer Courthouse

By CHRIS GEIGER
Daily News reporter

PALMER — At the Palmer Courthouse, hearings are sometimes held in the library, and attorneys confer with clients in a storage room. Exhibits are stored in what used to be holding cells, and filing tasks are sometimes days behind, court personnel say.

According to the Alaska Court System's 1985 report, the Palmer courthouse ranks behind only Anchorage and Fairbanks in number of court filings in the state.

In fiscal year 1985, the Palmer court saw 12,748 filings, or 7.8 percent of the state total. Anchorage's 81,594 filings accounted for 49.5 percent of the total, while Fairbanks' 18,108 was 11 percent of the total. Twelve Superior Court judges sit in Anchorage and four sit in Fairbanks.

With only one judge and a magistrate in Palmer, the high volume of filings spells longer waits, and less attention to people passing through the judicial system here, according to court personnel and lawyers.

The state report indicates

that in filings per judge — including magistrates — Palmer was the highest in the state with 6,374. Kenai's court ranked second, with 4,249. Anchorage had a rate of 2,720.

Palmer's lone Superior Court judge, Beverly Cutler, is trying to drum up support for state funding to build a new courthouse and hire additional judges there.

"Politically, judges aren't supposed to speak out, for fear of looking greedy — of wanting bigger windows in their office or something," Cutler said.

Help may be on the way in the current legislative session, in the form of a new courthouse and one additional judge. But it would only take one lengthy civil or criminal trial "to literally push us over the brink," Cutler said.

Palmer Court Clerk Jackie Allen said her staff is overworked by the number of cases. As a result, work is often days behind, and long lines form at the civil case counter, she said.

Requests for motions and orders must wait from one week to several months, Al-

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Fairbanks judge