ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

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1231

* Presenting, with consent of counsel, the child's trial testimony on videotape;
* Use of anatomically correct dolls and drawings to describe abuse; and
* Limiting continuances to an absolute minimum.

5. If the defendant does not remain in custody and when it is consistent with the needs of the victim, the prosecutor should request the judge to issue an order restricting the defendant's access to the victim as a condition of setting bail or releasing the assailant on his own recognizance. If the condition is violated, swift and sure enforcement of the order and revocation of release are required.

RECOMMENDATIONS FOR JUDGES

1. A wide range of dispositional alternatives should be considered in cases of family violence. In all cases, prior to sentencing, judges should carefully review and consider the consequences of the crime on the victims.
2. Judges should treat incest and molestation as serious criminal offenses.
3. Judges should adopt special court rules and procedures for child victims. These should include:
   * The use of hearsay evidence at preliminary hearings;
   * Appointment of a special volunteer advocate for children, when appropriate;
   * A presumption that children are competent to testify;
   * Allowing the child's trial testimony to be presented on videotape with agreement of counsel;
   * Flexible courtroom settings and procedures; and
   * Carefully managed press coverage.
4. Protection orders should be available on an emergency basis in family violence cases.
5. Judges should establish guidelines for expeditious handling of family violence cases.
6. Judges should admit hearsay statements of family violence victims at the preliminary hearing.
7. Expert witnesses should be allowed to testify in family violence cases to familiarize the judge and jury with the dynamics of violence within the family.
8. In granting bail or releasing the assailant on his own recognizance, the judge should impose conditions that restrict the defendant's access to the victims and strictly enforce the order.

RECOMMENDATIONS FOR VICTIM ASSISTANCE

1. Communities should develop and provide a variety of services for family members that include:
   * Family life centers
   * Batterers programs
   * Drop-in crisis centers
   * Crisis nurseries
   * Respite day-care centers
   * In-home services
   * Shelters
   * Safe home networks

2. Shelter policies and practices should accommodate the diverse backgrounds of the residents.

3. The Department of Housing and Urban Development should adopt policies that:

* Place victims of family violence on priority listings for public housing and section 8 certificates;
* Consider only those assets to which the victims has access; and
* Require local Public Housing Authorities (PHAs) to permit transfers of residents who are victims of family violence, when safety is an issue.

4. State-level victims compensations programs should include, where possible, family violence victims as beneficiaries.

5. Because of the criminal nature of family violence, the federal government should establish a National Family Violence Resource Center within the Department of Justice.

6. States should establish Coordinating Councils to assess the needs of family violence victims and to coordinate the use of federal and state funds for family violence victims assistance programs.

7. Local governments and community service groups should assess the needs of family violence victims and cooperate in the development of victims assistance services.

8. Volunteers and the private sector should play a key role in meeting the needs of the victims of family violence.

9. The federal government should provide financial incentives and encouragement to the states to train criminal justice personnel, to conduct a family violence prevention and awareness campaign, and to maintain temporary residential facilities for victims of family violence.

10. States should use creative funding approaches for financing programs that support victims of family violence.

RECOMMENDATIONS FOR PREVENTION AND AWARENESS

1. The federal government should, in conjunction with the private sector, develop a national family violence prevention and awareness campaign.

2. As victims assistance resources become available, states, in conjunctions with private organizations, should sponsor 24-hour toll-free hotlines for victims of family violence and publicize it as part of a public information campaign.

3. Hospitals, health facilities, and pediatricians should offer instruction and information about family violence and should work with self-help groups to include prevention information.

4. Schools should ensure that all teachers are familiar with family violence prevention and that a special curriculum is part of every child's school experience.

5. The media should publicize local family violence treatment and service programs and provide substantive stories, articles, and programming, educating the public about the problem.

RECOMMENDATIONS FOR EDUCATION AND TRAINING

1. The curriculum of all relevant professional schools should include courses that offer instruction on the causes, consequences, and prevention of family violence and the appropriate methods of intervention. Special

curricula should be developed especially for doctors, nurses, lawyers, social workers, teachers, ministers and psychologists.

2. Federal, state, and local government agencies should train relevant personnel to diagnose and appropriately intervene in family violence cases.

3. National professional organizations and community service groups should educate their members on the nature and extent of family violence, appropriate methods of intervention, and the importance of public awareness and prevention efforts.

4. Schools and hospitals should train their staffs to recognize the early warning signs of family violence.

RECOMMENDATIONS FOR DATA COLLECTION AND REPORTING

1. The Uniform Crime Reports of the Federal Bureau of Investigation should be revised to collect and publish data that:

- Indicate the age of the victims and the relationship of the victims to the offender for crimes of aggravated assault, simple assault, rape, sex offenses (except prostitution), and offenses against the family and children; and
- Record incidents of family violence crimes, regardless of whether an arrest is made.

2. The National Crime Survey efforts to more accurately measure the extent of family violence in American, especially the physical and sexual abuse of children and abuse of the elderly, should be continued and supported.

3. Federal statues and regulations for alcohol and drug abuse treatment programs should not conflict with state laws that require reporting of all instances of child abuse, neglect, and molestation.

4. Professionals currently required to report child abuse should be required to report elder abuse.

RECOMMENDATIONS FOR RESEARCH

1. All federally-funded research on family violence should be coordinated with the Department of Justice.

2. National research efforts should be directed in several areas.

RECOMMENDATIONS FOR STATE LEGISLATIVE ACTION

1. States should enact laws to extend the statute of limitations in criminal cases of child sexual assault.

2. States should enact laws to permit law enforcement officers to make warrantless arrests for misdemeanor offenses involving family violence when the officer has probable cause to believe a crime has occurred and the safety of the family is in jeopardy.

3. States should enact legislation making the violation of a protection order issued in a family violence case a criminal offense.

4. States should enact legislations that permits overnight incarceration of persons arrested for incidents of family violence in appropriate cases.

5. States should enact legislation to enable businesses and organizations to have access to sexual assault, child molestation or pornography arrest or conviction records of job applicants whose work will bring them in regular contact with children.

6. States should enact laws to require professionals currently required to report child abuse, to report elder abuse.

RECOMMENDATIONS FOR FEDERAL EXECUTIVE AND LEGISLATIVE ACTION

1. Federal regulations should require criminal history backgrounds on all volunteers or employees working for agencies receiving federal funding and providing care, training, supervision, entertainment or otherwise dealing with children.

2. To recognize the importance of the family and the values it sustains and to continue to relieve the financial pressures on the family, the federal income tax deduction for dependents should be increased.

3. Confidentiality statues and regulations for federal alcohol and drug abuse treatment programs should be amended to require compliance with state laws on mandatory reporting of child abuse, neglect and molestation.

4. The federal government should provide financial incentives and encouragement to the states to train criminal justice personnel, to conduct a family violence prevention and awareness campaign, and to maintain temporary residential facilities for victims of family violence.

RECOMMENDATIONS FOR THE MILITARY

1. Military officials should be encourage to continue their responsiveness to ending violence and abuse within military families and should continue to work cooperatively with state and local governments in addressing the problem. Specifically, military offices should:

* Make the issue of family violence a command priority;
* Coordinate their activities with and make use of local service providers;
* Provide adequate training to all personnel involved in family violence issues; and
* Share information and resources regarding family violence cases with state and local officials.

RECOMMENDATION FOR GRANDPARENTS' RIGHTS

1. In the event of family dissolution or dysfunction, grandparents or other members of the extended family should be considered as possible guardians for the children.

RECOMMENDATION ON VIOLENCE IN THE MEDIA

1. The Task Force places major responsibility for reducing and controlling the amount of violence shown on television on the networks, their affiliates, and cable stations.

2. The motion picture industry should reevaluate its rating standards to make the ratings more specific and informative.

RECOMMENDATIONS ON PORNOGRAPHY

1. The Task Force endorses the creation of the National Commission on Pornography.

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

SB
173

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/21/85

Date 2/26/85

Mr. President

The Committee on STATE AFFAIRS considered SB 173

relating to political campaign contributions by an individual who is under the age of majority.

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

[X] do pass

[ ] do pass with attached amendment(s)

[X] replace with/or adopt CS for SB 173 (SA)
[ ] new title
[ ] same title and recommends ______

[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to ______ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

14-0692
Bradley
2/18/85

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to political campaign contributions by an individual who is under the age of majority."

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

* Section 1. AS 15.13.070 is amended by adding a new subsection to read:

(i) The contribution of an individual under the age of majority is considered to have been made by a parent or guardian of the individual under the age of majority. This subsection does not apply to an individual under the age of majority whose disabilities have been removed under AS 09.55.590 or who is married and has reached the marriageable age of consent.

NOTES TO DECISIONS

The statutes of Alaska remove certain disabilities which at common law attend the wife during her coverture. Decker v. Kedly, 148 F. 681 (9th Cir. 1906).

The married woman's common-law disability to bring suit was ended by a series of acts referred to as the Married Woman's Acts. The requirement that suit be brought by the husband when the wife was injured in order that redress be available was thereby ended. Schreiner v. Fruit, Sup. Ct. Op. No. 1003 (File No. 1949), 519 P.2d 462 (1974).

But the statutes do not mean that the husband is answerable to the wife in damages for failure to supply her with the necessaries of life, or for any other act or failure of duty connected with or arising from the marital relation. Decker v. Kedly, 148 F. 681 (9th Cir. 1906).

Wife has independent right to sue for loss of consortium. — See Schreiner v. Fruit, Sup. Ct. Op. No. 1003 (File No. 1949), 519 P.2d 462 (1974).

The basis for recovery is no longer the loss of services, but rather the injury to the conjugal relation. Therefore, the claim for relief for loss of consortium, in both husband and wife, should be given recognition in Alaska. Schreiner v. Fruit, Sup. Ct. Op. No. 1003 (File No. 1949), 519 P.2d 462 (1974).

The interest to be protected is personal to the wife, for she suffers a loss of her own when the care, comfort, companionship, and solace of her spouse is denied her. Schreiner v. Fruit, Sup. Ct. Op. No. 1003 (File No. 1949), 519 P.2d 462 (1974).

Quoted in Cramer v. Cramer, Sup. Ct. Op. No. 135 (File No. 260), 379 P.2d 95 (1963).

Chapter 20. Parent and Child.

Collateral references. — 10 Am. Jur. 2d, Bastards, § 1 et seq.; 42 Am. Jur. 2d, Infants, §§ 1-5, 28-57; 59 Am. Jur. 2d, Parent and Child, § 1 et seq.

43 C.J.S., Infants, § 1-30; 67A C.J.S., Parent and Child, § et seq.

Sec. 25.20.010. Age of majority. A person is considered to have arrived at majority at the age of 18, and thereafter has control of the person's own actions and business and has all the rights and is subject to all the liabilities of citizens of full age, except as otherwise provided by statute. (§ 20-1-1 ACLA 1949; am § 1 ch 37 SLA 1959; am § 5 ch 63 SLA 1977)

NOTES TO DECISIONS

Legislation amending several provisions of the Children's Act was part of an omnibus age-law bill which resolved ambiguities in several codes and generally harmonized all Alaska Statutes with the policy of a 19-year (now 18-year) age of majority. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

This section does not carry a broad negative implication. RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Nor imply that infants are incompetent in all things. — The age of majority statute does not imply a legislative judgment that infants are incompetent in all things; it means only that persons above the statutory age minmum are competent in all things except as otherwise provided. RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971); Quick v. State, Sup. Ct. Op. No. 1921 (File Nos. 3298, 3462, 3463), 599 P.2d 712 (1979).

Regulation prohibiting persons under 19 years from knowingly consuming alcoholic beverages. — Since an administrative regulation prohibiting any person under the age of 19 years from knowingly consuming alcoholic beverages is authorized by statute [see now AS 04.06.090], the regulation comes within the "except as otherwise provided by statute" exception to this section, which gives the age of majority as 18 years. Michael v. State, Sup. Ct. Op. No. 1714 (File No. 3881), 583 P.2d 852 (1978).

Support beyond age of majority. — Superior court's order requiring husband to pay support beyond the ages of minority of his children, if they were enrolled in school, was not erroneous. Hinchey v. Hinchey, Sup. Ct. Op. No. 2312 (File No. 3528), 625 P.2d 297 (1981).

Stated in L.A.M. v. State, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976).

Collateral references. — Statutory change of age of majority as affecting pre-existing status or rights, 75 ALR3d 228.

Sec. 25.20.020. Arrival at majority upon marriage. A person arrives at the age of majority upon being married according to law, unless the person is under the marriageable age of consent as defined in AS 25.05.171(a), in which case the person reaches majority upon reaching the marriageable age of consent. (§ 20-1-2 ACLA 1949; am § 100 ch 127 SLA 1974)

NOTES TO DECISIONS

Cited in RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Sec. 25.20.030. Duty of parent and child to maintain each other. Each parent is bound to maintain the parent's children when poor and unable to work to maintain themselves. Each child is bound to maintain the child's parents in like circumstances. (§ 21-3-1 ACLA 1949)

Cross references. — For persons liable for support and burial, see AS 47.25.230.

Validity of release of prospective right to wrongful death action, 92 ALR3d 1232.

Judgment in death action as precluding subsequent personal injury action by potential beneficiary of death action, or vice versa, 94 ALR3d 676.

Employer's right of action for loss of services or the like against third person tortiously killing or injuring employee, 4 ALR4th 504.

Effect of death of beneficiary upon right of action under death statute, 13 ALR4th 1060.

Propriety of taking income tax into consideration in fixing damages in personal injury or death action, 16 ALR4th 589.

Effect of anticipated inflation on damages for future losses — modern cases, 21 ALR4th 21.

Effect of settlement with and acceptance of release from one wrongful death beneficiary upon liability of tortfeasor to other beneficiaries or decedent's personal representative, 21 ALR4th 275.

Article 7. Removal of Disabilities of a Minor.

Section

Collateral references. — 42 Am. Jur. 2d, Infants, §§ 3-5.

43 C.J.S., Infants, §§ 115-119.

Evidence of emancipation of child so as to permit parent or representative to maintain tort action against minor child, 60 ALR2d 1293.

What voluntary acts of child, other than marriage or entry in military service, terminate parent's obligation to support, 32 ALR3d 1055.

Parent's obligation to support unmarried minor child who refuses to live with parent, 98 ALR3d 334.

Sec. 09.55.590. Removal of disabilities of minority. (a) A minor who is a resident of this state and is at least 16 years of age, who is living separate and apart from the parents or guardian of the minor, capable of self-support and of managing one's own financial affairs, may petition the superior court to have the disabilities of minority removed for limited or general purposes.

(b) A minor may institute this petition under this section in the name of the minor.

(c) The petition for removal of disabilities of minority must state:

(1) the name, age, and residence address of the petitioner;

(2) the name and address of each living parent;

(3) the name and address of the guardian of the person and the guardian of the estate, if any;

(4) the reasons why removal would be in the best interest of the child; and

(5) the purposes for which removal is sought.

(d) The petitioner must obtain the consent of each living parent or guardian having control of the person or property of the petitioner. If the person who is to consent to the petition is unavailable or the whereabouts of that person are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of petitioner, may waive this requirement of consent as to that parent or guardian.

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the petitioner at the hearing.

(f) The court may remove the disabilities of minority as requested in the petition if found to be in the best interest of the petitioner, after a hearing. The removal may be for general purposes or the limited purposes specified in the decree.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including but not limited to the right to self-control, the right to be domiciled where one desires, the right to receive and control one's earnings, to sue or to be sued, and the capacity to contract. (§ 2 ch 233 SLA 1976)

Sec. 09.55.600 — 09.55.640. [Renumbered as AS 25.35.010 — 25.35.060.]

Chapter 60. Costs.

Collateral references. — 20 Am. Jur. 2d, Costs, § 1 et seq.

20 C.J.S., Costs, § 1 et seq.

Allowance of costs in litigation by beneficiary respecting trust, on theory that fund was created or preserved, 9 ALR2d 1150.

Allowance of costs in litigation by beneficiary for partition of trust property, 9 ALR2d 1219.

Actual payment of costs as a condition to dismissal under rule or statute providing for voluntary dismissal without prejudice upon such terms and conditions as court deems proper, 21 ALR2d 633.

Allowance of fees for guardian ad litem appointed for infant defendant, as costs, 30 ALR2d 1148.

Costs in action for removal of trustee of voting trust, 34 ALR2d 1142.

Unsuccessful litigant's payment of costs as barring his right to appeal from judgment on merits, 39 ALR2d 194.

Appealability of order or judgment awarding or denying costs but making no other adjudication, 54 ALR2d 927.

Depositions, costs and fees as affected by Rule 30(b) of the Federal Rules of Civil Procedure, and similar state statutes and rules, relating to preventing, limiting, or terminating the taking of, 70 ALR2d 758.

Liability of state, or its agency or board, for costs in civil action to which it is a party, 72 ALR2d 1379.

Taxation of costs and expenses in proceedings for discovery or inspection, 76 ALR2d 953.

Liability for costs in action against lessee for breach of covenant as to repairs, 80 ALR2d 1032.

Constitutionality, construction, and application of statutes, requiring bond or security for costs and expenses in taxpayers' action, 89 ALR2d 333.

Allowance as costs, of such items as maps, models, wall charts, photographs, and the like, 97 ALR2d 138.

Validity and construction of statute or rule allowing attorneys' fees to out-of-state defendant successfully defending suit brought in state, 51 ALR3d 1336.

Right of indigent to proceed in marital action without payment of costs, 52 ALR3d 844.

Alaska State Legislature

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Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

SECTIONAL ANALYSIS

Senate State Affairs Penalties Bill

Sections 1,2,& 3

These sections contain the same language that was passed out of committee in CSSB 87 (SA). They were included in this bill to preclude problems if this penalties bill passes and CSSB 87 (SA) doesn't.

Section 4

(a) States that a violation of AS 15.13.110 is subject to a civil penalty and describes the process to appeal an assessed penalty.

(b) Establishes the same civil penalty for delinquent 30 day and 10 day reports:

$50 per day for the first two days delinquent and each day thereafter 1% per day of the total monetary contributions received

example: A report which was 8 days late would accumulate a penalty of $100 plus 6% of the total monetary contributions received

(c) Establishes a civil penalty for delinquent 7 day reports (due 7 days before an election). It is a cumulative penalty based on a percentage of the total monetary contributions received.

example: A report which was 6 days late would accumulate a penalty of 15% of the total monetary contributions received (1% the first day, plus 2% the second day, plus 3% for each additional day up to the sixth day).

(d) Establishes a civil penalty of $50 for each day that the year end report is late.

(e) Establishes a civil penalty for delinquent 24 hour reports. (Any contribution in excess of $250 which is received within 10 days of an election must be reported to the commission within 24 hours of receipt.) The penalty is a percentage of the unreported contribution.

(f) Establishes a civil penalty for unreported or inaccurate contributions or expenditures on required reports.

14-0609
Bradley
2/18/85

DRAFT

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state election campaigns."

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

* Section 1. AS 15.13.110(a) is amended to read:

(a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) 10 [TEN] days after the election; and

(4) 31 days after the end [DECEMBER 31] of each year for expenditures and contributions received which were not reported that year.

* Sec. 2. AS 15.13.110(b) is amended to read:

(b) Each contribution received that [OR EXPENDITURE WHICH] exceeds $250 and that [WHICH] is received [MADE] within 10 days [ONE WEEK] of the election shall be reported to the commission by date, amount, and contributor [OR RECIPIENT] within 24 hours of receipt [OR EXPENDITURE] by the candidate or campaign officer [TREASURER]. Each person making an independent expenditure in the amount of $1,000 or more that is made within 30 days of an election shall report to the commission the date, amount, and purpose of the expenditure within 72 hours of the expenditure and shall identify the name of the person or group that made the expenditure.

* Sec. 3. AS 15.13.120(a) is amended to read:

(a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than $5,000. A violation includes but is not limited to any of the following acts or omissions:

(1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;

(2) making a campaign contribution or expenditure which exceeds the limitations of AS 15.13.070 [AS 15.13.070(f)];

(3) making a false statement or report under this chapter or failing to report in whole or in part a contribution or expenditure required to be reported under this chapter;

(4) giving or furnishing money to another person or group for the purpose of making a contribution or expenditure anonymously, in a fictitious name, or in the name of another, or contributing in violation of AS 15.13.070(d);

(5) making a communication to support or defeat a candidate without identification of sponsorship, in violation of AS 15.13.090;

(6) knowingly accepting a contribution in violation of AS 15.13.070;

(7) knowingly expending funds from a contribution made unlawful by this chapter.

* Sec. 4. AS 15.13.125 is repealed and reenacted to read:

Sec. 15.13.125. CIVIL PENALTY FOR LATE FILINGS OF REQUIRED REPORTS. (a) A candidate or group that fails to file a properly completed report within a time stated in AS 15.13.110 is subject to a civil penalty assessed under this section for each day the delinquency continues as determined by the commission. A candidate or group against whom a civil penalty is assessed by a decision of the commission under this section may appeal the decision to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a candidate or group against whom a civil penalty is assessed under this section. The imposition of a penalty does not excuse the candidate or group from filing a report required by this chapter.

(b) A candidate or group that fails to file a properly completed report 30 days before the election as required under AS 15.13.110(a)-(1) or 10 days after the election as required under AS 15.13.110(a)(3) is subject to cumulative civil penalties of $50 for each of the first two days that the report is delinquent. In addition to any other penalty required under this subsection, a candidate or group that fails to file a properly completed report within the first two days after the report is delinquent accumulates a daily penalty of one percent of the total monetary contributions received by the candidate or group during the calendar year through the period ending three days before the due date of the report.

(c) A candidate or group that fails to file a properly completed report one week before the election as required under AS 15.13.110(a)-(2) shall be assessed a penalty of a percentage of the total monetary contributions received by the candidate or group during the calendar year through the period ending three days before the due date of the report

(1) on the first day the report is delinquent, one percent of the total monetary contributions received;

(2) on the second day the report is delinquent, three percent of the monetary contributions received;

(3) on the third day that the report is delinquent, six percent of the total monetary contributions received;

(4) on the fourth and each succeeding day that the report is delinquent, an additional three percent of the total monetary contributions received for each day the report is delinquent in addition to the amount stated in (c)(3) of this section.

(d) A candidate or group that fails to file a properly completed report 31 days after the end of each year as required under AS 15.13.-110(a)(4) is subject to cumulative civil penalties of $50 for each day that the report is delinquent.

(e) A candidate or group that fails to file a properly completed report for a contribution that exceeds $250 and that was received 10 days before the election as required under AS 15.13.110(b) is subject to a civil penalty of

(1) 10 percent of the amount of the unreported contribution on the first day that the report is delinquent;

(2) 30 percent of the amount of the unreported contribution on the second day that the report is delinquent;

(3) 60 percent of the amount of the unreported contribution on the third day that the report is delinquent; and

(4) 100 percent of the amount of the unreported contribution on the fourth day that the report is delinquent.

(f) In addition to the civil penalties established in (b) - (e) of this section, a candidate or campaign treasurer filing a report required under AS 15.13.110 who fails to report a contribution or expenditure or who reports a portion but not the entire amount of the contribution or expenditure is liable to the state for a civil penalty in an amount equal to three times the amount or the value of the contribution or expenditure that was omitted from the report.

Notes to PENALTIES BILL

Any violation of the elections statutes (Title 15) is a misdemeanor and is punishable by imprisonment for not more than one year or by a fine of not more than $5,000 (Sec. 15.13.120). Presently, late or incomplete reports have civil fines, but any other violation of Title 15 may only be prosecuted as a misdemeanor. The burden of proof is much greater in a criminal proceeding (beyond a reasonable doubt) than in a civil one (a preponderance of the evidence). Realistically, few if any violations of Title 15 will be pursued if they have to be prosecuted under the criminal code as a misdemeanor. At a time when the courts are backed up with felonies they are not too anxious to expedite a misdemeanor case where someone gave $100 over the allowed amount to a candidate. This would suggest that civil penalties should be established for all violations of Title 15. Any major transgressions of the law could still be prosecuted in a criminal proceeding as a misdemeanor.

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds $250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

Effect of amendments. — The 1977 amendment added subsection (e).

As the rest of the section was not affected by the amendment, it is not set out.

NOTES TO DECISIONS

Stated in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Sec. 15.13.120. Penalty; limitations on actions. (a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than $5,000. A violation includes but is not limited to any of the following acts or omissions:

(1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;

Sen Fishers Amendment

Amendment #1 to PENALTIES BILL

CSSB 87 (State Affairs) requires that independent expenditures of $1000 or more made within 30 days of an election must be reported to A.P.O.C. within 72 hours. The following is a proposed amendment to the penalties bill and provides a civil penalty for violation of the required independent expenditures report.

15.13.125 is amended by adding a new section to read:

A person who fails to file a properly completed and certified report of independent expenditures within the time required by AS 15.13.110(b) is subject to a civil penalty of:

Options

1. $??? per day the report is delinquent

2. ? percent of the amount of the expenditure

3. different penalties for the violation:
   a. one penalty for late reports for independent expenditures on behalf of or in opposition to candidates
   b. another penalty for late reports for independent expenditures on behalf of or in opposition to a ballot proposition

NOTES

The independent expenditure reporting requirement is aimed at providing better public disclosure and preventing last minute smear campaigns by unknown parties. A late report by a group supporting or opposing a ballot proposition is not as detrimental to the public's right to know as a late report (possibly a smear campaign) supporting or opposing a candidate. High fines might be appropriate for late reports dealing with candidates while late reports for ballot propositions might warrant more lenient penalties.

year.

* Sec. 17. AS 15.13.110(b) is amended to read:

(b) Each contribution received that [OR EXPENDITURE WHICH] exceeds $250 and that [WHICH] is received [MADE] within 10 days [ONE WEEK] of the election shall be reported to the commission by date, amount, and contributor [OR RECIPIENT] within 24 hours of receipt [OR EXPENDITURE] by the candidate or campaign officer [TREASURER]. Each person making an independent expenditure in the amount of $1,000 or more that is made within 30 days of an election shall report to the commission the date, amount, and purpose of the expenditure within 72 hours of the expenditure and shall identify the name of the person or group that made the expenditure.

* Sec. 18. AS 15.13.110(c) is amended to read:

(c) Each candidate and group shall file the reports required by this chapter [THE REPORTS OF CANDIDATES SHALL BE FILED] with the commission's central office and each report is [. ALL REPORTS REQUIRED BY THIS CHAPTER SHALL BE KEPT] open to public inspection. After [WITHIN 30 DAYS AFTER] each election, the commission shall, upon request, prepare a summary of each report which shall be made available to the public at cost [UPON REQUEST]. Each summary shall use uniform categories of reporting.

* Sec. 19. AS 15.13.130 is amended by adding a new paragraph to read:

(8) "independent expenditure" means the disbursement of funds made to support or oppose the election of a candidate or the passage or defeat of a ballot proposition or question that is not made with the cooperation, consent, or at the request of a candidate, the campaign committee or controlled group of a candidate, or a group that is supporting or opposing the candidate or ballot proposition or question for which the funds are disbursed.

Amendment #2 to PENALTIES BILL

This amendment would establish a civil penalty for exceeding the $1000 contribution limit. Currently only criminal penalties exist for this violation.

AS 15.13 is amended by adding a new section to read:

Sec. 15.13.128 Civil Penalties For Violations Of This Chapter. (a) A person, candidate, or group who makes or accepts a campaign contribution of more than $1000 in violation of AS 15.13.070 is subject to a civil penalty equal to two times the amount of the contribution exceeding $1000. The amount of the contribution exceeding $1000 shall be returned to the contributor.

<u>Amendment #3 to PENALTIES BILL</u>

This amendment would establish a civil penalty for missing or improper disclaimers on campaign communications. Currently only criminal penalties exist for this violation.

AS 15.13.128 is amended by adding a new section to read:

(b) A person, candidate or group that makes a communication to support or defeat a candidate or ballot proposition without proper identification in violation of AS 15.13.090 shall be assessed a civil penalty of:

Penalty left to discretion of committee

Amendment #4 to PENALTIES BILL

This amendment takes advantage of the language in AS 15.13.125 Civil Penalties For Late Reports. By defining a properly completed report the section on penalties for late reports will also cover incomplete, inaccurate, and false reports.

AS 15.13.130 is amended by adding a new subsection to read:

(8) "properly completed report" means a report that includes all required details and whose details are accurate.

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

SB
186

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/22/85

Date 02/28/85

Mr. President

The Committee on STATE AFFAIRS considered SB 186
authorizing the governor to loan up to $3,400,000 from the disaster relief fund for a breakwater failure on St. Paul Island; efd.

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

[X] do pass

[ ] do pass with attached amendment(s)

[ ] replace with/or adopt CS for ______
[ ] new title
[ ] same title and recommends ______

[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to ______ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS
Tim Kelly	
V Fischer	
Edna DeVries	

Chairman

Chairman recommendation

Introduced: 2/22/85
Referred: State Affairs and Finance

IN THE SENATE BY ZHAROFF AND COGHILL

SENATE BILL NO. 186

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the governor to loan up to $3,400,000 from the disaster relief fund for a breakwater failure on St. Paul Island; and providing for an effective date."

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

* Section 1. The governor is authorized to ~~loan~~ lend up to $3,400,000 to the Department of Administration, division of risk management, from the assets of the disaster relief fund (AS 44.19.048) to alleviate the effects of a breakwater failure on St. Paul Island.

* Sec. 2. A loan made under the authority of sec. 1 of this Act shall be made on the condition that the Department of Administration, division of risk management, repay to the disaster relief fund the proceeds of insurance payments received as a result of the breakwater failure on St. Paul Island.

* Sec. 3. The authority given by sec. 1 of this Act terminates June 30, 1985.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).

SB ~~HCR~~ 186

CITY OF ST. PAUL
BOX 29
ST. PAUL ISLAND, ALASKA
99660
(907) 546-2331

December 3, 1984

MEMORANDUM

FROM: CITY MANAGER

TO: DISTRIBUTION LIST

SUBJ: BREAKWATER SITUATION REPORT NO. 1

1. Due to the large number of inquiries the City is receiving for information on progress made to assess the damage to the Phase I Breakwater under construction at the Port of Saint Paul, the City will present periodic situation reports which will circulate general information about the assessment now underway. The information does not represent the official actual situation but rather attempts only to characterize the activity as a means of sharing information. The only official information will be released following the completion of the assessment now underway.

2. A storm in the Bering Sea on Tuesday and Wednesday, November 13 and 14, 1984 may have contributed to the damage of the Phase I Breakwater structure. The breakwater had been constructed to the 868-foot mark when terminated for the season by the City through agreement with the Contractor.

3. It is obvious that the damage is rather extensive and the City has received information which indicates that parts of the breakwater may not have been constructed to specification.

4. On Thursday, November 15, 1985, Members of the City Council who were in Anchorage on business, including Mayor Mike Zacharof and Deputy Mayor John R. Merculief, together with Designer Eric Norgaard and Project Engineer Frank Carson flew to Saint Paul to personally inspect the damage.

5. Upon return from Saint Paul Thursday night, the inspection party met for several hours to review what had been seen and to develop plans for moving forward with the repairs.

6. On Friday morning, November 16, 1984 the inspecting party met with representatives of the State of Alaska with included Deputy Commissioner of the Department of Transportation and Public Facilities David Haugen and Grants Administrator Margaret E. Holland. City Attorney Tony Smith joined the group for this meeting. The following points were taken-up:

- A review was thought to be necessary. It probably should include examination of weather conditions, technical assessments of the design, model testing, and other technical data, and examination of construction management and construction execution.

- The Saint Paul Breakwater design is a State-of-the-Art design and meticulous testing, and even the most advanced design might not be able to forecast the real forces of the environment.

- Construction management and construction execution which followed the design and specificaitons also could probably not be faulted.

- It was obvious that a study to determine causes of the damage was needed. The State asked to be kept informed and offered technical assistance in keeping within its ability to offer assistance.

7. On Saturday, November 17, 1984 the City hosted a luncheon meeting for Citizens of Saint Paul who were in Anchorage attending the Annual Meering of the Aleut Regional Corporation; 15 people were present. At the meeting an announcement to the press was presented which was later distributed to the Anchorage media. DOT Chief of Design and Constructon Division John Olson was in attendance and during a question and answer period stated that it was his opinion that if the breakwater were going to fail it was best to have it over with now rather than a year or two later when it would be excessivly costly to repair. Mr. Olson reaffirmed the interest of the State of Alaska to stand by Saint Paul with technical assistance and to do what ever it could to see us through the problems now facing the City and its breakwater project.

8. In the meantime, Mr. Eric Norgaard had flown to Copenhagen, Denmark with photographs and data for consultations with the Danish Hydrology Institute, the model test consultant.

9. On Monday, November 19, 1984 DOT representatives including Margaret E. Holland and Ocean Engineer Harvey Smith met with the City and presented a plan to provide "lead agency" action to bring about an independent study of the entire matter and situation. The City accepted. The State would contract with an independent engineering consulting-testing firm and get back to the City with the details.

10. During the week the State's search narrowed the field to the firm of Tetra Tech of Los Angeles and Anchorage and broad details of the scope of work were under discussion. A contract for services with Tetra Tech was finalized.

11. During the week of November 26-30 a scope of work was drafted and a contract signed on December 3, 1984.

# # # #

SB 18e

CITY OF ST. PAUL
BOX 29
ST. PAUL ISLAND. ALASKA
99660
(907) 546-2331

December 10, 1984

MEMORANDUM

FROM: CITY MANAGER

TO: DISTRIBUTION LIST

SUBJ: BREAKWATER SITUATION REPORT NO. 2

1. Due to the large number of inquiries the City is receiving for information on progress made to assess the damage to the Phase I Breakwater under construction at the Port of Saint Paul, the City will present periodic situation reports which will circulate general information about the assessments now underway. The information does not represent an official position but, rather, attempts to characterize the nature of the activity presently undertaken. An official report will be released following completion of the engineering study now going on.

2. Also during the week of November 26-30, Mr. Torben Sorensen, chief executive of the Danish Hydrology Institute, Copenhagen, Denmark, flew to Anchorage for continuing consultations with Norgaard Consultants, and the State of Alaska Dept. of Transportation. Together, the State and Norgaard et al, discussed the details of the scope of work to be undertaken by Tetra Tech with Norgaard having input upon the scope which would be written and supervised by DOT.

4. On Thursday, December 6 the first of Tetra Tech's engineering team arrived on Saint Paul. Likewise a representative of the Danish Hydrology Institute. Upon landing, an immediate inspection of the Breakwater was undertaken and several rolls of still photographs were taken.

5. On the evening of December 6 a heavy storm began forming in the Bering Sea. By Friday it was a full running major storm event and one which severely damaged the already heavily battered Breakwater.

6. Representatives of DHI and T-Tech were on hand to witness the storm event. Additional photography and video-tapes were taken, recording the strom in its fullness. Winds were out of the southwest at 38-47 mph with gusts to 51 mph. High tide at 4:32 P. M. was at 3.5 feet and full. Wave heights were 3-5 meters and wave length of 15 seconds. Local viewpoints of the storm were mixed: some felt that the storm was an average "bad winter storm" but others said it was the worst they had seen in 15 years--1970 being about as far back as could be clearly recalled by local residents of long standing on Saint Paul. The storm blew itself out late in the afternoon of Saturday, December 8, but not until the Breakwater had been reduced to about 300 feet of its original 868 feet.

DISTRIBUTION LIST:

John Shively
AK Dept. of Transportation/PF
  Deputy Commissioner Haugen
  John Olson
  Margaret Holland
  Harvey Smith
Pete Spivey
Hon. Fred Zharoff
Hon. Adelheid Herrmann
Hon. Michael Zacharof, Mayor
  and City Council, Saint Paul
Hon. Max Malavansky
Hon. Jay S. Gage
Lt. Fulton Gregg, USCG
Leland Dishman
Fr. M. Lestenkof

J. Anthony Smith, Esq.,
Clark Gruening, Esq.,
Norgaard Consultants
  Eric Norgaard
  Frank Carson
Rich Wilson
Nancy Gross
Larry Glosten
Bob Morgan
W. H. Nichols
Chester A. Richmond
Larry Merculieff
Maxim Lestenkof, Sr.
Kenneth Fay
Rick Luthi
Magistrate G. Rukovishnikoff

SB 186

CITY OF ST. PAUL
BOX 29
ST. PAUL ISLAND, ALASKA
99660
(907) 546-2331

December 17, 1984

MEMORANDUM

FROM: CITY MANAGER

TO: DISTRIBUTION LIST

SUBJ: BREAKWATER SITUATION REPORT NO. 3

1. Due to the large number of inquiries the City is receiving for information on progress made to assess the damage to the Phase I Breakwater under construction at the Port of Saint Paul, the City will issue periodic Situation Reports which will characterize the general nature of activity to that time. This information is not an official report. That information will be presented when the engineering study now going on is complete, about December 31, 1984

2. Tetra Tech, the engineer firm selected by the Alaska Department of Transportation and Public Facilities to assess the damage to the Phase I Breakwater arrived on the scene on December 6 when the senior engineer came to the site. He was followed by an engineering technician and a geotechnical expert two days later. On December 10 the project manager arrived. A representative of the Danish Hydraulic Institute was also on site during this week.

3. Another storm, with advance billing of "a 10 year storm" was forecast for the Bering Sea on December 13-15 but passed west of the Pribilof Islands resulting in a distrubance similar to the storm of December 7-9, 1984. The breakwater was affected only a little by that one but all the experts were on hand to witness it and gained insights into the damage/failure mechanisms

4. Tasks completed between storm and lull included:

- o Visual Inspections
- o Photographic Documentations
- o Topographic SubAerial Documentations
- o Estimation of In Situ Gradation with Surface Sampling
- o Visual Observation of Three Storm Events on the Rubble Mound Breakwater

Tasks attempted included:

- o Excavation Test Pit, Gradation Work
- o Bathymetric Survey, delayed do to weather
- o Spot Bathymetric Reconnaissance Near Structure

5. The Engineering team departed the Island today and will consult in Anchorage prior to writing a report which is expected by Dec. 31.

- o 0 o -

7. Review of Local Climatological Data (NOAA) reveals that the mean wind speed for December is 22.3 mph and the extreme speed is 62 mph, which was recorded in 1970, the year of the last storm which local people can remember. Last year the peak gust speed in December was 56 mph on the 20th from the south southeast. The strongest wind last year overall was on November 23 at 58 mph out of the southeast.

8. At first light on Saturday, December 8, 1984 DHI and T-Tech began field reconnaissance during the final gusts of the storm. More photographs were taken. The overall length remaining of the main Breakwater is about 100 meters.

9. Bethemetric equipment did not arrive on Saint Paul as planned on Friday due to the weather. It will arrive on Monday, December 10 and depending upon the calmness of the water in Village Cove will begin in a day or two.

10. Bids for Phase II Breakwater were opened on November 13 and award of a contract was expected 45 days later on Friday, December 28, 1984. The City will ask for a 45-day extension from all bidde for the purpose of completeing the present assessment of damage befor commencement of pre-award negotiations and contract award then expected to take place in mid-February.

11. The time frame noted above is not expected to prevent the City from remaining on schedule which is to complete the Breakwater Phas I and II and the Dock Phase I in time for the 1986 season. The final design of the dock is now awaiting the programming of essenti repair to Phase I Breakwater.

12. It is becomming increasingly obvious that very major problems which span a wide range of interests and incidents accompany the present situation. The assessment and study should lay before us some of the answers to the overriding question: "What happened?"

# # # #

DISTRIBUTION LIST:

John Shively
AK Dept. of Transportation/PF
  Deputy Commissioner Haugen
  John Olson
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Hon. Fred Zharoff
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Larry Merculieff
Maxim Lestenkof, Sr.
Kenneth Fay
Rick Luthi
Magistrate G. Rukovishnikoff

SB 186

MEMORANDUM

State of Alaska

TO: Anselm Staack
Deputy Commissioner
Administrative Management
Department of Administration

DATE: February 6, 1985

FILE NO: 220C

TELEPHONE NO: 266-1500

THRU: William R. Snell
Acting Deputy Commissioner
Central Region
Department of Transportation
and Public Facilities

SUBJECT: Involvement of Risk Management with St. Paul Breakwater

FROM: John B. Olson, P.E.
Director, Design & Construction
Central Region

The events leading up to the Department of Transportation and Public Facilities' (DOT&PF) contact with Risk Management focused primarily on the assessment of damage. Technical analyses to determine why the Breakwater failed were critical, in view of the fact that the City of St. Paul had opened bids for Phase II construction and was scheduled to award the contract in mid-December. Tetra Tech, Inc., was hired to perform the technical analysis.

Following the decision to have the City of St. Paul cancel the contract award for Phase II, the Department and the City began to explore ways to fund the restoration of Phase I of the Breakwater.

During the week of January 14, 1985, Risk Management was asked to assist the Department in exploring its options with regard to Phase I. Several conversations followed and an exchange of information took place. On January 29, 1985, Brad Thompson of Risk Management met with representatives of the City of St. Paul and DOT&PF to determine the best way to proceed to restore the Breakwater to its pre-storm condition.

It was decided that the Division of Risk Management through DOT&PF would solicit an estimate to reconstruct the facility to its pre-storm condition. The Department has identified a list of potential consultants to prepare this estimate.

The initial estimate given to DOT&PF to restore the Breakwater is $4.0 million. A more specific estimate will be developed as a result of comprehensive field investigation.

MEH/bgc

cc: Clark Gruening, Smith, Robinsons & Gruening, Juneau
Brad Thompson, Claims Manager, Risk Management, DOA
Warren Sparks, Deputy Commissioner, Headquarters

APPENDIX A

ST. PAUL HISTORY

The significant events surrounding the construction of the St. Paul Breakwater the storm damage and the time frame of reconstruction.

DATE	EVENT
	Construction contract awarded to Calista Corp.
	Problems arose in production of large armor stone, construction temporarily halted.
	Construction proceeded with modified (berm) breakwater design.
	Completion of Phase 1 construction was accepted for payment.
10/15/84	Breakwater began to show signs of readjusting to a moderate wave climate.
11/13/84-11/14/84	Breakwater was subjected to a major storm which significantly damaged the outer 350'.
11/19/84	City of St. Paul contacted DOT&PF for assistance on confronting the problem.
11/30/84	DOT&PF signed an agreement with Tetra Tech Inc., using an existing Term Contract, to conduct an assessment of the damage and determine the probable cause(s) of failure.
12/07/84-12/08/84	The breakwater was subjected to a second major storm which destroyed an additional 150'-200'. At this time the head portion of the breakwater had receeded from an original station 9+00 to station 4+25.
12/31/84	First draft of final Tetra Tech Inc report was received for review.
01/14/85	DOT&PF contacted Risk Management to ascertain the States insurance alternatives for reconstruction of the breakwater.

01/21/85	Final Tetra Tech Inc. report was delivered to DOT&PF.
	City of St. Paul contracted with DePue & Associates to develop alternative dock designs.
	City of St. Paul contracted with Tetra Tech Inc. to develop alternative designs and estimates for reconstructing the breakwater and continuation of phase 2 construction.
01/29/85	DOT&PF, City of St. Paul, and Risk Management met to discuss the current status of the breakwater and determine what involvements between the agencies is necessary to meet the critical time frame for construction and preservation of the EDA grant.

TENTATIVE SCHEDULE TO MEET 1985 CONSTRUCTION WINDOW AND FULFILL GRANT REQUIREMENTS.

02/15/85	Select from alternative designs of breakwaters and docks.
02/28/85	Contract for A/E services to develop final design, drawings, and specifications for breakwater and dock.
03/01/85-03/15/85	Field investigations (detailed bathymetry, geotech, etc.)
03/15/85-04/30/85	Hydraulic Model Studies
03/01/85-04/15/85	Develop final design, construction, and bid documents
04/16/85-06/01/85	Advertise and award
06/15/85	Begin construction
11/15/85	Complete construction

TETRA TECH, INC.

SB ~~FEE~~ 186

RECEIVED FEB 4 1985

4 February 1985

Mr. Vern McCorkle
City Manager
City of St. Paul
St. Paul, Alaska

Dear Mr. McCorkle:

The following is a summarization of our analysis of the Saint Paul Harbor Project:

1. Estimated Costs to Re-build Phase I

	w/o contingencies E&D and S&A	w/contingencies E&D and S&A
a) to Norgaard's Original Design	$4.02 million	$4.74 million
b) Norgaard's A-B Design	3.40 million	4.01 million
c) to Tetra Tech's Preliminary Design	4.95 million	5.84 million

Basis of costs are shown on the attached sheets for (a) and (b). Unit prices are from Phase 2 bid summaries and quantity estimates assume that existing material from damaged section can be incorporated into the core. We have added the costs for mob/demobs, camps and have road maintenance which were not included in our original $3 million estimate.

2. Extent of $9.0 Million Breakwater Project

Using Tetra Tech's preliminary x-section, breakwater repairs and extension to about STA 14+00 can be accomplished for $9 million. A head section incorporating 30-ton concrete dolos armor units and a trunk section using 14-ton stone on a 1:4 slope were used in this estimate. A project of this magnitude could protect a 200-foot barge dock while providing a 20' draft along the berth. Dredging of the harbor for the removal of washed out breakwater material would be required. Wave heights of about four feet along the berth would be expected several times per year during storm conditions. The evaluation of using a concrete caisson for the head section instead of the 30-ton dolos units may substantially affect the total possible breakwater length. Model testing of the caisson and our preliminary design for the trunk section is also required. We are presently investigating the caisson alternative, but a precise construction cost estimate will be difficult. In summary, we are confident that a 1200- to 1500-foot breakwater can be constructed with a $9.0 million budget. Estimated construction time for this project is seven months.

3. Estimated Costs for Re-build to Original Phase I/Phase II Project

Using Tetra Tech's preliminary design x-section and extending the project to STA 20+50 as shown in the Phase II construction drawings would cost about $12.63 million in construction. Including a 5% contingency and allowances for engineering and design and supervision and administration would necessitate a $14.9 million project budget. Estimated construction time for this project is 13 months, hence a two-season construction program would be needed.

4. Alternative X-Section Designs

We have examined six alternative cross-sections plus Norgaard's trunk and head section designs. Based on the 25-foot design wave, Norgaard's original design would expect considerable damage (about 20% or more). The other six designs are expected to sustain about 0 to 5% damage on an annual basis, but model tests of some alternatives are necessary to verify this damage estimate. We are presently evaluating a caisson section for use as the breakwater head. This may be similar in cost to a rubblemound dolos protected head section but afford an additional 50 feet of breakwater length. See attached table for a summary of x-sections examined.

I would like to emphasize that some of our designs can only be verified by scale model testing. We have preliminary sections drawn, along with a plan of the project to STA 14+00, which can be made available for your use if you feel they would be of any assistance. Once Tetra Tech, or possibly some other firm, is given a notice to proceed with the development of detailed plans and specifications, it will take approximately four weeks to have them ready for bid. Also, if the dock facilities are to be incorporated in this project, a subsoil investigation of the harbor bottom must be completed. Tetra Tech would be pleased to act as St. Paul's agent for this work, or if you desire to contract directly for this work we will recommend firms specializing in this type of work.

If you have any questions, please don't hesitate to give me a call at 564-8144.

Sincerely,

TETRA TECH, INC.

Robert H. Taylor

Robert H. Taylor
Manager, Alaska Operations

RHT:rd

Enclosures

cc: Tony Smith, Attorney

CONSTRUCTION COST ESTIMATE

(AS-BUILT)

REFERENCE/PLAN NO. RESTORE "PHASE I" A-B DESIGN JOB NAME ST. PAUL

LOCATION VILLAGE COVE BREAKWATER JOB NUMBER TC-3023

ST. PAUL, ALASKA

PRELIMINARY ☐ FINAL ☒

BY J.W. DATE 1/30/85

CHECK ABS DATE 1/31/85

LINE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
01	MOB/DEMOB		LS		$1,000,000
02	CAMPS		LS		500,000
03	MAINTAIN HAUL ROAD		LS		250,000
04	A CLASS STONE	66100	CY	17.50	1,156,750
05	B CLASS STONE	32900	CY	15.00	493,500
	subtotal				3,400,250
	contingencies 5%				170,000
	engineering and design 6%				214,000
	supervision and Administration 6%				227,000
	TOTAL COST			$	4,011,250

CONSTRUCTION COST ESTIMATE - SHEET NO. ___ OF ___

CONSTRUCTION COST ESTIMATE

REFERENCE/PLAN NO. RESTORE "PHASE I" ORIG. DESIGN
JOB NAME ST. PAUL
LOCATION VILLAGE COVE BREAKWATER
ST. PAUL, ALASKA
JOB NUMBER TC-3023
PRELIMINARY ☐ FINAL ☒
BY JW DATE 1/30/85
CHECK ATS DATE 1/31/85

LINE	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
01	MOB/DEMOB		LS		$1,500,000
02	CAMPS		LS		500,000
03	MAINTAIN HAUL ROAD		LS		250,000
04	CLASS I STONE (18-ton)	21850	CY	33.00	721,050
05	CLASS II STONE (12-ton)	39600	CY	20.00	792,000
06	CLASS III STONE (2-ton)	2000	CY	20.00	40,000
07	CLASS IV STONE (underlayer)	24,380	CY	20.00	487,600
08	CLASS V STONE (core)	15,090	CY	15.00	226,400
	subtotal				4,017,050
	contingencies 5%				201,000
	engineering & design 6%				253,000
	supervision & administration 6%				268,000
	TOTAL COST				$ 4,739,050

CONSTRUCTION COST ESTIMATE · SHEET NO. ___ OF ___

INC.
PASADENA, CALIF.

SUMMARY

COMPUTED ______ CHECKED ______

FILE NO TC 3023

DATE ______ PAGE ____ OF ____ PAGES

ALTERNATIVE	COSTS/FT	CREST EL.	USEABLE ROADWAY	REMARKS
a. NORGAARD SECTION C 12-ton ARMOR	$5090	+30	30'	DAMAGE = 15-20% UNDER 25' DESIGN WAVE
b. NORGAARD HEAD 18-ton ARMOR	7800	+30	30'	DAMAGE > 50% UNDER 25' DESIGN WAVE
1. ALT. 1 14-ton stone 1:4 slope	8 000	+37	40'	VERY WIDE STRUCTURE MAY ENCROACH ON HARBOR. CREST EL. REQUIRES MODEL TEST
2. ALT 2 18-ton stone 1:3 slope	7 100	+30	none	18-TON PROBABLY NOT AVAILABLE IN REQ'D QUAN.
3. ALT 3 30-ton dolos 1:2 slope	11 600	+30	none	USE FOR HEAD SECTION. OVERTOPPED
4. ALT 4 20-ton dolos 1:2 slope	11 000	+30	none	USE FOR TRUNK OVERTOPPED
5. ALT 5 46-ton tetrapod 1:1.5 slope	10 300	+38	8'	CREST REQUIRES MODEL TEST
6. ALT 6 14 ton stone composite	6 400	+40	30'	MODEL TEST NEED TO EVALUATE STABILITY
7. CAISSON	UNDER	EVALUATION		

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

02-519 (REV 8/78)

SB

207

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

3/1/85

Date 03/14/85

Mr. President

The Committee on STATE AFFAIRS considered SB 207

relating to public employees; efd.

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

[X] do pass

[ ] do pass with attached amendment(s)

[ ] replace with/or adopt CS for
[ ] new title
[ ] same title and recommends

[ ] and attached a "LETTER OF INTENT" [X] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to ______ Committee

MEMBERS SIGNING DO PASS

John De Vries
Tim Kelly

MEMBERS HAVING OTHER RECOMMENDATIONS

Fischer - NO REC
Until Constitutional
Questions Resolved
Bill Kay Do NOT PASS in
form it leaves STATE AFFAIRS

Mitch Abood
Chairman

Do pass with Finance Cmte Rec
Chairman recommendation

Introduced: 3/1/85
Referred: State Affairs
and Finance

IN THE SENATE BY THE FINANCE COMMITTEE

SENATE BILL NO. 207

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to public employees; and providing for an effective date."

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

* Section 1. AS 23.40.210 is amended to read:

Sec. 23.40.210. AGREEMENT. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The cost-of-living differential or other geographic cost-of-living adjustment may not be considered part of the basic salary for purposes of calculating overtime compensation or other salary adjustments. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency.

* Sec. 2. AS 39.27.020 is amended by adding a new subsection to read:

(d) If an employee's basic annual salary is no more than $30,000, the pay step differential shall be calculated using the employee's basic salary. If the employee's basic annual salary is greater than $30,000, then the employee's pay step differential shall be calculated on the differential for a basic salary of $30,000.

* Sec. 3. AS 39.27 is amended by adding a new section to read:

Sec. 39.27.027. OVERTIME COMPENSATION. Overtime compensation shall be calculated on the basic salary of an employee before the addition of any adjustments including pay step differentials and shift differentials.

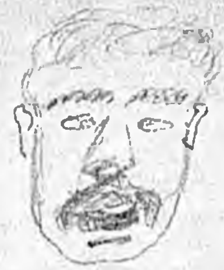
* Sec. 4. AS 39.35 is amended by adding a new section to read:

Sec. 39.35.675. INCLUSION OF COST-OF-LIVING DIFFERENTIALS IN COMPENSATION AND BENEFITS. (a) An employee shall make contributions to the system based on compensation including a cost-of-living differential.

(b) The amount of a cost-of-living differential may not be included in the employee's compensation for purposes of calculating benefits under this chapter unless the employee has received a cost-of-living differential in a comparable amount or of at least that many steps for at least 50 percent of the employee's credited service.

(c) When an employee receives a benefit, and if the employee's compensation for purposes of calculating the benefit does not include a cost-of-living differential, then the administrator shall refund to the employee the amount of contributions the employee made based on the differential.

(d) In this section "cost-of-living differential" means an adjustment to salary based on the cost of living in the geographic region where the employee works and includes a pay step differential under AS 39.27.020.



* Sec. 5. AS 39.35.680(8) is amended to read:

(8) "compensation" means the total remuneration earned by an employee for personal services rendered, including cost-of-living differentials only as provided in AS 39.35.675, payments for leave that is actually used by the employee, the amount by which the employee's wages are reduced under AS 39.30.150(c), and any amount deferred under an employer-sponsored deferred compensation plan, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments or payments for leave not used by the employee whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins;

* Sec. 6. (a) Unless the budget specifically provides or the legislature approves, the state may not ~~increase the salary range or a~~

(1) reclassify a position; to a higher salary range

(2) change the salary range of a job class unless the change is ~~what~~ to amend statute required to comply with AS 18.80.220(a)(5);

(3) promote a person to the next step of a flexibly staffed position if the person was first hired in the flexibly-staffed position after the effective date of this section; or

✓ (4) award a person a merit increase.

(b) In this section, "state" means the executive, legislative and judicial branches of state government and includes the University of Alaska. Sec 7 & remainder

* Sec. 7. The amendments made by secs. 4 and 5 of this Act apply only to members first hired under the Public Employees' Retirement System on or after the effective date of secs. 4 and 5 of this Act.

* Sec. 8. Nothing in this Act terminates or modifies a collective bargaining agreement in existence on the effective date of secs. 1 - 3 and 6 - 7 of this Act.

4 and

* Sec. 9. Section ~~6~~ of this Act takes effect January 1, 1987.

* Sec. 10. Sections 1, 3 and ~~6~~ 5 - 7 of this Act take effect immediately in accordance with AS 01.10.070(c).

Alaska State Legislature

SENATOR
John C. Sackett
CO-CHAIRMAN
SENATE FINANCE COMMITTEE
MEMBER
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
SENATE ADVISORY COUNCIL
COMMITTEE ON COMMITTEES

Senate

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P. O. BOX 11
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WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

ANCHORAGE
TELEPHONE 272-3404

M E M O R A N D U M

Date: Friday, March 1, 1985

To: Senator Mitch Abood
Chair - State Affairs Committee

From: Senator John Sackett
Co-Chair, Senate Finance JCS

Subj: SB-207, an Act relating to public employees

SB-207, introduced today, is designed to limit further increases in state employee salaries and to curb some of the escalating benefits and geographical cost-of-living differentials enjoyed by some employees. This bill is another effort to hold the line on state spending because of our reduced revenue forecasts.

I would request that you schedule the bill as soon as possible so that it can be given a hearing in your committee and then in Senate Finance.

Thank you.

RECEIVED
MAR 1 1985

sponsor's back-up stmts

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 207
Title: "An Act relating to public employees; and providing..."
Sponsor: Finance Committee
Requestor: State Affairs
Date of Request: 3/1/85

FISCAL DETAIL
Agency Affected: Department of Administration
Program Category Affected: Labor Services
BRU, Program or Subprogram(s) Affected: PERS

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 Personal Svcs						
100 Rtmnt & Bnfts		[10.9]	[11.8]	[12.7]	[13.7]	[14.8]
200 Travel						
300 Contractual		13.1	14.1	15.3	16.5	17.8
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	2.2	2.3	2.6	2.8	3.0
CAPITAL		36.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		[9.9]	[10.7]	[11.5]	[12.5]	[13.5]
FEDERAL FUNDS		[.5]	[.5]	[.6]	[.6]	[.7]
OTHER		48.6	13.5	14.7	15.9	17.2
TOTAL	-0-	38.2	2.3	2.6	2.8	3.0

POSITIONS:	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

J.K. Humphreys

Prepared By: J.K. Humphreys, Director
Phone: 465-4470
Division: Retirement & Benefits
Date: 3/13/85

Approved by Commissioner: Lisa Rudd
Date: 3-13-85
Agency: Department of Administration

for

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

for dept of Adm, Div of Retirement

Rev. 7/1/84

Senate Bill 207
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration
March 13, 1985

IV Analysis: With passage, sections four and five of this bill would prohibit the three highest consecutive years salary, used for benefit calculation in the Public Employees' Retirement System (PERS), to include any area cost-of-living adjustment if the member has not received an area cost-of-living differential during at least 50 percent of the members credited service. The bill would also provide for refunding any contributions paid on area-differentials if the salaries used for benefit calculation do not include area-differential.

It is estimated that this bill would result in a .002% reduction in the State contribution rate in the PERS. We also estimate that the computer system enhancements needed would result in a one year $36,000 FY 86 cost and a cost of $13,100 for FY 86 maintenance. The costs are estimated to increase by 8% each year.

The $38.2 FY 86 costs are calculated as follows:

The estimated decrease in FY 86 State contribution rate (.002%) times the FY 86 estimated state payroll ($544,046,592)	[$10.9]
Plus the estimated FY 86 system maintenance costs	$13.1
Plus the estimated one year FY 86 system enhancement costs	$36.0
Total Fy 86 estimated costs	$38.2

Senate Bill 207
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration
March 13, 1985

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Total Fy 86 estimated costs	$38.2

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 207
Title: An Act relating to public employees
Sponsor: Senate Finance
Requestor: Senate State Affairs
Date of Request: March 12, 1985

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Finance
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	0	359.0	45.0	45.0	45.0	45.0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	359.0	45.0	45.0	45.0	45.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	359.0	45.0	45.0	45.0	45.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	359.0	45.0	45.0	45.0	45.0

POSITIONS:

FULL-TIME	0	6	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

A

Prepared By: Ken Bischoff KB
Phone: 465-2240
Division: Finance
Date: March 13, 1985

Approved by Commissioner: Lisa Rudd
Date: 3-13-85
Agency: Department of Administration

Distribution (by Agency preparing fiscal note): for
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

for Dept of Adm, Div FIN.

9/3D1/0313-05/1

Rev. 7/1/84

201

Fiscal Note
SB 207

Cost Calculation Summary:

<u>One Time Costs</u>	
3 Journey level programmers 1 yr.	190.0
Admin Manual Update 6 employee months	31.0
Agency Training course development and Administering 6 employee months	31.0
Finance Participation in Coordination effort with all other affected groups (Personnel, Labor Relations, Retirement, Law unions) 12 employee months	62.0
	314.0

<u>Ongoing Costs</u>	
Additional Manual Effort due to changes in benefit calculation	
1 position Range 16	45.0

9/3D1/0313-05/3

Additional Fiscal Note Analysis

This bill as it applies to the Division of Finance would impact us significantly as certain provisions change fundamental concepts about the methods the state uses to pay its employees. Our comments are limited to those areas where the state would be required to modify automated and manual processes in order to satisfactorily meet the provisions of this bill.

SUMMARY OF PROVISIONS AFFECTING FINANCE:

- A major target of this legislation is aimed toward changing the way in which cost of living differentials are determined and paid. The State currently maintains 60 separate salary schedules reflecting up to 30 salary ranges and 10 steps in each.

  - Cost of living differentials have always been paid according to a uniform percentage (subject to certain exceptions due to collective bargaining) to all pay schedules. This bill (sec. 2(d)) proposes to place a lid on the maximum amount that can be paid by establishing a basic annual salary limit of $30,000.

- Section 3 of the bill would limit overtime rate determination to a calculation based upon the basic annual salary amount.

- In terms of computing retirement benefits section 4 would require the state to track base retirement contributions separately from contributions related to the cost of living differential only. The state would have to change benefit calculation algorithms to include separate calculations for base salary benefits and benefits based on area cost of living differentials for each year of service in order to satisfy the provisions of section 4 of the bill. The current benefit calculation is performed manually and requires the state to identify the number of years of creditable service and the three highest paid years for determining benefit amounts. This bill proposes a significantly more sophisticated approach that if done manually will be more subject to errors and require significantly more manual effort than before.

- Section 1, 2, 4-7 have immediate effective dates upon passage of this legislation. It is not feasible to implement the provisions of this bill immediately. The State is currently implementing a new statewide accounting system (AKSAS), the current payroll system is being modified to interface with AKSAS, there are scheduled changes to the current payroll system to accommodate the most recent labor agreements, a current area differential study is being completed which will have some impact to our payroll processes, and the current classification study will also likely have significant impact to our payroll processes.

  Implementing changes required by this bill will need to be flexibly scheduled to be considered along with all other changes that will be legally and procedurally required in order to keep our state payroll processes and systems properly functioning without service interruption.

Summary analysis of changes and related fiscal impact:

- ° Modifications to automated systems (input form changes, file changes, program changes, analysis and design)

  * 36 employee months

* ASSUMPTIONS

  - State can use existing base pay schedules for each identified employee group (approximately 12 groups).
  - This bill will not attempt to change any fundamental payroll processes. No major change will be required to the current pay schedules.
  - This estimate does not include estimates for data processing chargeback costs.
  - Changes required by this bill will be allowed to be scheduled appropriately with all other production work that is necessary to keep the state payroll systems properly operating.

- ° Update State Administrative Manual to include new pay calculation changes for supplemental and prepay processes.

  6 employee months

- ° Train state agencies in new payroll calculation procedures.

  6 employee months

- ° Coordination of affected groups to identify and mutually agree on intent of legislation (Finance, Labor Relations, Retirement, Department of Law, Unions, Legislature).

  12 employee months

- ° Additional ongoing manual effort to calculate benefit amounts equates to one additional position.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M   March 13, 1985

SUBJECT: Sectional analysis of SB 207

TO: Senator Jan Faiks and Senator John Sackett
Co-chair, Senate Finance Committee

FROM: Teresa B. Cramer TBC
Legislative Counsel

You have asked for a sectional analysis of SB 207, relating to public employees.

Section 1 amends the Public Employment Relations Act to prohibit including geographic cost-of-living adjustments in basic salary when calculating overtime compensation or other salary adjustments.

Section 2 limits the amount that an employee may receive as a pay step differential. The maximum differential would be calculated on a basic salary of $30,000.

Sections 3 and 9 require that overtime compensation for state employees be calculated on an employee's basic salary before the addition of any adjustments, including pay step differentials or shift differentials. Section 9 provides that section 3 takes effect on January 1, 1987.

Section 4 and 5 require an employee to make contributions to the Public Employment Retirement System on the employee's entire compensation including a cost-of-living differential. However, the employee's benefits will be based on the entire compensation only if the employee received a comparable cost-of-living differential for at least 50 percent of the employee's credited service. If the employee does not receive benefits based on salary including cost-of-living differentials, then the division must refund the amount of contributions the employee made for the differentials.

sectional analysis, SB 207

Section 6 forbids the state, including the executive, legislative, judicial branches and the University of Alaska, from making changes to positions, job classes, or salaries as listed in the section.

The regulation of employment detailed in section 6 may be viewed as a legislative infringement on the executive power of the governor, the power to administer courts assigned to the chief justice of the Supreme Court, and the power to govern the University of Alaska given to the board of regents.

The legislature clearly can limit the amount of money that these coordinate branches of government may spend on personal services. Whether the legislature can limit the way in which this money is spent as extensively as this section provides is open to question.

There is also a problem about implementing the limitation on merit increases. Under the contracts negotiated by the state and the Alaska Public Employees' Association for the General Government Unit and the Supervisory Unit, the state may be required to provide a system of "performance incentives" for employees in those units. Article IV, section 2, of each of those contracts contains language on "performance incentives":

> Performance incentives shall be based upon the appointing authority's evaluation of an employee's performance. A performance incentive of one step in the salary range may be given to an Employee who has received an overall performance evaluation of "Acceptable" or better on the Employee's merit anniversary date.

and

> The Employer will not establish a quota or percentage system to determine the number of performance increases granted, but the parties agree to accept the standards provided in GG 77-36 dated September 27, 1979, for determining the granting or not granting of performance increases.

The text cited, GGU 77-36, is a memorandum from Sandra Withers, director of the division of personnel and labor

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and

> The Employer will not establish a quota or percentage system to determine the number of performance increases granted, but the parties agree to accept the standards provided in GG 77-36 dated September 27, 1979, for determining the granting or not granting of performance increases.

The text cited, GGU 77-36, is a memorandum from Sandra Withers, director of the division of personnel and labor relations, to all personnel officers. It addresses the standards that arbitrators had found to be improper reasons for denying a merit increase and heads the list with "lack of funds."

Under the second part of the contract language cited, it could be argued that denying all performance increases constituted a percentage system for determining the number of increases granted and therefore violated that clause of the collective bargaining contract. The reference to the memorandum and the memorandum's reference to "lack of funds" as an invalid basis for denying a merit increase supports that argument.

While collective bargaining contracts are specifically subject to legislative appropriation under AS 23.40.210, the legislature is not free to renegotiate the contract in making appropriations. The legislature can determine the amount of money available for state salaries, but the state is bound to pay its employees according to the terms of the contracts it negotiates. Insufficient funds would be a basis for layoffs but not for unilaterally changing the terms of the contracts.

Section 7 provides that the amendments to the Public Employees' Retirement System only apply to members first hired after the effective date of the sections amending the PERS. (They carry an immediate effective date.)

Section 8 provides that the bill does not terminate or modify a collective bargaining agreement that was in effect on the effective date established in section 10.

Section 10 provides that the bill, except for section 3, takes effect immediately.

If I may be of further assistance, please advise.

TC:mkr
096:WKJ12

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

TO: Mike Greany
Director
Legislative Finance

DATE: March 14, 1985

FROM: Pamela Calhoon
Manager
Division of Administrative Services

SUBJECT: SB 207

Below is an example to show the salary differential between an employee at a Range 19A in Juneau and an employee at a Range 19A in Bethel. The employee located in Juneau would be on Schedule A. The employee located in Bethel would be on Schedule G.

Juneau 19A	Bethel 19A
3193 per month	4170 per month

The percentage difference is .3222.

SB 207 proposes in Sec. 2 to calculate the amount of the salary differential by two different methods. If an employee's basic annual salary is no more than $30,000, the pay differential shall be calculated using the employee's basic salary. If the employee's basic annual salary is greater than $30,000, then the employee's pay differential shall be calculated on the differential for a basic salary of $30,000.

For example, a Range 19A in Bethel is currently earning 4170 a month. With the differential calculated for a basic salary of $30,000 the monthly rate would be $3998, a difference of $172 a month. The higher the range the more it will be affected. For example, currently a Range 26A in Bethel earns 6572 a month. With the new differential calculation a Range 26A in Bethel would earn 5766 a month. A difference of $806 a month.

In Sec. 3 a savings would be realized to the State by calculating overtime compensation on the basic salary of an employee before the addition of any adjustments including pay step differentials and shift differentials.

For example:

basic salary plus current differential hourly overtime rate - 19A Schedule G	basic salary plus SB 207 proposed differential hourly overtime rate - 19A Schedule G
38.49	36.93