

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5225 SCRA SB 445 - SB 447

797

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

<i>Thomas Liskey</i> Signature	THOMAS LISKEY Printed Name	2 Mile Lane Residence Address	POB 83277 F.B.K. AK 99708 Mailing Address	09 Mar 88 Today's Date
<i>David R. Klein</i> Signature	David R. Klein Printed Name	3547 Ida Lane, Fairbanks AK 99709 Residence Address	same Mailing Address	Mar 9, 1988 Today's Date
<i>Johnny W. Warner</i> Signature	Johnny W. Warner Printed Name	2239 Outside North Pole Rd Residence Address	5 Am Mailing Address	11 Mar 88 Today's Date
<i>Shercy L. Knight</i> Signature	Shercy L. Knight Printed Name	1623 27th V.F. 334 Blankenship Rd. Residence Address	PO Box 75123 F.B.K. AK 99707 Mailing Address	March 16, 88 Today's Date
<i>James C. Long</i> Signature	James C. Long Printed Name	POB 82811 Residence Address	POB 82811 F.B.K. AK 99708 Mailing Address	Today's Date
<i>John F. Mahoney</i> Signature	John F. Mahoney Printed Name	4 1/2 Mile Badger Rd. Residence Address	P.O. Box 76156 North Pole 99706 Mailing Address	3-16-88 Today's Date
<i>Scott A. Moore</i> Signature	Scott A. Moore Printed Name	1725 Univ. Ave. Apt. D-17 Residence Address	SAME Mailing Address	3-16-88 Today's Date

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Wanda Zimmerman</i>	WANDA ZIMMERMAN	450 Alpha Way, ESTEC	P.O. Box 80194 FBX 19708	3/21/88
<i>LeAnn Zimmerman</i>	LeAnn Zimmerman	450 Alpha Way, ESTEC	P.O. Box 80194 FBX 19708	3/21/88
<i>Bud Hollowell</i>	Bud Hollowell	217 Spruce FBX	217 Spruce FBX, 1499201	3-21-88
<i>Michael S. Shultz</i>	Michael S. Shultz	255 Park St.	255 Park St. FBX, 1499201	3/21
<i>Manley N. Williams</i>	MANLEY N. WILLIAMS	532 Front St.	SAME	3-21-88
<i>KATHY WILLIAMS</i>	Katherine Williams	4113-1 8th ST FT. WAINWRIGHT	SAME	3-21-88
<i>Danny Lanman</i>	Danny Lanman	2506 Mercer	SAME	3-21-88
<i>Raymond Livingston</i>	Raymond Livingston	1812 Central	SAME	3-21-88
<i>Everett Taylor</i>	EVERETT Taylor	4136-3 Cedar FT W.W.		3-21-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>A.M. Gomaer</i>	A. M. Gomaer	1065 Meadow Rue, N.P.		3/1/88
<i>Michael Q. Rakstrom</i>	Michael Q. Rakstrom	1454 Grandeur	Same	3-1-88
<i>Donald T. Mc Gough</i>	Donald T. Mc Gough	2321 Patterson Ln. N.P. AK 99705	Same	3-1-88
<i>Hermann J. Martin</i>	HERMANN J. MARTIN	1024 NORDALE RD.	N.P., AK 99705	3-1-88
<i>Robert E. Rulloch</i>	ROBERT E. RULLOCH	P.O. Box 58402	FBI's AK 99711	3-2-88
<i>Keith W. Mitchell</i>	KEITH W. MITCHELL	P.O. Box 58158	FBI's AK 99711	3-3-88
<i>James C. Atkinson</i>	JAMES C. ATKINSON	894 DENNIS Rd	Same	3-3-88
<i>James M. Fox</i>	JAMES M. FOX	14 mi Pacific Road	P.O. Box 174463 F.H.S. 99707	3/3/88
<i>Harold J. Petty</i>	Harold J. Petty	1212 HOWARD WAY	Same	3-4-88
<i>Coleen Thomas</i>	Coleen Thomas	3010 Davis rd.	P.O. Box 56135 N.P. AK 99705	3/2/88

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Alan Harala ALAN HARALA 9301 PANORAMA DRIVE SAME 3/25/88
 Signature Printed Name Residence Address Mailing Address Today's Date

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date	
<i>Judy Wagner</i>	Judy WAGNER	11520 Old Seward	SAME	3-25-88	
<i>Dianna Payton</i>	Dianna Payton	Box 1 Hem. Del	Box 1 Skwentna, AK	3-25-88	
<i>Jean Sharp</i>	Jean Sharp	3909 Denominist St.	Anch. AK. 99508	3-25-88	
<i>Robert L. Freer</i>	Robert L. Freer	P.O. Box 481 Cape River Ak.	99577	3-25-88	
<i>Sandra Dee Tati Jacques</i>	Sandra Dee Tati Jacques	Mile 10 Talkeetha Spur Rd Talkeetha, AK	99676	3-25-88	
<i>Margaret A. Strickland</i>	Margaret A Strickland	1224 Ocean Park	Anchorage AK 99515	3-25-88	
<i>ALTA FAYE HARRISON</i>	ALTA FAYE HARRISON	12316 Wilderness Rd	Anchorage AK 99516	3-25-88	
<i>John McConarty</i>	JOHN McCONARTY	7800 DEBARR #130	ANCH. AK. 99504	SAME	3-25-88
<i>Louise Curry</i>	LOUISE CURRY	705 AKULADAN SP121	SAME	3-25-88	
<i>Bond E. Keeling</i>	Bond E. Keeling	5901 E 6 th Sp A22	Same	3-25-88	

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<i>Arlene Creason</i>	ARLENE CREASON	3600 DOROSHIN	ANCH AK 99516	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Vicki Jo Burton</i>	VICKI JO BURTON	8160 Greenland St.	ANCH 99507	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Elsie Burton</i>	ELsie Burton	2819 ASPEN CT	ANCH AK 99508	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Dan Hollingsworth</i>	DAN Hollingsworth	6231 New Dr	ANCH AK 99507	3-25-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>TAMIE Hollingsworth</i>	TAMIE Hollingsworth	6231 New Dr.	ANCH AK 99507	3-25-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Beverly Long</i>	BEVERLY LONG		PO BOX 220114 ANCH AK 99522	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>W.A. Diehl</i>	W.A. DIEHL	HILLSIDE DRIVE	ANCHORAGE ALASKA BOX 6-141	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Glenn Diehl</i>	GLENN DIEHL	EAGLE RIVER	Bx 772891 E.R.	3/25/88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Elson Kendall</i>	ELSON KENDALL	9th Judicial District 750 Area St Anchorage, Alaska	750 Area St Anchorage, Alaska	Mar. 25-1988
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Catherine J. Diehl</i>	Catherine J. Diehl	9201 Nettleton Dr.	PO Box 6-141 Anchorage Ak. 99502	3-25-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

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3-25-88

Lovetta Gorder Lovetta Gorder 6010 West tree Dr. Anch, Ak. 99516 same 3-25-88
 Signature Printed Name Residence Address Mailing Address Today's Date

Duane Gorder Duane Gorder 6010 West tree Dr. Anch, Ak. 99516 same 3-25-88
 Signature Printed Name Residence Address Mailing Address Today's Date

Roger N. Cunningham Roger N. Cunningham Mi 6 Wasilla - Fishhook P.O. Box 874731 WASILLA 3/25
 Signature Printed Name Residence Address Mailing Address Today's Date

Gleenn M. Wade GLENN M. WADE 7800 DEBARR RD #103 ANCHORAGE ALASKA NO 217 MAR 25 1988
 Signature Printed Name Residence Address Mailing Address Today's Date

Roger M Thiel Roger M Thiel 8516 Hartzell Rd Anchorage Alaska 995 3/25/88
 Signature Printed Name Residence Address Mailing Address Today's Date

Layonne Hagedorn LAYONNE HAGEDORN 6311 DEBARR Rd. Ste 304 Anch. Ak 99504 3/25/88
 Signature Printed Name Residence Address Mailing Address Today's Date

Lucille Clark Lucille CLARK 142 W. 5th Avenue Anchorage AK 99501 3/25/88
 Signature Printed Name Residence Address Mailing Address Today's Date

Al Renk Al Renk 7140 Crawford Dr Anchorage 99502 3/25/88
 Signature Printed Name Residence Address Mailing Address Today's Date

Emily Renk Emily RENK ✓ ✓ ✓
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] [Printed Name] [Residence Address] [Mailing Address] [Today's Date]
 Signature Printed Name Residence Address Mailing Address Today's Date

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Theresa A. Brown</i>	TERESA A. BROWN	1024 GILMORE ST	1024 GILMORE ST FOLS 99701	2-10-88
<i>[Signature]</i>	[Name]	Pikinefor	Box 89724 Fols 99701	2-10-88
<i>[Signature]</i>	Vans ALCAIN	119 Antoinette	PO Box 74541 FOLS, AK 99707	2-10-88
<i>[Signature]</i>	Peter C. Evans	334-Brandt St.	same	2-11-88
<i>[Signature]</i>	Mike Foster	406 Farewell Fairbanks	406 Farewell Ave	2-11-88
<i>[Signature]</i>	STEPHAN HEIDEMAN	2279 PATTERSON	SAME	2/11/88
<i>[Signature]</i>	DAVID M. MILLER	721 Keweenaw RD FOLAK 99702	SAME	2-13-88
<i>[Signature]</i>	Brian C Ziegenfuss	H Co 123 rd Avn Reg Ft Wainwright AK 99705	Same	Feb 14 88
<i>[Signature]</i>	CRISMAN	1567 Farmer Loop Fols	Same	Feb 14 88
<i>[Signature]</i>	Christa	1567 Farmers-Loop Fols	Same	Feb. 14 88

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>[Signature]</i>	ROD VOIGT	537-10 th	Same 99201	2-11-88
<i>[Signature]</i>	WYNN C. HOGETVEDT	504 Dartmouth #2	Same 99209	2-11-88
<i>[Signature]</i>	CHARLES VOIGT	3.1 mi Goldstream RD	5550 Cushman ST	2-18-88
<i>[Signature]</i>	Curt Ostrom	2 1/2 mi - Nelson Rd	Box 50642 N. Pol. 99205	2-15-88
<i>[Signature]</i>	Mary C. Ostrom	" " "	P.O. Box 50642 North Pol.	2-15-88
<i>[Signature]</i>	Alex James	2900 Murph Doms Rd	Same 99209	2-15-88
<i>[Signature]</i>	Della Voigt	537-10 th	Same	2-15-88
<i>[Signature]</i>	JEFFERY LEE ELLISON	2550 CUSHMAN	SAME	2-22-88
<i>[Signature]</i>	MARTELL W. PPAK	Box 2337 PARKS AK	SAME	2/23-88
<i>[Signature]</i>	Donald H. Hayes	2340 Birchwood Ave	SAME	3/7/88

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Richard J Thistle</i>	Richard J Thistle	Red Devil AK	Box 3407 Palmer AK	3-4-88
<i>Catherine J Diehl</i>	Catherine J Diehl	9201 Yottotenville	PO Box 6141 Anchorage City 99502	3-4-88
<i>Elizabeth Gragy</i>	ELIZABETH GRAGY	9201 NETTLETON DR	BOX 6-141 ANCHORAGE AK 99502	3-4-88
<i>Cathleen Corder</i>	Cathleen Corder	11001 ROCKRIDGE DR.	ANCHORAGE, AK. 99516	3/6/88
<i>John Gragy</i>	John Gragy	11001 ROCKRIDGE DRIVE, ANCHORAGE, ALASKA 99516		3/7/88
<i>James Henry</i>	JAMES HENEY	1820 Bever St ANCHORAGE	same	3/6/88
<i>James W Verhaeghe</i>	James W Verhaeghe	1302 W 47	same	3/6/88
<i>Denis C Connela</i>	DENIS C. CONNELLA	3007 Arctic Blvd sp 59		3/6/88
<i>Resin P. Havely</i>	Resin P. Havely	2710 E. 20th,	same	3/6/88
<i>Gerry Dunegan</i>	Gerry Dunegan	1200 Diamond	same	3/8/88

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Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Vincent M. Haak</i>	VINCENT M. HAAK	P.O. Box 3578 Anch. AK	SAME	3-4-88
<i>John McConarty</i>	JOHN McCONARTY	7800 DEBARR # 130 Anch. AK	SAME	3/4/88
<i>Robert A. Stuchko</i>	ROBERT A. STUCHKO	1630 EASTRIDGE DR # 304	SAME	3/4/88
<i>David Phillip Navel Thistle</i>	David Phillip Navel Thistle	Big Lake	PO Box 2235	3-6-88
<i>James May</i>	James May	Big Lake	P.O. Box 201411	3/6/88
<i>Richard A. Kausch</i>	Richard A. Kausch	Palmett	P.O. Box 2707 Palmett 99645	3/9/88
<i>MURLE D. DAGGETT</i>	MURLE D. DAGGETT	3630 CROWBERRY LOOP	SAME	3-8-88
<i>DAN CUTLER</i>	DAN CUTLER	401 S. KLEVIN PO # 1360	P.O. BOX 11360 Anch AK	3-8-88
<i>Mike Huske</i>	Mike Huske	1220 DIAMOND BLVD # 726	99515	3-8-88
<i>MARVIN W. HUSKE</i>	MARVIN W. HUSKE	431 West 123 RD	SAME	3/8/88

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<i>Alex F. Newhall</i>	ALEXANDER F. NEWHALL	11001 ROCKRIDGE DRIVE, Anchorage, AK 99516 (same)	2/4/88
Signature	Printed Name	Residence Address	Today's Date
<i>Bill Attwood</i>	BILL ATTWOOD	8001 5TH	2/4/88
Signature	Printed Name	Residence Address	Today's Date
<i>Charles T. Ronnell</i>	CHARLES T. RONNELL	7025 TOWN & COUNTRY ST.	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>James R. Amistead</i>	JAMES R. AMISTEAD	MILE 15 Fairview Loop	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>Boyd E. Keeling</i>	BOYD E. KEELING	5901 6 th Dr A22	2-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>Glenn Diehl</i>	GLENN DIEHL	1171 HOME PL.	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>June Hagedorn</i>	JUNE HAGEDORN	911 Kathy Pl	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>Tom Hagedorn</i>	TOM HAGEDORN	911 KATHY PL	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>Silvia Barr</i>	SILVIA BARR	OUR RD - Palmer	3-4-88
Signature	Printed Name	Residence Address	Today's Date
<i>Philip E. Barr</i>	PHILIP E. BARR	OUR RD. PALMER	3-4-88
Signature	Printed Name	Residence Address	Today's Date

ELECTION OF PLANNING COMMISSION MEMBERS

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P.2

<i>Ernest N Wolff</i> Signature	Ernest N Wolff Printed Name	875 Crazy Horse Fbks Residence Address	Po Box 10705, Fbks Mailing Address	3/22/88 Today's Date
<i>John Korosko Jr</i> Signature	John Korosko Jr Printed Name	1967 Gankovich Rd Fbks Residence Address	Same Mailing Address	3/22/88 Today's Date
<i>William M. DeRushie</i> Signature	William M. DeRushie Printed Name	788 MEMORY AVE. Residence Address	PO. Box 58018 Mailing Address	3/22/88 Today's Date
<i>Mark A. Davis</i> Signature	Mark A. Davis Printed Name	420 Springbrook Lane Residence Address	PO Box 84157 Mailing Address	3/29/88 Today's Date
<i>Rudy Voigt</i> Signature	Rudy Voigt Printed Name	537-10th Residence Address	Same Mailing Address	3-29-88 Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

APL 11 '88 15:32 L10 - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

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P.3

[Signature] LEON M. GEORGE 2075 Hattie C.D. Rd Fairview NJ 99009 3/14/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] Michael Thibodeau 212 Hawk Rd Flt 99712 Same 3/24/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] Donald J. May 4545 Woodville Dr Same 3/26/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] SAM C. SKIDMORE 2 MILL SKYLINE DR. DC 470 3/26/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] Susan Kropman 1215 Chestnut Rd 1215 Chestnut Rd 99005 3/26/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] Edwin C. Gejuin Box 76 Central, AK. Same 3/26/88
 Signature Printed Name Residence Address Mailing Address Today's Date

[Signature] Bill OHMAN 354 CHS. RD. T.O.P. SAME 3/26/88
 Signature Printed Name Residence Address Mailing Address Today's Date

Signature Printed Name Residence Address Mailing Address Today's Date

Signature Printed Name Residence Address Mailing Address Today's Date

Signature Printed Name Residence Address Mailing Address Today's Date

APL 11 '88 15:33 LIO - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

P.4

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Martin A. Lewis</i>	MARTIN A LEWIS	2963 FREEMAN RD.	P.O. Box # 56134	4-1-88
<i>Dennis Christensen</i>	Dennis Christensen	1187 Dennis Rd.	1187 Dennis Rd. Wouth Pole	4-2-88
<i>Grace C. Ford</i>	Grace C. Ford	102 Holman Rd.	Box 55-338 - N.P.	4-2-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

APL 11 '88 15:33 LIO - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.46.020(a) to facilitate such elections.

<i>Thomas M. Bay</i> Signature	Thomas M. Bay Printed Name	6801 Louise CRT Residence Address	same ANC AK 99514 Mailing Address	3-27-88 Today's Date
<i>[Signature]</i> Signature	<i>[Name]</i> Printed Name	PO BOX 775367 Hottel Residence Address	Engle River, AK Mailing Address	3-28-88 Today's Date
<i>[Signature]</i> Signature	<i>[Name]</i> Printed Name	M: 385210 GLENN Hwy Residence Address	BOX 1538 PALMER AK Mailing Address	3-28-88 Today's Date
<i>[Signature]</i> Signature	Crow, W. Gilmore III Printed Name	Fern. Dr. Cottonwood Shores Bldg Residence Address	P.O. 87573 WASILLA AK Mailing Address	3-28-88 Today's Date
<i>[Signature]</i> Signature	RODAN LAWRENCE Printed Name	245 Alaska Pl. Residence Address	FALLO Mailing Address	3-28-88 Today's Date
<i>[Signature]</i> Signature	Fred Brinnel Printed Name	2440 E Tudor Rd #288 Anchorage AK 99507 Residence Address	Same Mailing Address	3/28/88 Today's Date
<i>[Signature]</i> Signature	David Timers Printed Name	303616 Cherry Hill Dr. Eldorado Park AK 99506 Residence Address	Same Mailing Address	3/28/88 Today's Date
<i>[Signature]</i> Signature	Merce C. Reynolds Printed Name	3500 Upland Dr. Residence Address	Anch 99504 Same Mailing Address	3-28-88 Today's Date
<i>[Signature]</i> Signature	Scott A. Hurd Printed Name	241 McCarty St #15 Anch. 99508 Residence Address	same Mailing Address	3-29-88 Today's Date
<i>[Signature]</i> Signature	Joyce Bay Printed Name	6801 Louise Ct. Residence Address	SAME Mailing Address	3-31-88 Today's Date

APR 11 '88 15:34 L10 - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

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P.6

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
	Val Stuve	3010 Carr Ave	1651 College Fairbanks	3/3/88
	Kim Barrows	Other drive	PO Box 55576 North Pole	3-3-88
	EDWIN C BITTERER, SR	3519 Chena Hot Springs Rd	3519 PHEWA Hot Springs Rd	3-4-88
	Christine McCarth	1985 Jack London Ct	P.O. Box 11731	3-4-88
	Brian S Schmidt	2346 Richardson Hwy	North Pole AK	3-8-88
	Paulette Freedle	3051 Larkspur Ct	PO 516808 NP, 99705	3-10-88
	Mary Gleason	1853 Sternholler Ln	PO Box same	3/21/88
	Thomas Allen Lewis	301 Island Dr E	Same	3/21/88
	TAMMI TEATON	2521 Old Steese Hwy	Same	3-21-88
	David E. Wandt	4551 E. Wandt Rd	Fbks 49712	3-21-88

APR 11 '88 15:35 L10 - FAIRBANKS

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ELECTION OF PLANNING COMMISSION MEMBERS

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P.7

<i>Tom Lee</i> Signature	Tom Lee Printed Name	967 Clearwater Rd. Residence Address	Same Mailing Address	3/25/88 Today's Date
<i>Robert M Lee</i> Signature	Robert M Lee Printed Name	967 Clearwater Rd. Residence Address	Same Mailing Address	3/25/88 Today's Date
<i>Hannelore H Dennison</i> Signature	Hannelore H Dennison Printed Name	Mile 271.5 Richardson Hwy Residence Address	Box 873 Delta Jet Mailing Address	3/25/88 Today's Date
<i>Judith A Smith</i> Signature	Judith A. Smith Printed Name	1/2 mile Harris Road Residence Address	P.O. Box 708 Delta Jet Mailing Address	3/25/88 Today's Date
<i>Thomas E. Theison</i> Signature	Thomas E. Theison Printed Name	Mile 14 1/2 AK HWY Residence Address	PO Box 212 Delta Jet, AK Mailing Address	26 MAR 88 Today's Date
<i>William L. Lappart</i> Signature	William L. LAPPART Printed Name	5356 Abner Trail Residence Address	Po Box 45 Delta Jet, AK Mailing Address	26 MAR 88 Today's Date
<i>John M. Marbauer</i> Signature	John Marbauer Printed Name	Corner Dawson + Lakeview Rd Residence Address	P.O. Box 352 Delta Jet Mailing Address	28 Mar 88 Today's Date
<i>Gary D. Nilsson</i> Signature	Gary D. Nilsson Printed Name	MP 1420 1/2 AK Hwy Residence Address	P.O. Box 735 Delta Jet Mailing Address	28 Mar 88 Today's Date
<i>Susan L. Nilsson</i> Signature	Susan L. Nilsson Printed Name	MP 1420 1/2 AK Hwy Residence Address	P.O. Box 735 Delta Jet Mailing Address	28 Mar 88 Today's Date
<i>Leigh B. Dennison</i> Signature	LEIGH B. DENNISON Printed Name	MILE 271 1/2 RICH. HWY. Residence Address	BOX 873 Delta Jet Mailing Address	3-29-88 Today's Date

APL 11 '88 15:35 LIO - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

I, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
	DAVIS W. LOVETT	2544 MIDSEWAL LN	P.O. 411 Delta Alaska	3-27-88

11 '88 15:36 LIO - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

* * * * *

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Tammy Braswell</i>	TAMMY BRASWELL	27 3/4 Lockwood Hill	PO Box 327	3/24/88
<i>Gail L. Probert</i>	GAIL L. PROBERT	272 RICHARDSON HWY	Box 1184	3-25-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Danny Newby</i>	DANNY NEWBY	1720 T... Ln	same	3-25-88
<i>Ken Fair</i>	Ken FAIR	P-0273-5 Rich Hwy	P.O. Box 1283	3-25-88
<i>Wendy Fair</i>	Wendy Fair	2735 Rich Hwy	P.O. Box 1283	3-25-88
<i>Jack E. Windsor</i>	Jack E Windsor	276 Rich Hwy	Box 21	3-27-88
<i>David Glover</i>	DAVID GLOVER	Mike 773 Rich Hwy	Box 42 Delta	3-27-88
<i>P.R. Miller</i>	P.R. MILLER	MP 274.9 Rich Hwy	Box 304 Delta	3/28/88
<i>David C. Fortune</i>	DAVID C FORTUNE	MP 75 T... Long Est	Box 1093 Delta	3/30/88

APR 11 '88 15:37 LIO - FAIRBANKS

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

Signature	Printed Name	Residence Address	Mailing Address	Today's Date
<i>Robert E. Moritz</i>	Robert E Moritz	5474 Old Rich Hwy	Box 69 Delta Jet.	4/4/88
<i>Wendy Ann Manohak</i>	Wendy Ann Manohak	5399 Old Rich Hwy	Box 63 Delta Jet	4/4/88
<i>Frank J. Giangrande</i>	Frank J. Giangrande	17339 Hansen Hollow Ln.	Box 741 Delta Jet.	4/4/88
<i>Lesue Ziegler</i>	LESUE ZIEGLER	254.5 Rich Hwy	Box 1188 Delta Jet.	4-5-88
<i>Sioux B. Chappell</i>	Sioux B CHAPPELL	254.5 Rich Hwy	Box 1031 Delta Jet.	4-5-88
<i>Steve Fearensright</i>	STEVE FEARENSRIGHT	46 COTTONWOOD DR.	46 Delta Jet, WILSONA 99757	4-5-88
<i>Cynthia McClain</i>	Cynthia McClain	1/2 Mile Blue Creek	Box 71	4-5-88
<i>Gary Foster</i>	GARY FOSTER	4786 Rich Hwy	Delta, AK	4-5-88
<i>Karen McAffe</i>	KAREN MCAFFE	PO mile 272 Rich Hwy	PO 127 Delta	4-5-88
Signature	Printed Name	Residence Address	Mailing Address	Today's Date

P. 10
1988 15:38 LIO - FAIREPINKS

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

<i>Francis Cork</i> Signature	FRANCIS CORK Printed Name	12 mi. Richardson Hwy Residence Address	P.O. Box 56138 N. Pole 99705 Mailing Address	3-31-88 Today's Date
<i>Phil Menges</i> Signature	PHIL MENGES Printed Name	PERIMETER DR. Residence Address	PO BOX 53438 N. POLE 99705 Mailing Address	3-31-88 Today's Date
<i>Elmer H. Berinker</i> Signature	Elmer H Berinker Printed Name	12 mile Rich Hwy Residence Address	4394 LORMIS DR North Pole AK 99705 Mailing Address	3-31-88 Today's Date
<i>Willis Cork</i> Signature	Willis CORK Printed Name	12 mile Rich Hwy Residence Address	PO BOX 56138 North Pole 99705 Mailing Address	3-31-88 Today's Date
<i>Robert O. Stephenson</i> Signature	Robert O. Stephenson Printed Name	1837 No Way Lane Residence Address	1837 No Way Lane Mailing Address	3-31-88 Today's Date
<i>Cathy Sayles</i> Signature	Cathy Sayles Printed Name	3887 Kensington Residence Address	P.O. Box 53351 N. Pole AK 99705 Mailing Address	3-31-88 Today's Date
<i>Kenneth A. Lyon</i> Signature	KENNETH A. LYON Printed Name	1056 28TH Residence Address	SAME Mailing Address	3/31/88 Today's Date
<i>Robert W. Gilcrease</i> Signature	Robert W Gilcrease Printed Name	2988 Victoria Circle Residence Address	North Pole AK 99705 Mailing Address	3-31-88 Today's Date
<i>R.K. Stalder</i> Signature	R.K. STALDER Printed Name	3021 ARCTURUS CT Residence Address	P.O. Box 55188 Mailing Address	1 April 1988 Today's Date
<i>Robert H. Bradley</i> Signature	Robert H. Bradley Printed Name	25th Old Rich Hwy N. Pole AK Residence Address	99705 Mailing Address	April 1, 1988 Today's Date

ELECTION OF PLANNING COMMISSION MEMBERS

We, the undersigned registered voters and residents hereby petition for the election of members to the Borough Planning Commission and for a change in AS 29.40.020(a) to facilitate such elections.

P.12 Signature	Kathy Westover	Printed Name	885 Faultline Fbks	Residence Address	P.O. Box 80221 Fbks 99708	Mailing Address	3-5-88	Today's Date
Signature	Leonard E Westover	Printed Name	885 Faultline Ave Fbks	Residence Address	P.O. Box 80221 Fbks 99708	Mailing Address	3-5-88	Today's Date
Signature	Marton Wubbald	Printed Name	1/2 mile Steese Hwy	Residence Address	P.O. Box 60773	Mailing Address	3-5-88	Today's Date
Signature	FELIX ROZALCZKA	Printed Name	401 "D" street	Residence Address	P.O. Box 10730	Mailing Address	3-8-88	Today's Date
Signature	DAVID JEFFERSON	Printed Name	39155 CRIST RD	Residence Address	649 JENNY LN	Mailing Address	3-5-88	Today's Date
Signature	Sandy Kohler	Printed Name	649 Jenny Ln D#7	Residence Address	Fbks AK	Mailing Address	3-8-88	Today's Date
Signature	Bruce J. Nester	Printed Name	5405 Chama Hot Spas Rd.	Residence Address	Same Fbks 99712	Mailing Address	3/10/88	Today's Date
Signature	Bill Coty	Printed Name	1/2 mile Bennett Rd	Residence Address	943 Bennett Rd	Mailing Address	3-22-88	Today's Date
Signature	Dibona Fusina	Printed Name	4786 R. rd 1417	Residence Address	Same	Mailing Address	3-23	Today's Date
Signature	JACK LACRES	Printed Name	Ymi 260 Park Highway	Residence Address	Highway 99743	Mailing Address	3/22/88	Today's Date

APL 11 '88 15:39 10 - FAIRBANKS

1 IN THE SENATE

BY FANNING

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 445

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal planning commissions."

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

8 * Section 1. AS 29.40.020(a) is repealed and reenacted to read:

9 (a) Each ~~first and second class borough~~ shall establish a plan-
10 ning commission consisting of five residents unless a greater number
11 is required by ordinance. Commission members shall be appointed by
12 the borough mayor ~~or elected~~ if election of members is required by
13 ordinance approved by the voters. Elected members serve at large
14 unless a different method of representation has been provided for in
15 the ordinance. Membership on appointed commissions shall be appor-
16 tioned so that the number of members from home rule and first class
17 cities reflects the proportion of borough population residing in home
18 rule and first class cities located in the borough. Appointments are
19 subject to confirmation by the assembly, except that a member from a
20 home rule or first class city shall be appointed from a list of rec-
21 ommendations submitted by the council and that ~~that~~ appointment is not
22 subject to assembly confirmation. The term of office for a member of
23 the planning commission is three years and an appointment to fill a
24 vacancy shall be made by the borough mayor for the unexpired term. An
25 appointment to fill a vacancy is subject to the confirmation and
26 residency requirements that applied to the election or appointment of
27 the predecessor in office. The compensation and expenses of the
28 planning commission and its staff are paid as directed by the assem-
29 bly.

1 * Sec. 2. Notwithstanding AS 29.40.020(a), as amended by sec. 1 of this
2 Act, if an ordinance providing for elected planning commission members is
3 adopted and approved by the voters, appointed planning commission members
4 shall continue in office until their terms of office expire.

5

Earl Finkler
 President - Alaska APA
 Box 834
 Barrow, Alaska 99723
 Ph. (907) 552-8974

April 14, 1988

State of Alaska
 Senate C+RA Committee
 Juneau, Alaska

Dear Members of the C+RA Committee:

As President of the Alaska Chapter of the American Planning Association and our 100+ members all across the state, I would like to state opposition to SB 442 and a companion bill SB 445 which provide that municipal planning commission members may be elected by the voters of a municipality rather than appointed as provided for under current state law.

I understand that several boroughs in the state have also expressed opposition to these bills and I share their concerns about politicizing the planning process. The State Community and Regional Planning Board's recent report, dated March 28, 1988, contains many examples of local concerns about this legislation, including a lack of responsiveness to residents' needs.

As many of you know from your home visits, Anchorage and Barrow are one of the prime examples of successful planning and participating in sound community development. In Anchorage, the Barrow, planning commissions work largely away from the media spotlight, as do their neighbors and other interests. Their local efforts result in improved development and cost savings.

As a past member of the Anchorage Planning and Zoning Commission, I've had first-hand experience with the benefits of working in a lower-key, less politicized environment. We should all work together to preserve planning commissions as a community resource, not subject to the narrow or localized political concerns.

Thank you for your time and consideration. I would like to answer any questions or expand on any points of communication at your convenience.

Sincerely,

Earl Finkler
 Earl Finkler

1445 Lutus, Alaska Chapter
 American Planning Association

TELECOPY COVER SHEET
FAIRBANKS INFORMATION OFFICE
907-452-4448

TO: Jnu

FOR: All members Senate ✓ PHONE: _____

House C + R A: Refs. Springer, Cato, Herrmann, Collins, Zuwacki

FROM: _____ PHONE: _____

Senators ~~Stangorowski~~, Kelly, Halford, Zharoff, Symanski

INSTRUCTIONS: _____

DATE/TIME SENT: 4/12/88 SENT BY: Annie

PLEASE ACK. RECEIPT: _____ HOLD FOR PICK-UP: _____

NUMBER OF PAGES: 1 (NOT COUNTING COVER SHEET)



Alaska State Legislature

Please enter into the record my testimony to the Senate + House C+RA
 committee name
 committee on SB 445, dated 4/12/88
 bill/subject

TO CLARIFY TESTIMONY OF DONNA GILBERT ON THIS BILL, MY ~~LEGAL~~ CIVIL SUIT, AS AN INDIVIDUAL, AGAINST THE BOROUGH IS NOT BECAUSE THE ASSEMBLY DIDN'T DO WHAT THE PLANNING COMMISSION WANTED, BUT BECAUSE THE FNSB ASSEMBLY, IN FAILING TO PASS A REVISED ZONING ORDINANCE, DOES NOT COMPLY WITH 29.040.040, WHICH REQUIRES THAT A ZONING ORDINANCE IMPLEMENT THE BOROUGH'S COMPREHENSIVE PLAN. IF MY ACTION IN BRINGING SUIT IS THE IMPETUS FOR THIS BILL, AS IT APPEARS TO BE, THIS THEN POINTS OUT EVEN FURTHER TO ME THE NEED TO NOT ENCOURAGE FURTHER POLITICALIZATION OF THE PLANNING PROCESS. THANK YOU.

Signed: Gary C. Newman
 Testifier
GARY C. NEWMAN
 Representing (Optional)
1083 ESPRO ROAD FAIRBANKS 99712
 Address
488-2001
 Phone No.

918 Seventh Avenue
Fairbanks, Ak. 99701
452-4275

Office of Senator Ken Fanning
Att.: Mr. Galen Cook
Pouch V
Juneau, Alaska 99811

February 22, 1987

Re.: SB 445


Dear Mr. Cook:

Thank you for your phone call and your efforts in getting SB 445 through the Senate.

Enclosed please find copies of signatures on a petition urging enabling legislation for the election of planning commission members. On the back side of the newer forms the present form of SB 445 is copied. We continue to get signatures on this petition and I will from time to time send you copies of new sheets. I also urged several people to write letters in support of SB 445 and to send them either to Senator Fanning or Senator Sturgulewski, who is the chairperson of C&R to which committee SB 445 was referred to, and to send a copy to you.

Thank again for your efforts.

Best regards


Wolfgang Falke

A perspective on rural government:

Rural boroughs, a question of "when"

As a side-issue of this legislative session, HB-1, proposing the evolution of mandatory boroughs throughout the state has attracted a respectable attention. The problem of uniform local government in the state is unlikely to find its way into law soon, but HB-1 does put the issue on the table for 'healthy reconsideration.' However, in the long term, lawmakers probably will find a way to bring the structure of regionally based local governments to rural Alaska. In fact, in the end, local government may not be 'imposed,' but be adopted because the people of these regions find some compelling need for the locally directed powers inherent in our borough governments.

Not just an issue of local taxation

So far most of the energy focused on the rural local government issue has come from areas of the state, and their representatives, that already shoulder local governments obligations, and who feel rural citizens should also shoulder 'their' obligations too —even if only in principle. This argument has some merit, but it probably is not the kind of argument that will bring about broadly accepted rural regional government. Generally, people opt for government because they want something, and they see government as a tool for getting their 'want.' They get something they want, generally a 'local power,' and they accept something they must—a margin of local taxes.

The real issue is planning and zoning

One of the things that rural areas may 'want' is the power to coordinate development in their sprawling rural regions. Presently rural areas already have locally directed schools, and they get them 'free.'—no local obligations. The crucial power that rural areas don't have, and which comes with borough government, is 'planning and zoning.' Exactly when any respective area realizes the value of this tool, probably has something to do with 'when' events transpire that they feel are threatened, or when events take place in their regions with benefits that will 'bypass' the local area if there is not 'local power.' Planning and zoning is something of a quiet power. It is what brings local government and development interests to the same table to talk, to get to know each other, to understand each others' goals, and to respect each other. Local government and planning and zoning are something development interests would just as soon do without in unorganized rural Alaska, but once local government 'is there' it can be of value to the developers too. Industry, large or small, is at a tremendous advantage facing other state and federal regulatory authorities when they have a local government 'on their side.'

Local protections may be a 'basic right'

There does exist the problem of how any local government supports itself. There may always be some areas in Alaska that simply cannot muster a tax base. In such a case there may have to exist some means of special funding, and this gets interesting if suddenly local rural areas switch horses, and start contending that 'planning and zoning,' and its local protections, is a basic right, and the state 'must' find some means for this structure to exist. There were two schools of thought back when the drafters of the state constitution tinkered with the local government article. One school sought local government so all people in the state would pay a share of local service burdens. Another school sought local government because they saw this unit of government as the best defense against the common enemy—the federal government—the outside force that dominated Alaskan affairs. The constitutional compromise that recognized the pragmatic situation of rural Alaska was the reference to 'districts' of the unorganized borough. This was the language left to lawmakers with which they might 'act creatively' to solve the problem of rural self rule, when such rule cannot be self-supporting.

SB

447



SEWARD VOLUNTEER AMBULANCE CORPS

P. O. BOX 1136
SEWARD, ALASKA 99864

February 4, 1988

Senate of the State of Alaska
Pouch "V"
Juneau, Ak. 99811

Attn: Senator Arliss Sturgulewski

Re: Senate Bill No. 346

We the undersigned, as members of Seward Volunteer Ambulance Corps. or as concerned citizens of our community do hereby support and request passage of Senate Bill No. 346 into law.

Dated and Signed in Seward, Alaska, this 23 day of February 1988.

- | | |
|------------------------------------|-----------------------------|
| 1. <i>Michael H. Nord</i> | 17. <i>Mark L. Beal RN</i> |
| 2. <i>William L. Lightner</i> | 18. <i>Ethel L. Hardy</i> |
| 3. <i>Martine J. Nighlow</i> | 19. <i>Susan Schmied</i> |
| 4. <i>Anil L. Gillotson</i> | 20. <i>Deborah Lincoln</i> |
| 5. <i>M. David Baker</i> | 21. <i>Carolee M. Peter</i> |
| 6. <i>Jean E. Cripps</i> | 22. |
| 7. <i>J. Finn</i> | 23. |
| 8. <i>Leonard C. Weimar</i> | 24. |
| 9. <i>Sgt. D. S.</i> | 25. |
| 10. <i>[Signature]</i> | 26. |
| 11. <i>Michael McNamee</i> | 27. |
| 12. <i>Kent Buhl</i> | 28. |
| 13. <i>Christine Cooper-Sneken</i> | 29. |
| 14. <i>Rhonda Berklund</i> | 30. |
| 15. <i>Kurt Curzon</i> | 31. |
| 16. <i>Darrell Deiter</i> | 32. |



SEWARD VOLUNTEER AMBULANCE CORPS

P. O. BOX 1136
SEWARD, ALASKA 99664

February 4, 1988

Senate of the State of Alaska
Pouch "V"
Juneau, Ak. 99811

Attn: Senator Arliss Sturgulewski

Re: Senate Bill No. 346

Please be it known that we the undersigned are members of the Board of Directors for Seward Volunteer Ambulance Corps. and hereby support and recommend Senate Bill No. 346 for approval and passage into law.

Dated and Signed this 23 day of February, 1988 in Seward, Alaska.

1. *Michael H. Moore*
Mike Moore, President

2.
Patty Krasnansky, V.P.

3. *Jean E. Cripps*
Jean Cripps, Treasurer

4. *April L. Tillotson*
April Tillotson, Secretary

5. *Jerry Tuthill*
Jerry Tuthill, Board Member

6. *Lloyd McCauley*
Lloyd McCauley, Board Member

7. *Rhonda Berklund*
Rhonda Berklund, Board Member

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: SB 448 An Act Relating to
Civil Liability of Certain Volunteers
Sponsor: Duncan
Requestor: Senate Judiciary

Agency Affected: Natural Resources
BRU: Parks Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department will not incur costs to implement this bill.

Prepared by: Lawrence Z. Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 4/26/88

Approved by Commissioner *Jessie G. Smith* Date: 4-27-88
Agency: Natural Resources

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

BY SENATOR DUNCAN

Senate Bill 447

"An Act relating to liability for damages or injury resulting from hazardous recreational activities."

Section 1.

Adds another exception to 09.50.250, ACTIONABLE CLAIMS AGAINST THE STATE. The new paragraph provides that legal action may not be taken if the claim, (4) is an action for property damage or personal injury arising out of the person's participation in a hazardous recreational activity conducted on property owned, managed, or leased by the state.

Section 2.

Adds a new section with exceptions to section 1. Suit could be filed against the state in some incidences as follows:

When damage or injury is suffered by a participant in a hazardous activity but the damage or injury was caused by another hazardous activity or condition that was not a part of the activity in which the person injured was participating.

When damage or injury occurred as a result of the state or an employee of the state knowing but failing to warn or protect the participant.

When permission to participate is granted for a specific fee.

When injury is suffered as the result of the state or an employee of the state responsible for construction or maintenance of a structure or equipment is negligent in their construction or maintenance responsibilities.

When injury is suffered as the result of the state or an employee of the state recklessly or with gross negligence promotes participation in a hazardous recreational activity.

When injury is suffered as the result of an act of gross negligence by the state or an employee of the state.

"Hazardous recreational activity" means a recreational activity that creates a substantial risk of injury to a participant.

SB 447

Section 3.

Adds reference to "hazardous recreational activity," "participant," "specific fee," and "nonprofit entity" definitions in statute to 09.65.070, Suits Against Incorporated Units of Local Government.

Section 4.

Adds new sections to apply the provisions of section 1 of this bill to:

municipalities,

nonprofit entities whose recreational activities are cosponsored by a municipality, and their

agents, officers, and employees.



Associates

PARK & RECREATION CONSULTANTS

Assessment & Evaluation
Training & Development
Park Safety & Liability
Risk Management

Dec. 26, 1987

Mr. Duncan C. Fowler, Director
Parks & Recreation Department
City/Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Dear Duncan:

I have had a chance to look over the proposed legislation to limit liability for recreation and leisure service agencies in Alaska. Overall, it parallels that of other states. That has both positive and negative connotations. For example, the language of the recreational use statute (5-1488A) lists certain activities. When similar legislation was tested in other states, the plaintiff generally alleged that the specific activity in which he/she was injured was not included in the list, and therefore, the agency should still be liable. Of course, until any specific law has been challenged we just don't know whether it will accomplish that which we intended.

Specifically, with regard to the recreational use statute (5-1488A) the language includes only private property. This excludes municipal, county, and state recreation properties (which means that it is more narrowly drawn than other states'). It may include federally owned land (because of a provision in the Federal Tort Claims Act), but if the federal land managing agency has charged even a nominal entrance or user fee, they also would be excluded.

I have already mentioned my concerns about the specific activities enumerated in subsection (e). Because these have been in controversy in other states, I would broaden the activities listed to include activities like tennis, ball playing, hockey, ice skating, golf, and climbing. The language "not limited to" just opens the question of legislative intent for the courts to examine. Finally, my Webster's lists "willful" as the preferred spelling--see line 28, subsection (c)(1).

With regard to the hazardous recreational activities statute (5-1486A) I have only a couple of criticisms. Primarily, I think that some portions need to be re-drafted into plain English. Lines 9-13 on page 2 (and the corresponding section on page 6, lines 14-20) are particularly muddy. My other concern has to do with section (b)(4): what is a reckless or grossly negligent promotion?

The volunteer liability statute (5-1487A) is also narrowly drawn so that it includes only volunteers who are working for a municipality

12 Scadrift, Irvine, CA 92714

Re: Draft to Reflected
Federal Bills -
(714) 559-6208

or are on municipal property. I would like to see volunteers who work for county, state, federal, and non-profit charitable organizations included as well. Also, it is important to note that it excludes gross negligence and we have seen that plaintiffs in other states routinely allege gross negligence. It may be that the problem created for the park board of whether or not to defend a volunteer could be solved by having an independent hearing prior to the trial to determine whether the claim of gross negligence is warranted.

Duncan, I hope that these few comments are helpful. I know that you had planned to meet with the sponsors within a short time. If I'm too late in responding, rest assured that there is nothing here that Alaska parks and recreation professionals can't live with.

We have driven and flown from Southern California to Wyoming to Illinois and back again. Managed to avoid most of the major problems and we're back in the Wyoming cabin 'till the end of January. Now if we could only get some snow!

Best wishes in your new job.

Sincerely,

A handwritten signature in cursive script that reads "Janna".

Janna Rankin

*No fault Recreational activities
Bill -*

Not asking for license to be negligent.

Looking for ways to preserve public assets.

With the unavailability of public entity liability insurance, public agencies have been forced to assume all of the financial risks involved with the business of providing government services, including recreational opportunities.

Some communities and government agencies in similar circumstances have shut down high risk operations like park and recreation programs. Juneau has chosen to bite the bullet by keeping the programs and working harder to prevent mishaps on our facilities.

When possible we try to pass liability on to user groups but they can't always get insurance or it is so expensive they cannot afford it; therefore our only choice is to assume the risk or not allow the activity.

The problem we face is a tort system that says if someone is injured then someone must pay the injured party. When an injury occurs on a CBJ facility/park, the City is the natural deep pocket and we are generally (always) named in these kinds of suits.

This creates a situation where we are forced to settle claims based on economics rather than fault.

Williams

Chuck Williams
Risk Mgmt Officer
Juneau City & Borough
155 South Seward Street
Juneau, AK 99801

No Ordinary Negligence Liability Under Recreational Immunity Statutes

by James C. Kozlowski, J.D.

This month the "NRPA Law Review" enters its fifth year of publication. As reflected in many of the articles, recreational injury liability continues to be the overwhelming law-related concern of the recreation and parks field. During the recent Congress for Recreation and Parks in Dallas, I attended a portion of a session on recreational injury liability. The question and answer period which followed the presentations by two attorneys was characterized by the same sort of anxiety and hand wringing I have encountered following my lectures on this topic.

In my opinion, the recreation field moans and groans about "liability," but does little in the way of a concerted effort to alleviate the problem in a systematic fashion. In the face of the perceived crisis eyes turn hopefully, but mistakenly, toward Washington for the one piece of "silver bullet" legislation which will slay the liability monster once and for all. In Dallas, I voiced this concern to Roy Feuchter, president of the National Society for Park Resources. He suggested that I devote one of the law review columns to a discussion of the issue and any possible solutions. I do not think that there is any one solution to the problem. The following paragraphs, however, attempt to respond to this request by presenting existing legislation which may have an impact upon the situation.

The bad news is that there is no one grandiose federal solution that will resolve this situation in one fell swoop. The good news is that the wheel has already been invented in several state models to make the perceived crisis more manageable, i.e. recreational immunity statutes. Specifically, there is already legislation quietly at work in several jurisdictions which provides public agencies with limited immunity for injuries occurring on recreational



facilities. Most notably, Virginia and Kansas have statutes which require a plaintiff to allege gross negligence or willful/wanton misconduct, rather than mere negligence, to sustain a claim for an injury sustained on public park and recreational facilities.

Virginia Model

Section 15.1-291 of the Virginia Code entitled "Liability of counties, cities, and towns in the operation of recreational facilities" reads as follows:

No city or town which shall operate any bathing beach, swimming pool, park, playground or other recreational facility shall be liable in any civil action or proceeding for damages resulting from any injury to the person or property of any person caused by any act or omission constituting simple or ordinary negligence on the part of any officer or agent of such city or town in the maintenance or operation of any such recreational facility. Every such city or town shall, however, be liable in damages for the gross or wanton negligence of any of its officers or agents in the maintenance or operation of any such recreational facility.

The immunity created by this section is hereby conferred upon counties in addition to, and not limiting on, other immunity existing at common law or by statute.

In the case of *Town of Big Stone*

Gap v. Johnson, 184 Va. 375, 35 S.E.2d 71 (1945), the 8-year-old plaintiff was injured while playing on an unattended road grader in a public park. This piece of equipment was being used to level a running track in the park. Plaintiff alleged gross and wanton negligence as required by the Virginia recreational immunity statute. The town argued that their conduct "if negligent at all, does not amount to 'gross or wanton negligence' within the meaning and intent of the statute." A jury returned a verdict against the town; the town appealed to the state supreme court.

The issue before the state supreme court was, therefore, "whether the act of the town's employee in leaving this machine in the public park near the children's playground measures up to the standard of 'gross or wanton negligence' required by the statute." The court defined the standard of gross or wanton negligence as follows:

Gross negligence is substantially and appreciably higher in magnitude than ordinary negligence. It is very great negligence, or the absence of slight diligence, or the want of even scant care. It is a heedless and palpable violation of legal duty respecting the rights of others. The element of culpability which characterizes all negligence is in gross negligence magnified to a high degree as compared with that present in ordinary negligence. Gross negligence is that degree of negligence which shows an utter disregard of prudence amounting to complete neglect of the safety of another. Wanton negligence is of even a higher degree than gross negligence . . . manifesting arrogant recklessness of justice, of the rights or feelings of others, merciless, inhumane.

Applying this standard to the facts of the case, the state supreme court

Continued

found that the conduct of the town through its employee did not constitute "gross or wanton" within the meaning of the statute.

[T]here is no proof that the town officials or employee knew or ought to have known that the road scraper was attractive to children. While it had been left in the park over a long period, only on two previous occasions, so far as the record shows, had children been on it. Mrs. Barnett, who lived near the park, testified that about a week before the accident she saw some children playing on the machine. Ralph Smith, who was with Johnson at the time the plaintiff was hurt, testified that he had previously played on the scraper. But there is no showing that the town's employees knew of either of these incidents . . . [T]here is no proof that the machine was one which was dangerous to children . . . Not only was the machinery of the road scraper idle, but the blade was left on the ground in a safe position, and it was only by reason of the combined efforts of these two boys [Johnson and Smith] that it was hoisted in such a way as to become

dangerous. Whether the act of the town employee in leaving this machine near the children's playground, under the circumstances stated, amounted to ordinary or simple negligence we need not decide. It is certain, we think, that it did not constitute "gross or wanton" negligence within the meaning of the statute.

The state supreme court, therefore, reversed the judgment of the lower court and entered judgment for the town.

Kansas Model

Similarly, section 75-6104 (n) of the Kansas Tort Claims Act provides:

A governmental entity or employee acting within the scope of the employee's employment shall not be liable for damages resulting from: . . . (n) any claim for injuries resulting from the use of any public property intended or permitted to be used as a park playground or open area for recreational purposes, unless the governmental entity or an employee thereof is guilty of *gross and wanton negligence* proximately

causing such injury.

In the case of *Willard v. City of Kansas City, Kan.*, 681 P.2d 1067 (1984), plaintiff Willard was injured when he collided with a chain link fence around a baseball diamond in a city park in Kansas City." (This case was reported in the *Recreation and Parks Law Reporter* RPLR Report No. 84-35, Vol. 1, No. 4 at page 134.) Willard alleged that "the City was negligent in installing and maintaining a type of fencing with raw sharp cutting edges running along the top in an area where such accidents were likely to occur." The trial court found the City immune from liability under § 75-6104 (n) of the Kansas Tort Claims Act (KTCA), K.S.A.1983 Supp. 75-1601 et seq. Willard appealed to the Supreme Court of Kansas.

The state supreme court applied the following test for gross and wanton negligence:

Proof of a willingness to injure is not necessary in establishing gross and wanton negligence. This is true because a wanton act is something more than ordinary

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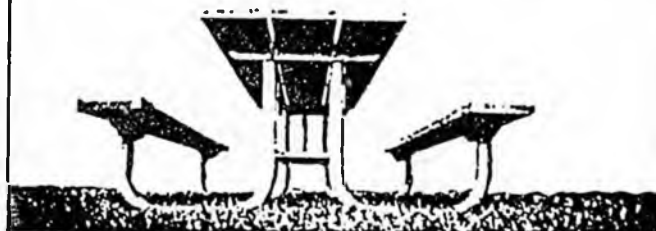
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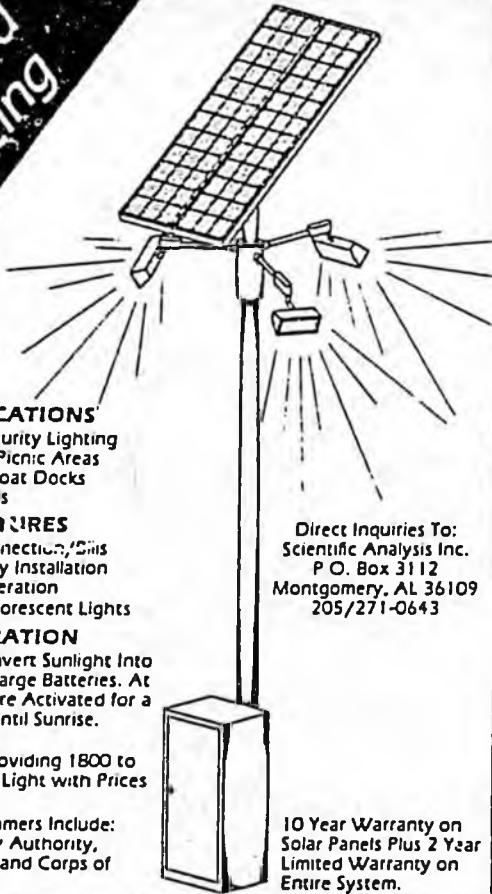
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negligence but is something less than willful injury. To constitute wantonness the act must indicate a realization of the imminence of danger and a reckless disregard or a complete indifference or an unconcern for the probable consequences of the wrongful act.

According to the court, Kansas law defined wanton conduct as "an act performed with a realization of the imminence of danger and a reckless disregard or complete indifference to the probable consequences of the act." Since plaintiff Willard had provided no evidence of gross negligence or wanton misconduct on the part of the city in maintaining the ballfield, the state supreme court affirmed the summary judgment in favor of the city.

Effect on Plaintiff's Burden of Proof

The plaintiff in a civil (as opposed to criminal) suit has the burden of going forward with his claim. To sustain this burden, the plaintiff must allege the necessary facts to establish his claim. A recreational user injured on the premises would, most

likely, allege negligence liability on the part of the public agency landowner.

To meet the burden of going forward with a negligence claim, plaintiff must allege facts demonstrating the following four elements: 1) a standard of care to which a duty is owed; 2) a violation or breach of the applicable standard of care; 3) causation, i.e. a foreseeable connection between the breach and the resulting injury; and 4) damages, actual (as opposed to purely speculative) injury to person or property. If plaintiff's complaint fails to allege sufficient facts to support the negligence claim, plaintiff has not met the burden of going forward. Under such circumstances, defendant may move the court to dismiss the suit for plaintiff's failure to state a claim. However, in reviewing the allegations in plaintiff's complaint, the court will resolve all doubt in favor of allowing the plaintiff an opportunity to go forward with his claim.

Having sustained the burden of going forward, the plaintiff has the burden of proof in a civil suit. In a civil suit, the plaintiff must establish

or prove his claim by a preponderance of the evidence. A preponderance of the evidence means more likely than not, better than 50/50, that the credible facts support the claim.

A preponderance of the evidence is much lighter burden of proof than that applied in criminal cases, i.e. beyond a reasonable doubt. In criminal cases, the state must prove beyond a reasonable doubt that the accused committed the alleged crime. Any doubt whatsoever would, therefore, dictate a finding of innocence in a criminal case.

By changing the applicable standard of care from ordinary negligence to gross negligence or willful/wanton misconduct, a recreational immunity statute makes it much more difficult for the plaintiff to sustain his burden of going forward with his claim. As a result, it is more likely that recreational injury claims will be dismissed prior to trial. Furthermore, those claims that do go to trial will be less likely to sustain the burden of proof when the applicable standard of care is gross

Continued on next page

negligence or willful/wanton misconduct, rather than mere negligence.

As the term suggests, negligence is neglect or carelessness. It is a slight deviation from what the reasonable person would, or would not do under the circumstances. On the other hand, gross negligence or willful/wanton misconduct is extreme conduct which demonstrates a reckless disregard for the physical well-being of others.

There is a fine line between careful and careless when the applicable standard is ordinary negligence and the burden of proof is preponderance of the evidence (more likely than not, better than 50/50). This is particularly true when all doubt is resolved in allowing the plaintiff an opportunity to prove his claim. It is, therefore, very difficult to have a case dismissed prior to trial or prevail at trial when the recovery can be predicated upon ordinary negligence. However, when the burden of proof under a recreational immunity statute is gross negligence or willful/wanton misconduct, the likelihood of some wrongdoing on the part of the public

entity has to be clear to sustain a claim. A momentary lapse or oversight by the public entity may constitute ordinary negligence, but not gross negligence or willful/wanton misconduct.

Faced with the burden of proving gross negligence or willful/wanton misconduct under the applicable recreational immunity statute, many plaintiffs' attorneys are less likely to even take the case, let alone proceed to trial. This is particularly true where the injury is relatively minor and the alleged negligence of the public park and recreation agency is less than outrageous. Therefore, it is easy to see that the recreational immunity statute, where available in a given jurisdiction, can be a powerful force limiting the number and success of recreational injury lawsuits against public agencies.

Statute Has the Effect of Waiver

A recreational immunity statute has the same legal effect as a valid waiver or signed release. In a valid waiver, the participant waives any claim he or she may have for mere negligence on the part of the provider of the recreational oppor-

tunity. A valid waiver, however, does not release any claim the participant may have based upon allegations of reckless misconduct or gross negligence by the provider of the recreational activity or facility. In similar fashion, the recreational immunity statute changes the applicable standard of care. It precludes recovery for ordinary negligence and requires allegations of gross negligence or other more extreme misconduct to sustain a claim.

In most instances, signed releases or waiver forms for public recreational activities are deemed to be against public policy and, therefore, void. On the other hand, a recreational immunity statute is a valid expression of public policy by the state legislature. Further, this statutory waiver is more comprehensive since it covers all recreational activities and/or participants within the scope of the recreational immunity statute, rather than a single individual who signs a release.

More Recreational Immunity

The Virginia and Kansas statutes described above are not the only laws providing recreational immunity for public entities. For example, an Illinois statute requires claims for injuries on playgrounds to be based upon willful/wanton misconduct. A South Dakota statute immunizes municipalities from "tort liability arising out of the construction and maintenance of public parks, recreation areas, and playgrounds." A California statute provides limited immunity to public entities for injuries occurring in hazardous recreational activities.

In addition, several jurisdictions have found state recreational use statutes applicable to states and political subdivisions. These statutes were originally enacted to encourage private landowners to open their land for public recreational use. These statutes provide that the landowner owes no duty of care to the recreational user who enters the premises free of charge. This immunity is lost, however, if the landowner is guilty of willful/wanton misconduct. On the other hand, a number of jurisdictions have denied that these statutes are applicable to public entities.

Under the Federal Tort Claims Act, the federal government is liable for negligence like a private individual under the law of the juris-

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NRPA NEWS

Continued from page 7

tion consultant to discuss the final report. For the first time, actual costs were defined. The figure quoted by the consultant was one-third the savings originally envisioned by the committee. The consultant also defined transition costs, which had not previously been considered. The committee reached a consensus on the minimum figure they could present to the Board of Trustees and recommend approval.

In March 1983, the negotiating committee met with Mayor Hudnut at his Indianapolis office to review the consultant's findings and explain NRPA's specific needs. Hudnut, as expected, asked for time to study the proposal and reply. The city's final proposal was received September 5, 1985.

In his November 4, 1985 letter to Mayor Hudnut, Davis said, "Without exception, our board was impressed with your generous offer and felt honored that your leadership is disposed to making NRPA an integral part of your growing and exciting city. Without question, your cooperative arrangements with several national associations and the renewed vitality of your own recreation and park system are inspiring. This noticeable similarity between Indianapolis' way of life and NRPA's primary objectives made the decision to decline even more difficult."

Such organizations as the National Fitness Foundation, the American College of Sports Medicine, the Amateur Athletic Union (AAU), the United States Gymnastics Federation, and the United States Rowing Association, among others, are headquartered in Indianapolis.

FROM THE FIELD

Continued from page 14

town's participants an opportunity to display their skills and dedication. It also proved to be a highly effective way to expose large numbers of people to the recreation department's offerings while meeting public needs for fun and eye-opening special

events. The success of this event generated enthusiasm among the young children, teens, and adults as well as attracted public attention, media coverage, and boosted staff morale.

NRPA LAW REVIEW

Continued from page 24

diction where the injury occurred. Consequently, where a recreational use statute provides limited immunity to private landowners, federal courts have uniformly held that this defense to ordinary negligence liability is also available to the federal government.

Proposed legislation based upon the Kansas or Virginia statutes may appear rather simple and potentially effective. However, this simplistic view ignores the individual peculiarities which govern public liability in every jurisdiction. Further, any attempt to lower the applicable standard of care from mere negligence to willful/wanton misconduct can expect fierce and highly organized opposition from the trial lawyers who represent plaintiffs in recreational injury claims. In many instances, public park and recreation interests will have to enlist the aid of other units of government and the insurance industry if any proposed recreational immunity legislation is to have the slightest chance of being enacted. As a result, the ultimate solution to the liability problem may be found in effective legislative advocacy at the state level.

Mr. Kozlowski is an attorney in Springfield, VA. He is the author of the Recreation and Parks Law Reporter and a member of the National Society for Park Resources Board of Directors.

CONGRESS SPEAKERS

Continued from page 30

thinks that things will get better during the next 30 years but there will be major bumps along the way.

Cornish enumerated six potential

catastrophies that could befall the human race in the next 20 years: World War III; a global depression; a race war; nuclear terrorism; a global plague (such as AIDS) like the Black Death; and civil war in the United States.

In addition, he listed six possible "benestrophies" (a newly coined word meaning the opposite of catastrophe): an anti-aging drug that not only slows but even reverses the aging process; controlled fusion will be achieved providing a virtually unlimited amount of clean energy at extremely low cost; a happiness pill will be perfected; a moon colony will become self-sufficient; a world parliament will effectively regulate disputes among nations; and brain drugs will boost human intelligence an average of 50 percent.

INCLUDING DISABLED

Continued from page 52

must rid themselves of their self-fulfilling prophecies, arrogance, petty ego defenses, and rationalizations for not involving individuals with handicapping conditions at policy-making levels and in leadership positions. Qualified individuals with handicapping conditions know best what is needed and how it can be accomplished most efficiently.

Important in this continuum of leadership roles and responsibilities for individuals with handicapping conditions is recruiting, training, and placement of such individuals in direct leadership positions—as teachers, coaches, and program leaders, as well as in administrative and supervisory positions. Those able-bodied persons who provide services must lead the charge for greater involvement of individuals with handicapping conditions in the full range of leadership positions. No greater contribution can be made than such advocacy of self-advocacy.

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A "Cut and Paste" of Model Rec Use Law to Include Public

By James C. Kozlowski, J.D., Ph.D.

At its meeting in Anaheim, California on October 21, 1986, the Board of Trustees of the National Recreation and Park Association endorsed the following policy: "It is the policy of the Trustees of the National Recreation and Park Association to encourage and help promote the enactment of state recreational use statutes." This policy was one of several statements adopted regarding the perceived "liability crisis." Under a recreational use statute, the landowner owes no duty of care to a recreational user on the premises free of charge.

Although there is no liability for ordinary negligence, liability will be imposed for willful or wanton misconduct. Willful or wanton misconduct, unlike ordinary negligence, goes beyond mere carelessness; it is more outrageous behavior which demonstrates an utter disregard for the physical well being of others.

Despite the NRPA policy statement, enactment of recreational use statutes is not the real issue. Forty-nine jurisdictions have already enacted recreational use statutes. My research on this topic identified

the following state code citations for existing recreational use statutes. To the best of my knowledge, each of these statutes is still good law.

Alabama: Ala. Code § 15-1.

Arizona: Ariz. Rev. Stat. Ann. § 3351.

Arkansas: Ark. Stat. Ann. §§ 50-1101-1107 (1971).

California: Cal. Civil Code § 846 (West Supp. 1981).

Colorado: Col. Rev. Stat. §§ 33-41-101-105 (1974).

Connecticut: Conn. Gen. Stat. Ann. §§ 52-557f-557i (Supp 1981).

Delaware: Del. Code Ann. tit. 7, §§ 5901-5907 (1975).

Florida: Fla. Stat. Ann. § 375.251 (West 1974).

Georgia: Ga. Code Ann. §§105-403-409 (1968).

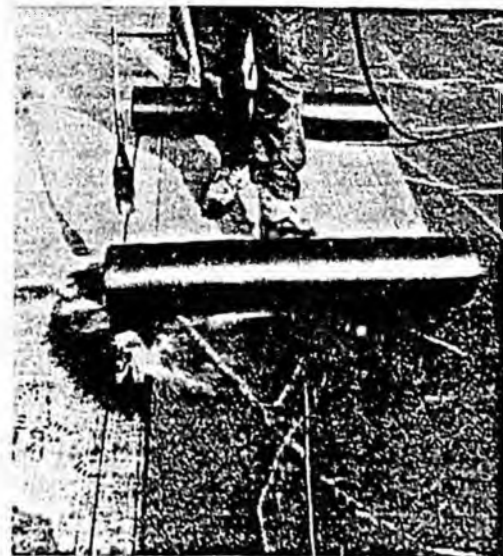
Hawaii: Haw. Rev. Stat. §§ 520-1 to -8.

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Idaho: Idaho Code § 36-1604 (Supp. 1981).
Illinois: Ill. Ann. Stat. ch. 70 §§ 31-37 (Smith-Hurd Supp. 1981).
Indiana: Ind. Code Ann. § 14-2-6-3.
Iowa: Iowa Code Ann. §§ 111C.1-111C.7 (West Supp. 1981).
Kansas: Kan. Stat. Ann. §§ 58-3201-3207 (1976).
Kentucky: Ky. Rev. Stat. Ann. § 150.645 (Baldwin Supp. 1980).
Louisiana: La. Rev. Stat. Ann. § 9:2795 (West Supp. 1981).
Maine: Me. Rev. Stat. Ann. tit. 12, §§ 3001-3005 (Supp. 1981).
Maryland: Md. Nat. Res. Code Ann. §§ 5-1102-1108 (1974).
Massachusetts: Mass. Gen. Laws Ann. ch. 21 § 17C (West 1973).
Michigan: Mich. Comp. Laws Ann § 300.201 (1967).
Minnesota: Minn. Stat. Ann. §§ 87.01-87.026 (1977).
Mississippi: Miss. Code Ann. § 89-2-1- et seq. (1985).
Missouri: Mo. Stat. Ann. §§

537.345-537.347.
Montana: Mont. Code Ann. §§ 70-16-301-302.
Nebraska: Neb. Rev. Stat. §§ 37-1001-1008 (1978).
Nevada: Nev. Rev. Stat. § 41.510 (1979).
New Hampshire: N.H. Rev. Stat. Ann. § 212:34 (1978).
New Jersey: N.J. Stat. Ann. §§ 2A:42A-2-42A-5 (West Supp. 1981).
New Mexico: N.M. Stat. Ann. § 17-4-7 (1978).
New York: N.Y. Gen. Oblig. Law § 9-103 (McKinney Supp. 1981).
North Carolina: N.C. Gen. Stat. §§ 113-120.5-120.6 (1975).
North Dakota: N.D. Cent. Code §§ 53-08-01-06 (1974).
Ohio: Ohio Rev. Code Ann. 1533.181 (Page 1978).
Oklahoma: Okla. Stat. Ann. 76, §§ 10-15 (West 1976).
Oregon: Ore. Rev. Stat. §§ 105.655-105.680 (1979).
Pennsylvania: Pa. Stat. Ann. tit. 68, §§ 477-1-477-8 (Purdon Supp.

1981).
Rhode Island: R.I. Gen. Laws §, 32-6-1- to -7.
South Carolina: S.C. Code §§ 27-3-10-70 (1977).
South Dakota: S.D. Comp. Laws Ann. § 20-9-5 (Supp. 1979).
Tennessee: Tenn. Code Ann. §§ 51-801-805 (1977).
Texas: Tex. Rev. Civ. Stat. Ann. art. 16 (Vernon 1969).
Utah: Utah Code Ann. §§ 571-4-1 to -7.
Vermont: Vt. Stat. Ann. tit. 10 § 5212 (1973).
Virginia: Va. Code § 29-130.2 (Supp. 1981).
Washington: Wash. Rev. Code Ann. §§ 4.24.200-210 (Supp. 1981).
West Virginia: W.Va. Code §§ 19-25-25-6 (1977).
Wisconsin: Wis. Stat. Ann. § 2968 (West 1973).
Wyoming: Wyo. Stat. § 34-19-101-106 (1977).
With minor variations, many of the above cited forty-nine laws

adhere to the format of a model statute described below. This model statute, entitled "Public Recreation on Private Lands: Limitations on Liability," appeared in the 1965 edition of *Suggested State Legislation* from the Council State Governments. To date, state courts in only nineteen jurisdictions have considered directly or indirectly the applicability of these statutes to public entities. Of this number, twelve jurisdictions have extended limited recreational use immunity to public entities. Under the terms of the Federal Tort Claims Act, these statutes are uniformly held applicable to the federal government. (For a further discussion of the applicability of recreational use statutes to public entities, see the "NRPA Law Review" for October and November 1986, and February 1987.)

Perhaps the real policy issue before the National Recreation and Park Association is, therefore, to encourage and help promote the modification of existing recreational use statutes to broaden existing immunity to include public park and recreation agencies. With this objective in mind, I have superimposed language from existing recreational use statutes in various jurisdictions. The purpose of this rather crude "cut and paste" endeavor is to illustrate the manner in which minor modifications to the 1965 model statute can broaden the immunity of this legislation to expressly include most public entities. Further, these suggested modifications would extend such immunity to most lands and activities involving public park and recreation agencies. (Modifications to the 1965 model statute appear in italicized capital letters. The state statutes from which this language is derived are also noted in parentheses.)

1965 Model Act as Modified

[Title should conform to state requirements. The following is a suggestion: "An act to encourage

landowners to make land and water areas available to the public by limiting liability in connection therewith."]

(Be it enacted, etc.)

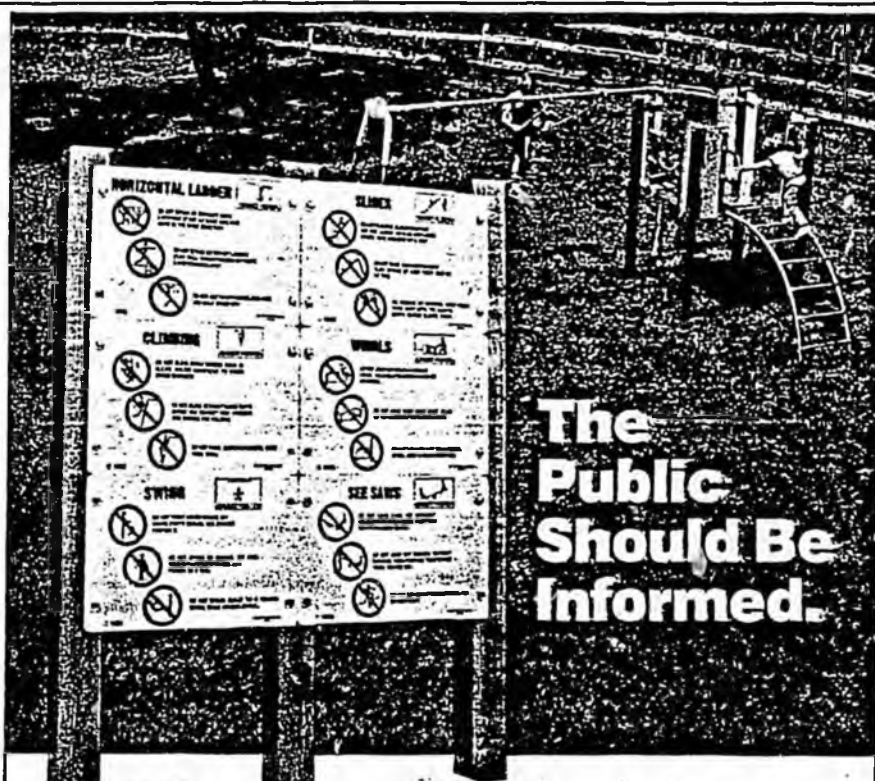
Section 1. The purpose of this act is to encourage owners of land to make the land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

Section 2. As used in this act:

(a) "Land" means *PRIVATE OR PUBLIC, (Idaho, Washington) land, IMPROVED OR UNIMPROVED (Maine), WHETHER URBAN OR RURAL, (Washington), [including] roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.*

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant or person in control of the

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, OR ANY PUBLIC ENTITY AS DEFINED IN THE (applicable provision of the state code) WHICH HAS AN INTEREST IN LAND. (Colorado).

"PERSON" INCLUDES ANY INDIVIDUAL REGARDLESS OF AGE, MATURITY OR EXPERIENCE, OR ANY CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, OR ASSOCIATION, OR ANY OTHER LEGAL ENTITY. (Colorado).

(c) "Recreational Purpose" includes, but is not limited to, any SPORTS OR RECREATIONAL ACTIVITY OF WHATEVER UNDERTAKEN BY A PERSON WHILE USING THE LAND, INCLUDING PONDS, LAKES, RESERVOIRS, STREAMS, PATHS, AND TRAILS APPURTENANT

THERE TO. OF ANOTHER AND INCLUDES, BUT IS NOT LIMITED TO, ANY HOBBY, DIVERSION, OR OTHER SPORTS OR OTHER RECREATIONAL ACTIVITY SUCH (Colorado) the following, or any combination thereof: hunting, fishing, CAMPING (Colorado), swimming, boating, camping, picnicking, hiking, HORSEBACK RIDING, SNOWSHOEING, CROSS COUNTRY SKIING, BICYCLING, RIDING OR DRIVING MOTORIZED RECREATIONAL VEHICLES, SWIMMING, ROCK CLIMBING... OR ENGAGING IN ANY OTHER FORM OF SPORTS OR OTHER RECREATIONAL ACTIVITY (Colorado), INCLUDING PRACTICE AND INSTRUCTION IN ANY THEREOF (New Jersey), pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites, OR OTHER SIMILAR ACTIVITIES UNDERTAKEN FOR RECREATION, EXERCISE, EDUCATION, RELAXATION, OR

PLEASURE ON LAND OWNED BY ANOTHER (Missouri). IT SHALL INCLUDE ENTRY, USE OF AND PASSAGE OVER PREMISES IN ORDER TO PURSUE THESE ACTIVITIES. (Maine).

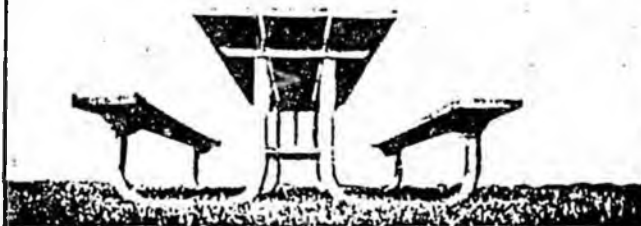
(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land. However, charge or consideration DOES NOT INCLUDE ... THOSE ENTRANCE FEES PAID TO THE STATE. ITS AGENCIES OR DEPARTMENTS, MUNICIPALITIES, OR THE U.S. GOVERNMENT. (Wisconsin)

Section 3. Except as specifically recognized by or provided in Section 6 of this act, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

Section 4. Except as specifically

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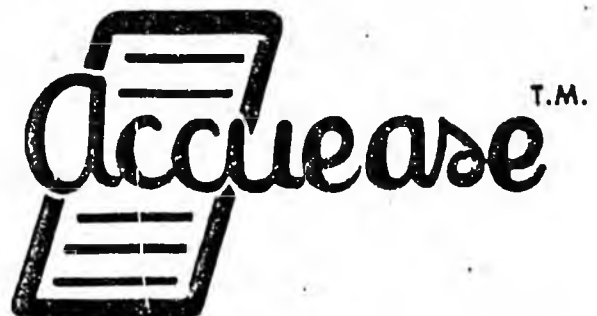
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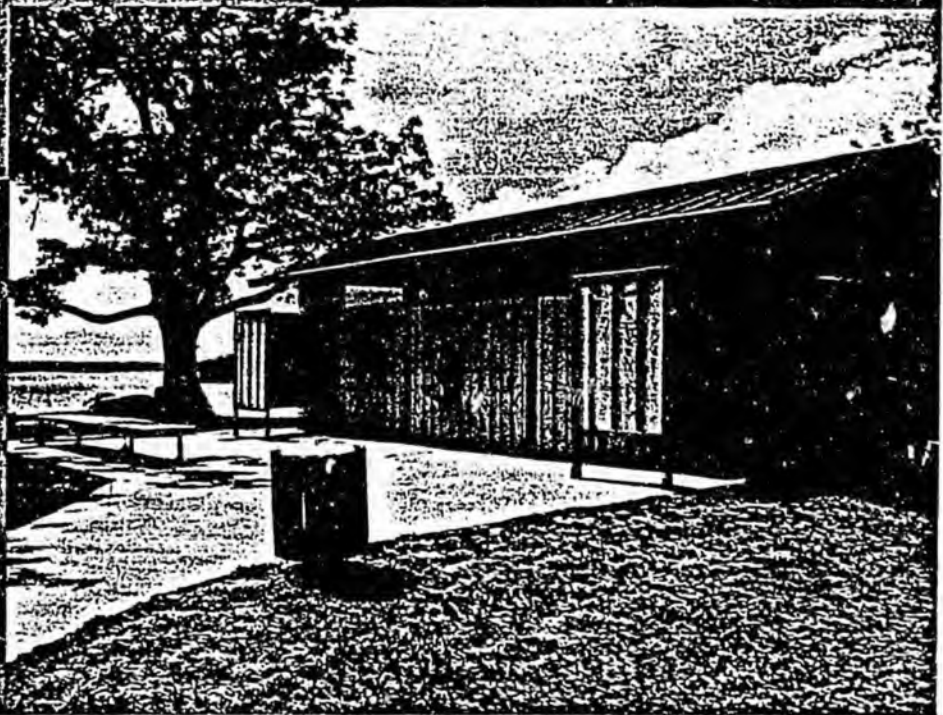
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recognized by or provided in Section 6 of this act, an owner of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes does not thereby;

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon such person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of such persons.

Section 5. Unless otherwise agreed in writing, the provisions of Section 3 and 4 of this act shall be deemed applicable to the duties and liability if an owner leases to the state or any subdivision thereof for recreational purposes.

Section 6. Nothing in this act limits in any way any liability which otherwise exists:

(a) For willful or malicious failure

to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for such lease shall not be deemed a charge within the meaning of this section.

Section 7. Nothing in this act shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this act to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 8. [Insert effective date.]

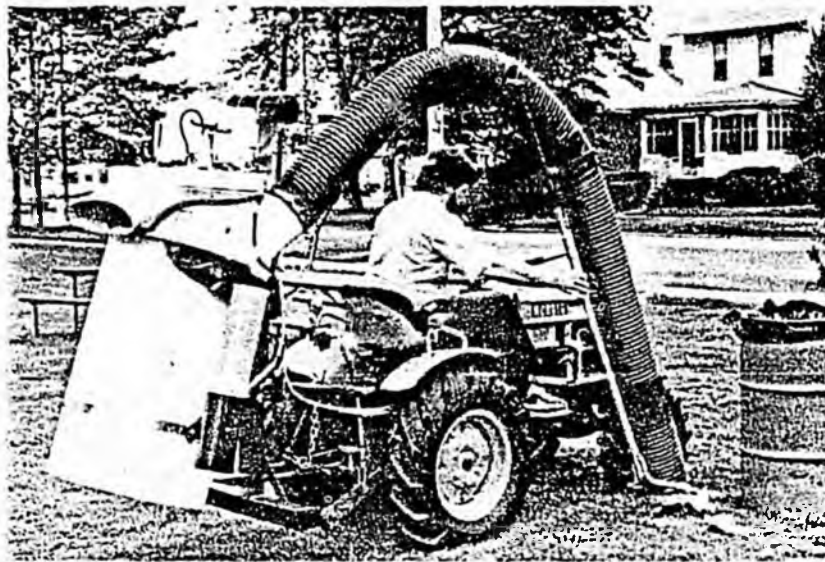
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Expand "Land" definition: Expanding the definition of land to

Continued on next page

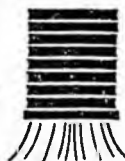
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expressly include public land effectively rebuts the original presumption of the model statute that such statutory immunity was intended for private landowners, not governmental units. In addition, the inclusion of references to urban and improved land would reverse the interpretation by some state courts (e.g. New York, New Jersey, Louisiana) that this statutory immunity is limited to rural or unimproved land. Further, the statutory definitions of "owner" and "person" have been modified with language from recreational use laws in Wisconsin and Colorado to expressly include governmental units.

Expand Scope of "Recreational Purpose": Some jurisdictions, most notably Louisiana, have limited the scope of recreational use immunity to activities traditionally conducted in the "true outdoors," i.e. primarily rural in nature. Expanding the enumerated list of recreational activities to include sports, hobbies, diversions, and any other recreational activity with language from the Colorado effectively rejects this narrow construction of the statute.

Entrance Fees not a "Charge": Ordinarily, recreational use immunity is lost if a fee is charged for the use of the premises. Including language from the Wisconsin statute expressly excludes entrance fees from this statutory definition of "charge" as an exception to recreational use immunity.

Dr. Kozlowski is an attorney/consultant in recreational injury liability in Springfield, Virginia. He is the author of the Recreation and Parks Law Reporter.

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RISK MANAGEMENT IS THE BEST INSURANCE

As park and recreation administrators are turning to new methods of insuring the nation's parks, they're finding that it also pays to learn effective risk management techniques.

Park and recreation departments around the country continue to face problems obtaining liability insurance: higher rates for reduced coverage, difficulty in obtaining insurance in the first place, and an ever-litigious society.

It seems, however, that the worst part of what some have termed a "crisis" has passed, as administrators are turning to self-insurance, insurance pools and an increased emphasis on risk management to do battle with rising insurance costs.

While opinions vary on how serious the "crisis" is, some observers actually feel the events of the past few years may have helped administrators realize that they can't continue to rely on insurance to solve their problems, but instead must learn how to prevent accidents—and lawsuits—from occurring in the first place.

"The bottom line on all of this is what does it take to cut down on the number of accidents and injuries?" says Ronald Kaiser, an attorney and associate professor of sports law at Texas A&M University in College Station, Texas. "If that number is rising

and the park director doesn't worry about it because the department has insurance, then to me, that's bad management."

Kaiser says park and recreation administrators shouldn't be practicing risk management just to stay out

"If you're big enough to self-insure and you're a good administrator, it's the cheapest way to go."

of court, but to protect the public and cut down on the number of accidents and injuries.

The law doesn't require that park and recreation departments guarantee participant safety; all it requires is that they assume the degree of prudence of a reasonable man, says Kaiser.

"If they know that somebody else is going to pay the tab, there's no incentive for (the department) to manage risk," says Kaiser. "But, if you have to pay the tab, that means you'd better practice risk management."

James Kozlowski, an attorney and recreation consultant in Springfield, Va., agrees.

"Maybe what good will come out of this so-called crisis is that people are starting to have to pay attention to the attitude of 'We'll just turn it over to our insurance carrier.' That's a cop-out."

Now, Kozlowski says, park and recreation administrators will have to look to the past to see what they've been receiving for their insurance dollar.

"They're learning to become better risk managers," says Kozlowski.

WHO'S TO BLAME? Whom to place the blame on—insurance companies, the legal system or suit-happy citizens—remains highly controversial. There are conflicting statistics as to what caused the crisis on the part of both trial lawyers and the insurance industry.

Both Kozlowski and Kaiser place some of the blame on bad business decisions made by insurance companies the past few years.

"I think the insurance industry will readily admit that they wrote insurance policies at ridiculously low premiums that didn't cover their risk," says Kaiser.

A few years ago, when the country was experiencing a period of inflation, "insurance companies were able to take the money they received for insurance premiums and invest it in real estate, for example. And public agencies didn't mind, because it was a great way to transfer risk to a third party at a low price," says Kaiser.

Now that inflation is under control, Kaiser says, insurance companies lost money—from the standpoint that insurance premiums didn't cover the risk—and higher premiums resulted.

During the past year, however, Kaiser feels the insurance industry has tightened up and profits have increased.

The crisis was really at its high point in 1986, and most insurance companies are now underwriting policies again, says Kaiser.

The insurance industry and others say much of the fault lies with an unpredictable tort system that allows attorneys to bring frivolous lawsuits and win million-dollar judgments.

"There's a lot of finger pointing between lawyers and the insurance industry over who is really at fault," says Kaiser. "It's a pretty complicated situation."

COVERAGE OPTIONS. Placing the blame on any one party now is rather a moot point. More important are the options park and recreation departments face in obtaining liability coverage.

The options vary from departments that close down facilities for fear of injuries and litigation at one extreme, to departments that have self-insured or "gone bare" at the other. These departments don't carry any insurance and continue to operate programs, but practice increased risk management to try to minimize accidents.

Dallas is one city that chose to go bare. Each year, the city puts money into a contingency fund to cover its pattern of cases. The city also has several attorneys on staff who, rather than settle out-of-court, fight every case that's brought against the city. So far, the venture into self-insuring has been successful.

"I've talked to individuals who self-insure," says Kozlowski, "and they've said, 'We're kind of nervous. We haven't had that big claim; we're waiting for the other shoe to drop.'

"But, they're putting the money away that they would ordinarily pay for insurance premiums and they're really earning a lot of money on that amount," says Kozlowski.

Another approach, says Kaiser, is to buy insurance with a very high deductible and then self-insure up to the amount of the deductible.

Yet another option, currently practiced or being considered in a number of states, is a risk management pool.

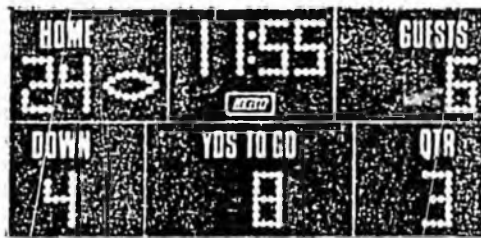
The city of Woodridge, Ill., located

32 miles west of downtown Chicago, has joined a risk management pool. Faced with an increase in liability insurance premiums from about \$4,500 to more than \$56,000 in one year, and a "take it or leave it" attitude from its insurance carrier, the city turned to the pool to obtain the coverage it needed.

"Insurance wasn't denied to us, it was just priced too high," says Keith Franklin, Woodridge's director of parks and recreation. The pool "cut

(Continued on next page)

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RISK MANAGEMENT

(Continued from page 37)

my insurance from a total of \$76,000 down to about \$26,000."

The pool the Woodridge Park District joined was the Park District Risk Management Agency, located in nearby Wheaton. Betsy Kutska, executive director of the agency, says many Chicago-area park and recreation departments have experienced similar problems obtaining or paying for insurance and, as a result, have joined the pool.

"In 1984, when we organized, there wasn't necessarily an 'insurance crisis,' but we anticipated the benefits of being able to pool together our resources and share the risk for our park district programs," says Kutska.

"We feel that we've been able to control costs by being in a market with a large group. A lot of agencies that weren't pool members were getting exclusions for different types of facilities, such as water slides or sledding hills. So we've

been able to get that out of the way.

"I think that one of the biggest benefits we've had from pooling together is that bid by bid, we're getting to where we can be more independent from the insurance companies and not have to suffer through up-and-down cycles of boom and bust," says Kutska. "It

"We anticipated the benefits of being able to pool together our resources and share the risk."

would be great if we could eventually not purchase any insurance, but just self-fund. The less we have to buy, the better."

Further south in Illinois, Mike Wilson, controller for the Champaign Park District, says his district also has experienced higher premiums, but has not yet considered entering a pooling arrangement.

"Last year, we paid 75 percent more for roughly one-half the coverage," says Wilson. This year, however, he says the premiums will decrease slightly.

"We had a good year last year and we've increased our safety programs, so the insurance has come down a bit, but not much. I don't think we'll have trouble getting insurance, although it will cost us more," says Wilson.

For some, joining a pool raises some doubts.

Even though Youngstown, Ohio, park and recreation officials were forced to close down several facilities for a short time last year when their commercial insurance was canceled, Jack Franken, risk manager for the department, says they chose to continue commercially insuring through another carrier. The policy, however, cost Youngstown four times as much as its previous policy.

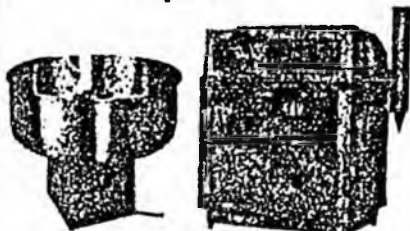
Franken says his department didn't consider the increase out of line though, and prefers to remain with a commercial carrier rather than enter a pooling arrangement.

(Continued on page 40)

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RISK MANAGEMENT

(Continued from page 38)

"Ohio is talking about insurance pools, but we're not overly enthusiastic about them," says Franken. "If we can't get commercial insurance, then we'll have to give consideration to self-funding and probably close down parks and other recreation facilities."

In California, another option exists. There, 51 park and recreation departments are covered by their cities' participation in the Southern

California Joint Powers Insurance Authority, a completely self-insured public entity.

"We manage the self-insurance programs of the cities that belong to this organization," says Program Manager James Moore. "We perform many of the functions of an insuring company, but we do it under contract with (the cities). In other words, we take that problem off their hands."

"We decided a year ago to go completely self-insured," says Moore. "If

you're big enough to do it and you're a good administrator, self-insurance is the cheapest way to go."

MAXIMIZING RISK. A common thread among all of these new methods of insuring is an increased need for park and recreation departments to become better risk managers.

"Risk management is part of the new vernacular of park and recreation departments," says Kaiser, who agrees with Kozlowski that the insurance crisis was the best thing that has happened to park departments, because it forced them to look at other alternatives to dealing with accident prevention.

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The insurance crisis was the best thing that's happened to park departments, because it forced them to look at other alternatives to dealing with accident prevention.

As a result, cities are now looking at the design of facilities and putting greater emphasis on safety. This is particularly true of playgrounds, where many recent accidents have occurred.

Kaiser says municipalities are beginning to look at the utility, or social benefit, of having a particular piece of playground equipment—in other words, examining what benefit a child receives from having that piece of equipment vs. what the chance is that the child will fall and be injured.

"If they find that the social benefit exceeds the risk, they're going to continue with it," says Kaiser, "but, where the risk of harm is so great that it outweighs the social utility, they're doing away with it."

Kaiser feels that once administrators understand the parameters of legal risk and aren't intimidated by lawyers, they'll discover that management of accidents and legal liability is very much within their realm.

"If they're good managers, they'll learn the techniques of managing risk," says Kaiser. "Thank the insurance industry, because it's making people better managers." ■

Accidents, Liability Confront Park Staffs

Officials across the country are being swamped by a multitude of court judgments, many dealing with the operation of parks and recreation facilities.

By Frances Wallach



Parks and Recreation

Thirty years ago, when a youngster was injured at play, the injury was considered part of the growing-up process. Minor injuries such as scrapes, cuts and bruises were treated at home with peroxide, iodine or mercurochrome. And the youngster would be chastised for the torn pants or shirt caused by the accident.

Naturally, more serious injuries were hospital-treated. But the broken arm was held by the parent to be the responsibility of the child, who probably could have avoided the accident by being more careful. Today, the first step in an accident, after emergency assistance, is

to file suit for personal injury. There are legitimate claims in many instances of serious injury, but the courts are now clogged with overwhelming numbers of lawsuits for injuries that, in years past, would have been ignored.

In April 1985, the Advisory Commission on Intergovernmental Relations reported to Congress that legal judgments were becoming one of the most serious financial problems confronting American cities, especially smaller cities. Officials in cities and counties across the country are being swamped by a multitude of court judgments in lawsuits, forcing cutbacks in services and threatening bankruptcy.

One of the largest problem areas for lawsuits appears to be in park and recreation facilities. Are our parks and

playgrounds so much more dangerous than they were a decade ago? What causes the multitude of lawsuits that threaten the economic well-being and balance of a municipality?

The court decisions and legislation of the 1970s are a causal factor that expanded the cities' responsibility for liability in personal injury lawsuits. The size of the jury awards has encouraged the filing of lawsuits and it would appear that juries take a biased view for plaintiffs against municipalities, at least in determining the awards. The last decade could become known as the era of the "let's sue" syndrome.

With the changing attitude of the courts and society toward park and recreation injuries, how can agencies afford to continue providing recreational services to the public?

Play It Safe At Parks

Today, aside from its streets and highways, the public agency's most used areas by the general public are its parks and recreation facilities and programs.

Certainly by the sheer number of people who fish, ride, swim, walk, jog, race, motocross, exercise, or bicycle; play team or individual sports such as soccer, football, golf, tennis, badminton, or basketball; and have meetings, functions, use playgrounds and equipment, or simple recreate and enjoy the arts, museums and music; the public agency enters into the everyday world of the public's active lives.

More recently, many of these important functions that are organized and/or managed by the public agency have been threatened to be restricted or discontinued by the litigation explosion and insurance crisis. The public agency has been called upon to waive or reduce vital liability coverage that enables it to, in part, transfer the risk of being drawn into very costly claims and litigation that are filed when someone is injured while engaged in a program sponsored or allowed by the agency.

Park and recreation department heads are very aware of the expanded roles their departments have taken on in the past few years. Rather than simply maintain grounds and facilities, they are now asked to design parks for optimum use and safety for the public as well as initiate and administer sensitive programs for the handicapped. Given these developments, coupled with the public's demand to require the agency to provide the highest degree of care and imposing an almost strict liability for any injuries or damages

BY JULIAN A. JOHNSON

that may occur, the agency finds itself in a "no win" position.

In the past, this was not a problem because the agency carried substantial liability insurance—it was a simple matter of turning the claims over to the insurance company and going about business as usual. Now, many public agencies are either unable to find insurance coverage, or if they can, their premiums are astronomical and their deductibles are very high. This has caused public agencies to carefully review programs in the special events area, agreements and leases with tenants of public property, multitudes of temporary use and occupancy permits, agreements with concessionaires, and maintenance contracts.

While it would be impossible to have a liability-free program, the public agency can make substantial inroads to reduce, eliminate, or transfer many of the liability risks that it is exposed to. Following are ways that a public agency can incorporate sound risk management principles to accomplish an overall reduction in its claims and litigation.

IDENTIFICATION OF RISKS

Undoubtedly, this is the most important step in the risk management process. Without the ability to identify potentially dangerous or hazardous conditions, all attempts at correcting problems are hit and miss. A systematic approach to identification will usually involve the inclusion of some or all of the following resources:

Past Experience: This speaks for itself. Unfortunately for many public agencies, these statistics may not be readily available and must be requested from the insurance company. When an insurance company administratively settles a claim, it may not be obligated to give the insured any feedback concerning the reasons for its settlement or how the insured can correct the actions so it doesn't happen again. In many cases, policies are simply canceled or premiums raised.

Once the agency has this information, it's just a matter of sorting through it to determine both the types and kinds of claims that are occurring as well as the frequency and severity of the losses. Additional information such as the location or site is equally important in this identification phase.

To put this in perspective, the agency may determine that one swimming pool is generating

a significant number of slips and falls because of a slippery concrete surface. It can then take corrective action based upon the statistical information it has acquired. This same principle can be used in many cases to assess whether the public agency feels the problem warrants immediate attention or should be placed in the normal budget process.

Citizens' Complaints: Before a crisis situation occurs, one of the best ways to detect that the public agency may have a problem is by systematically reviewing complaints by the public. There may be no actual claims filed by the public for injuries, and an agency doesn't always get the opportunity to correct a problem before a serious injury occurs. However, if the agency is brought to court, it will be difficult to explain why it had received several complaints by citizens and did not take some corrective action.

This review process is critical because the courts are quick to determine that the agency had "constructive notice" of the problem and failed to take remedial action. The remedial action could be something as simple as putting up a sign that warns the public of the problem or so complex that it has to be budgeted for in the agency's C. I. P. (Capital Improvement Program).

Other Public Agencies: Why reinvent the wheel? Other public agencies may have already addressed the same problem. The state may have a signing program that can be incorporated into another agency's program without much expense. Information regarding policies and guidelines for successful programs could be adopted by the agency with minor modifications.

Publications And Periodicals: Public agencies can subscribe to resource materials that are available on almost any topic, from new equipment to the outcome of recent litigation in the parks and recreation area. National risk management organizations such as PRIMA and RIMS (Risk and Insurance Management Society) are excellent resources for agencies and both have research departments to accommodate the public agency.

Consultants: Consultants exist in almost every field, and there are many qualified individuals and firms that specialize in the parks and recreation area. For the agency that does not have a risk management department or someone assigned as a risk manager, a consultant can re-

view the agency's policies and procedures, maintenance programs, and staffing, as well as identify the public agency's areas where it may be at risk.

RISK AVOIDANCE

Risk Avoidance: Simply stated, a public agency shouldn't use risk avoidance because the risk of loss or injury is so high that the agency cannot afford to place itself in the position of having to budget for the expected losses resulting from an event, condition, or property. Generally speaking, however, risk avoidance is usually made using practical, common sense judgment and where there is no opportunity to transfer the risk to a third party.

Julian Johnson is the Claims and Insurance Manager for the City of San Diego, CA



RISK TRANSFER

Risk Transfer: There will always be cases where the agency will want to avoid risk at any cost. However, when a public agency decides to allow an event or provide a service because of a duty to the public or political pressures, then risk transfer is a must.

- **Transfer By Insurance:** This is the traditional and least complicated of the transfer techniques. Ideally, the organization that the agency has an agreement or permit with provides an "insurance certification" from its insurance

The agency will always have to assume some risks, simply because of the type of business it's involved in.

company and names the agency as a co-insured. The agency is then entitled to the same rights and privileges of the insurance policy as the insured organization. This type of transfer should be mandatory whenever the agency is considering long-term leases such as museums and park facilities; and permits for organized events held on a regular basis such as little league baseball, soccer, bicycle racing, 10K and marathon races, etc.

- **Transfer By Contract Or Agreement:** This method of transfer is normally not as desirable as the transfer by insurance method. The agency can enter into almost any agreement or permit where the individual or organization will promise anything and everything so that the agreement will be approved or the permit granted. The problem arises when a loss occurs and the injured party files a claim with both the individual or organization as well as the agency. In many cases, the public agency will find that the individual or organization does not have the resources to either provide a defense on behalf of the agency as provided in the "hold harmless and indemnification clause" of the permit or

agreement, let alone have the funds to pay any claims or court judgment.

The rule of thumb in transferring the liability risk in cases where insurance is not available or the cost is unaffordable is two-fold: the agency should only grant permits or enter into agreement with individuals or organizations that have been successful in the past and/or demonstrate that they are financially able to respond if a loss occurs; and the agency has thoroughly reviewed the event or function and addressed the "worst possible scenario." This involves developing some basic questions for the organization or individual such as:

- How large is the group?
- What is the activity?
- Where will it be held?
- Is alcohol being served?
- How long will the function last?
- What is the group's past history of accidents/incidents?

Only when these questions and others are answered can agency personnel make informed decisions to enter into an agreement or allow an event to proceed. As a guideline in assisting personnel responsible for making those decisions, the agency can refer to the frequency severity matrix listed below:

High Frequency High Severity	High Frequency Low Severity
Low Frequency High Severity	Low Frequency Low Severity

For example, public agency personnel could determine if the event or activity would produce relatively few injuries. Assuming that the injuries would be minor in nature, the agency could feel relatively secure in allowing the event or activity to proceed. It would have a low frequency, low severity rating. However, in an activity such as hang gliding or an event such as a sky-diving show where losses are few but the injury consequences are severe, the public agency would want to either transfer the activity or event or not allow it on public property because of the high potential for a large loss.

The public agency must carefully evaluate the areas of high severity for exposure to severe injury. This doesn't mean that the high frequency areas should be eliminated automatically, only that they become more predictable and be budgeted for fairly accurately.

This same matrix can be used to evaluate areas such as the kinds of playground equipment for establishing maintenance schedules, the types of activities and events that require additional personnel, and the types of training programs personnel need to be proficient in to control risk.

RISK ASSUMPTION

Risk Assumption: The agency will always have to assume some risks, simply because of the type of business it's involved in. These are the services that the public doesn't provide for themselves and relies on the agency to provide for them. For example, the agency will grant use of meeting rooms for non-profit groups, allow events such as demonstrations as a matter of freedom-of-speech, promote activities for people who cannot otherwise provide for themselves such as the handicapped and low income, and generally allow people to congregate, recreate, etc.

With good risk management techniques, these risks can be evaluated for potential for loss and dealt with by using sound management principles. Issues such as additional supervision of the activity or event, coordination of personnel, and timing can be anticipated and controls implemented. The agency can accomplish this by using key personnel or committees to evaluate the risk and review sensitive issues that are indigenous to the risk, then determine the best method of control for the activity.

Risk Monitoring: Just as important as the gathering and reviewing information and implementation steps is the monitoring of the pro-

grams. It is critical in creating an ongoing function that will develop and feed itself. As the process of monitoring continues, the data base grows and the identification of risks becomes easier, enabling the public agency to fine-tune the process. This same process of identifying risk, implementing corrective procedures, and monitoring risk is invaluable in court to show that the public agency is conscious of its risks and is making efforts to deliver the best possible programs to the general public with their safety in mind.

Some programs can be initiated to help develop loss prevention data before the losses occur. Some examples of these programs are as follows:

MAINTENANCE

Sign Inventory And Maintenance: Caution is always the key to placing a sign and warning the public of a hazard. While it can be used as a defense in many cases, it is not an absolute defense. Wording on signs should be reviewed and placing signs for obvious hazards should be avoided. Once the agency decides to place a sign, it has an obligation to maintain it. The sign should be inventoried and scheduled for periodic inspection. Certain signs disappear more frequently than others and should be checked more often. If the sign has reflector capabilities, it must be checked periodically to ensure that it meets reflectivity standards.

Equipment Inspection And Maintenance: Just as inspection and maintenance are performed to ensure that the equipment is still usable, they should also be done to prevent injuries. Regular replacement of a 50-cent chain link on a swing may prevent a very costly claim. Reviewing older playground slides for wear, fences for repair, etc. are relatively small and cost-effective procedures that greatly reduce the public agency's risk exposure. Records of any repairs or inspections are, again, vital to show that the agency is doing what it says it is doing.

Condition Inspections: The condition of facilities should be assessed regularly. The public agency should establish maintenance schedules to ensure that timely maintenance is not overlooked and hazards are caught before a loss occurs. A wet gymnasium floor could be the result of a faulty roof and the next source of an injury.

Condition inspections are not just limited to facilities but extend to all property owned or leased by the public agency. In San Diego, beach

cliffs and shorelines are constantly observed to detect changes as they erode. Wave action and wind are responsible for the creation of unstable cliffs that must be dealt with before they collapse under the weight of unsuspecting spectators. They are monitored in reports every 30 days and reviewed for corrective action.

Fences that border areas to ensure public safety such as drainage channels, swimming pools, areas of pollution, etc. should be inspected and documented for maintenance or repairs and filed.

The public agency should inspect the drivers' licenses of personnel that operate its fleet of vehicles at least every year to find out what in-

dividuals have demonstrated bad driving habits. These personnel can then receive additional training or be assigned to duties that do not involve driving.

In adopting any changes in programs or creating a risk management process, budget constraints are obviously an issue to be reckoned with, along with staffing. However, with the future of many insurance coverages for public agencies in doubt, coupled with the escalating costs of claims and lawsuits, the question no longer is, "Can I afford to change?" but rather, "I can't afford not to change." ■

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Developing A Defensive Game Plan

PUBLIC RISK interviewed Ronald L. Baron, Esq., on managing risk in sports and recreation programs. Baron is an adjunct professor of sports law at the University of Houston Law Center and The Delaware Law School. He is also the executive director of the Houston-based consulting firm, The Center For Sports Law & Risk Management, which provides risk review programs for athletic facilities and programs. Baron will speak on sports liability at PRIMA's national conference.

Q. How have the courts dealt with the issue of liability in sports and recreation programs in the past?

A. Until recently, athletic programs and facilities enjoyed virtual immunity from civil liability. Generally, the assumption of risk and consent by the participants prevented or barred them from recovering anything if they were injured.

Q. How does this differ from the attitude today?

A. Sports-related injuries and resulting lawsuits are increasing at an alarming rate for two main reasons. Today, the prevalent attitude of society is that if someone gets hurt during an athletic or recreation event, someone should accept responsibility for the injury and be forced to pay. In addition, the courts have eroded the assumption of risk doctrine and sanctioned actions by athletic participants. The courts will search for wrongdoing, especially if the case involves a seriously-injured participant.

Q. Does this new attitude affect public recreation programs?

A. Yes, the new judicial trend is to extend liability to recreation facility operators in all areas of recreation sports. These include team sports such as softball, football, and baseball as well as individual sports such as gymnastics and skating.

Q. How does this trend differ from that of the past?

A. Historically, most of the successful sports injury lawsuits involved football helmet litigation brought on behalf of catastrophically-injured high school or college football players. But the trend has changed and today, every sports program administrator is at risk.

Q. Are there any specific areas where recreation sports personnel face potential liability regarding negligence?

A. Yes, there are four areas which must be addressed by the risk manager: failure to properly supervise an activity or event, failure to maintain the playing surface in a safe manner, failure to distribute safe and proper equipment, and failure to determine the physical condition or impairment of athletic participants.

Q. Can you give me an example of a program administrator who was sued for failing to address one of these areas?

A. An administrator of a public swimming pool decided not to spend additional funds on chlorine for the pool. The water deteriorated and became very murky. Two children playing in the pool collided underwater and the lifeguard could not find them because the water was in such poor condition. The families successfully sued the pool operator for failure to maintain the playing surface—in this case, the pool—in a safe manner.

Q. How can recreation program risk managers help reduce or eliminate the potential for injuries—and subsequent lawsuits?

A. Risk managers must work closely with program administrators and employees to establish and operate successful and safe athletic programs. They should stress the importance of focusing on and adopting preventative measures. And they should take the offensive, not the defensive, and implement aggressive attacks on the potential areas of liability in their sports and recreation programs.

Q. What areas are critical to a successful risk management program?

A. First and foremost, risk managers must have

a thorough understanding of sports liability. Oftentimes, recreation program operators and risk managers are unaware of how far their legal duties extend until they are sued and discover what they have done wrong. Risk managers have a responsibility to know and implement programs that conform to their legal duties and to advise recreation administrators of those duties. Once risk managers know their obligations under the law, the rest of the risk management program will fall into place. Other important areas include documenting everything that has to do with safety and being prepared in an emergency.

Q. How critical is documentation to the overall risk management program?

A. This is crucial to a successful program. When employees are trained, they should be certified and those certifications should be kept up to date and on file. Risk managers should ensure that everything is written down when there are periodic inspections or safety checks on equipment. If a case is brought to court, documentation could be the key to winning or losing.

Q. Can risk managers eliminate all risk involved in sports and recreation programs?

A. Risk managers must understand that there are many risks inherent to athletic activities. Under the law, recreation administrators or risk managers cannot be held responsible for every accident that occurs. However, personnel often face potential liability when they don't plan ahead or they try to cut corners.

Q. What areas besides organized sports should be of special concern to recreation personnel?

A. Gymnastics and trampoline equipment is a major concern. A trampoline should never be left outside or in a gym where anybody could jump on it, and participants should always be supervised. Weight rooms should never be left unsupervised, spotters should always be used, and the equipment should be inspected periodically. Playground equipment such as ladders and slides should be checked for wear and tear and

The new judicial trend is to extend liability to recreation facility operators in all areas of recreation sports.

the area surrounding jungle gyms should be checked for safety hazards. If administrators operate racquetball or squash courts, they should post warning signs concerning the use of eyeglasses. If they provide equipment such as racquets and eye protectors, they must ensure that the equipment is safe and in good playing condition.

Q. Have the courts moved into new areas of liability that would affect sports programs?

A. Yes, the case of a Seattle high school football player who sustained quadriplegic injuries will have long-reaching effects on high school, college, and recreation programs. He received a \$6.3 million verdict in 1982 against his coach and school district on the theory that they failed to warn him in great detail of the inherent risks of playing high school football. This case shows that a coach and school can be held liable for failing to warn athletes of inherent risks, dangers, and possible injuries that they may sustain while participating in athletic activities. As a result,

the standard consent form may no longer be sufficient.

Q. But in the case of recreation sports where there are hundreds of participants, how practical is it to advise every player and his or her family of all the inherent risks that the player could sustain?


A. A recreation administrator has the legal duty to warn and inform all participants and their parents. Players and their parents should sign a detailed "agreement to participate" that specifies all the inherent risks and potential injuries. In addition, recreation personnel should post signs that promote a positive safety image but still cover themselves under the law. Signs such as safety tips offer a more palatable way of digesting warnings without scaring participants away.

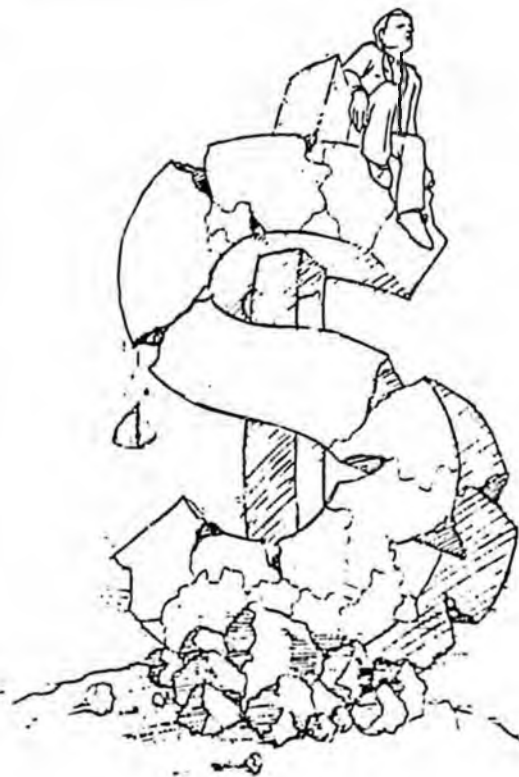
Q. Doesn't each facility and each program have its own set of problems and standards?

A. Yes, no two athletic programs or facilities are alike. Depending on the types of sports offered,

the size of the program, and the number of athletes participating, each facility or program has its own problems regarding risk. So risk managers must have specifically-designed safety guidelines for each program. If a lawsuit is brought against a facility, the court will look at the size of the community, the facility, its budget, and its overall program to ensure that the administrator did everything reasonably possible under the law to prevent injury.

Q. In summary, what advice would you give recreation program risk managers?

A. Know the extent of your legal duties, document everything, and be prepared in case of an accident. Remember that your facility can be sued for anything that happens on the grounds of the facility during a recreation sports program. But if you have taken reasonable precautions that adhere to your responsibilities under the law, you have established a safe program, and you can document your case, you will be in a much better position to defend yourself if you are brought to court. 



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STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 25, 1988

The Honorable Arliss Sturgulewski
Chair, Senate Community
and Regional Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Subject: SB 447, an act relating to liability for damage or injury resulting from hazardous recreational activities.

Position: The Department of Natural Resources supports the concept of further definition and limitation of liability for activities on state land. Discussions with the Attorney General's Office suggest that this legislation requires some further work to achieve those goals, especially with respect to sec. 2(b). The department hopes to work with the sponsor, the Department of Law and committee staff to further refine this bill.

Background: The department's sectional analysis is as follows:

Section 1 The addition of subsection (4) to AS 09.50.250 helps define state liability for property owned, managed or leased by the state.

Section 2 This section negates many of the benefits provided by the addition to AS 09.50.250 in Section 1. For instance, subsection (b)(1)(A) unnecessarily exposes the state to additional claims, from "different hazardous recreational activity or "dangerous conditions." At a minimum, this phrase needs to be defined - "dangerous conditions" should be defined.

Section 2 allows a participant to file a liability claim if he is injured after paying a fee to participate in a hazardous activity. For example, the state may be exposed if a skier at a state and leased ski development skis outside the groomed slopes and dies in an avalanche. This provision may allow his heirs to sue the state because he paid for a lift ticket.

The Honorable Arlis Sturgulewski -2- February 25, 1988

Subsection (b)(4) may create additional liability problems. It allows claims when the state or an employee recklessly or with gross negligence "promoted" participation in a hazardous recreational activity. Under this language, a snowmachiner or his heirs who stopped to visit with a park ranger at Eklutna Lake could sue the state if the ranger "recommends" that he snowmachine on the lake and the person subsequently breaks through the ice. Similarly, a park ranger might "recommend" a good canoe route in a state park and then be sued when someone drowns on that route.

AS 09.50.250(d) should be amended to include "corporation," in addition to "person" and "organization."

AS 09.50.250(e) should be amended to include a definition of "different hazardous recreational activity or dangerous condition" as referenced in AS 09.50.250(b)(A).

Amend AS 09.50.250(e)(1)(C) to include "hot air ballooning," and "parasailing" and change "airplane flying" to "motorized airplane flying". Motorized hang-gliders are not subject to FAA regulations for airplanes.

Section 3 AS 09.50.250(b)(4) and AS 09.65.070(g)(4) should be altered so they treat the state and municipalities similarly.

We will be pleased to continue working with the sponsor and committee staff regarding the questions raised above. If you need additional information or have additional questions, please feel free to contact my office.

Sincerely,

Tom Hawkins
Judith M. Brady
Commissioner

cc: Bob Evans, Legislative Liaison
Rod Swope, Special Staff Assistant
Senator Duncan

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Natural Resources
 Title: SB 447 An Act Relating to BRU: _____
Liability for Hazardous Recreation Activities
 Sponsor: Duncan Components: _____
 Requestor: Senate CSRA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department will not incur cost to implement this bill. There is no way to project the cost of any liability the Department may incur as a result of this bill.

Prepared by: Richard LeFebvre Phone: 465-2400
 Division: Land Water Management Date: February 25, 1988

Approved by Commissioner: Tom Hawkins Date: February 25, 1988
 Agency: Department of Natural Resources

Distribution (by preparer):

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

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who work for
other agencies*

1 IN THE SENATE

BY DUNCAN

2

SENATE BILL NO. 448

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to civil liability of certain volun-
7 teers."

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

*Good
amendment*

9 * Section 1. AS 09.65.090 is amended by adding new subsections to read:

10 (c) An organization and its members are not liable for civil
11 damages as a result of an act or omission in providing first aid,
12 search, rescue, or other emergency services, regardless of whether the
13 organization or members are under a preexisting duty to render assis-
14 tance, if

15 (1) the organization exists for the purpose of providing
16 the service rendered; and

17 (2) the member provided the service while acting as a
18 volunteer member of the organization.

19 (d) In this section, "volunteer" means a person who receives
20 financial consideration of not more than \$500 a year, not including
21 reimbursement for expenses actually incurred, for providing emergency
22 services.

23 * Sec. 2. AS 09.65 is amended by adding a new section to read:

24 Sec. 09.65.098. CIVIL LIABILITY OF CERTAIN VOLUNTEERS. (a) A
25 person working as a volunteer for the division of parks and outdoor
26 recreation, Department of Natural Resources, for a municipality, or
27 for a nonprofit entity is not liable for civil damages as a result of
28 an act or omission while acting in good faith and within the person's
29 official functions and duties.

*- volunteer
assigned as
a volunteer*

1 (b) This section does not preclude liability for civil damages
2 as a result of gross negligence, recklessness, or intentional miscon-
3 duct.

4 (c) This section does not affect

5 (1) a civil action brought by the state, a municipality, or
6 a nonprofit entity against, respectively, a volunteer of the division
7 of parks and outdoor recreation, the municipality, or the entity;

8 (2) the liability of the state, a municipality, or a non-
9 profit entity with respect to injury caused to a person.

10 (d) In this section,

11 (1) "municipality" has the meaning given in AS 01.10.060
12 and includes a public corporation established by a municipality;

13 (2) "nonprofit entity" means an entity

14 (A) incorporated under AS 10.20; or

15 (B) exempt from taxation under 26 U.S.C. 501(c)(3)

16 (Internal Revenue Code of 1954);

17 (3) "volunteer" means a person who receives financial
consideration of not more than \$500 a year, not including reimburse-
ment for expenses actually incurred, for services performed for a
municipality or nonprofit entity.

*unintended
Dad of Parks
has been
deleted
also define
Dad of Parks.*

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
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February 25, 1988

The Honorable Arliss Sturgulewski
Chair, Senate Community and
Regional Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

Subject: SB 448, An Act relating to civil liability of
certain volunteers.

Background: The department has an aggressive volunteer
program utilizing over 60,000 hours of volunteer work each
year. Volunteers are presently covered under the state's
risk management program. SB 448 could be improved by
including a limitation of the state's liability for injury
caused to another by the action of a volunteer. 7

Position: As the bill is currently written it helps clarify
the state's liability in utilizing volunteers. The
department supports the measure which would limit the
state's liability for civil damages as a result of an act of
a volunteer. SB 448 does not limit the state's liability
for personal injury to a volunteer or injury to another from
a volunteer's action.

We look forward to working with the sponsor and committee
staff on this bill.

Sincerely,

Tom Hawkins
for Judith M. Brady
Commissioner

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: SB 448 An Act Relating to
Civil Liability of Certain Volunteers
Sponsor: Duncan
Requestor: Senate C&RA

Agency Affected: NATURAL RESOURCES
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The Department will not incur cost to implement this bill. There is no way to project the cost of any liability the Department may incur as a result of this bill.

Prepared by: Richard LeFebvre Phone: 465-2400
Division: Land and Water Management Date: February 25, 1988
Approved by Commissioner: Tom Hawkins Date: February 25, 1988
Agency: Department of Natural Resources

Distribution (by preparer):

Legislative Finance
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Senate Bill 448

"An Act relating to civil liability of certain volunteers."

Section 1.

Provides protection from civil liability for certain organizations (Civil Air Patrol, National Ski Patrol, Sea Dogs, etc.) and their members. Currently these organizations may face civil liability for an act or omission in providing first aid, search, rescue, or other emergency services.

Section 2.

Extends protection to volunteers for the division of parks and outdoor recreation, Department of Natural Resources, for municipalities, and certain nonprofit entities. However, this protection does not preclude a volunteers liability for civil damages as a result of gross negligence, recklessness, or intentional misconduct.

An agency, municipality, or nonprofit entity could still be held liable.

A "volunteer" means a person who receives financial consideration of not more than \$500 a year, not including reimbursement for expenses actually incurred, for services performed for a municipality or nonprofit entity.

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June 29, 1987

Ronald M. Sturtz, Esq.
Hannoch Weisman
4 Becker Farm Road
Roseland, New Jersey 07068-3788

Re: Coverage of ski patrollers under the Good Samaritan laws

Dear Ron:

I read with interest yours dated June 24, 1987, to Walter with copies to the other members of the National Legal Committee. In particular, I appreciated your enclosure of the decision in Praet v. Borough of Savreville. It reflects, as the case indicates, a 1971 Alaska decision entitled Lee v. State, 490 P.2d 1206 (Alaska 1971). Based on the Lee case, I have consistently advised ski patrollers that they are not protected by the Good Samaritan law as construed by the Alaska Supreme Court.

As you will recall, this matter came up in correspondence to Warren Bowman, National Medical Advisor, from Walter Gregg dated October 16, 1986. At that time, I sent a copy of the Lee case to Walter, along with the suggestion that we discuss the Good Samaritan situation at our next meeting. A copy of my correspondence to Walter is enclosed.

I look forward to our potential meeting during the winter of 1987-88.

Very truly yours,

DELANEY, WILES, HAYES,
REITMAN & BRUBAKER, INC.



Marc D. Bond

MDB:bv:spla001

Encl.

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HOWARD A. LAZAR

August 28, 1987

Ron Dippold
Regional Director, South East Region
National Ski Patrol System, Inc.
8318 Counterpane Lane
Juneau, Alaska 99801

Re: Coverage of Ski Patrollers under the Good Samaritan Act.

Dear Ron:

It has come to my attention that the topic of the Good Samaritan Act came up at the Alaska Division Board Meeting recently held in Juneau. I apologize for my inability to attend that meeting, but I had a prior commitment made in January of this year for that week.

The Good Samaritan Act (AS 09.65.090) has been the topic of extensive correspondence between Division legal advisors in recent months. It is an important question, because patrollers have the right to know the potential liability they may incur by participating in ski patrol activities.

Based on a 1971 case decided by the Alaska Supreme Court, I have consistently taken the position that it is doubtful whether ski patrollers, either voluntary or professional, have any protection under Alaska's Good Samaritan Act. In Lee v. State, a State Trooper was called to the scene of an incident involving a lion attack against a carnival goer. The Trooper used his pistol to kill the lion. Unfortunately, in so doing, he also wounded the carnival goer. In its opinion, the Alaska Supreme Court held that the purpose of the Good Samaritan statutes is to induce voluntary rescue by removing the fear of potential liability of those that are not under some preexisting duty rescue. The court held that the Trooper could be held liable based on simple negligence, because he was under a duty to go to the aid of the carnival goer. Thus, the Good Samaritan statute was held inapplicable.

A ski patroller who is on duty and in the ski patrol uniform has an existing obligation to rescue injured individuals in the area or on the trails. Since patrollers have this duty, I believe it most likely

August 28, 1987

Page 2

the Alaska Supreme Court would rule patrollers are not protected by the Good Samaritan Act.

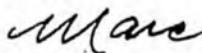
It should be noted that patrollers who are state-certified Emergency Medical Technicians (AS 18.08.086) or Paramedics (AS 08.64.366) are protected against liability for simple negligence by separate state statutes.

I have enclosed a copy of a monograph titled "The Legal Responsibility of Ski Patrollers," which was published in three installments in Frozen Slats two seasons ago. In addition, I have enclosed correspondence between myself and Walter Gregg, National Legal Counsel, and Ron Sturtz, Eastern Division Legal Counsel, concerning the Good Samaritan Act. I note with interest that Ron was successful in having the New Jersey Legislature specifically name volunteer ski patrollers as being protected by the Good Samaritan Act.

If you have further questions on this topic, or any other legal matters relating to the ski patrol, please do not hesitate to contact me.

Very truly yours,

DELANEY, WILES, HAYES,
REITMAN & BRUBAKER, INC.



Marc D. Bond

MDB:bv:ski.42

Encl.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 12, 1988

SUBJECT: Civil liability of volunteers
(Work Order No. 5-1484)

TO: Senator Jim Duncan

FROM: Edward H. Hein *E.H.H.*
Legislative Counsel

Enclosed is the draft bill I discussed with your assistant, Dale Staley, relating to providing immunity for volunteers of municipalities and nonprofit organizations. The draft also incorporates provisions of HB 340, introduced by Representative Davis, that extends coverage under the Good Samaritan law to emergency services volunteers, such as ski patrol, search and rescue units, and independent volunteer fire department personnel.

Note that the definition I have provided for "nonprofit entity" at page 2, lines 11-14 makes reference to Section 501(c) of the Internal Revenue Code, which exempts nonprofit organizations from federal income taxes. Section 501(c) encompasses numerous types of organizations, which are spelled out in paragraphs (1) - (25) (see attached copy of IRS code). Nonprofits are often referred to as sec. 501(c)(3) organizations, but the federal bill (H.R. 911) I was given to use as a model defines nonprofits by reference to all of sec. 501(c). You may wish to consider whether you want to include all 25 types of organizations described in 501(c) within the immunity provided in your bill.

If I may be of further assistance, please feel free to contact me at your convenience.

Enclosure

EHH:gc
WKG1:023

AN Act exempting volunteers of certain organizations from liability for damages under certain conditions and supplementing P. L. 1959, c. 90 (C. 2A:53A-7 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1.³⁰ a. Notwithstanding any other provision of law to the contrary, no person serving without compensation, other than reimbursement for actual expenses, as a trustee, director, officer or voluntary member of any board, council or governing body of any nonprofit corporation, society or association as provided in P. L. 1959, c. 90 (C. 2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P. L. 1979, c. 172 (C. 18A:11-3) or to a conference under the jurisdiction of such a voluntary association, shall be liable for damages resulting from the exercise of judgment or discretion in connection with the duties of his office unless the actions evidence a reckless disregard for the duties imposed by the position.

b. Notwithstanding any provisions of law to the contrary, no person who provides volunteer service or assistance for any nonprofit corporation, society or association as provided in P. L. 1959, c. 90 (C. 2A:53A-7 to 2A:53A-11), or nonprofit federation council or affiliated group composed of these organizations or a voluntary association as provided by P. L. 1979, c. 172 (C. 18A:11-3) or to a conference under the jurisdiction of such a voluntary association shall be liable in any action for damages as a

30. N.J.S.A. 2A:53A-7.1.

result of his acts of commission or omission arising out of and in the course of his rendering the volunteer service or assistance.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

Nothing in this subsection shall be deemed to grant immunity to any person causing damage as the result of his negligent operation of a motor vehicle.

2³¹ This act shall take effect immediately and shall apply to any cause of action arising on or after that date.

Approved April 6, 1987.

TORT LIABILITY AND MALPRACTICE

Exempts volunteers of certain organizations from civil liability under certain conditions.

Assembly Insurance Committee
Statement Senate, No. 2705—L1987, c. 87

This bill would give immunity to unpaid trustees, directors, officers, or voluntary members of (1) any board, council, or governing body of any nonprofit corporation, society or association; or (2) a nonprofit federation, council or affiliated group composed of these organizations; or (3) a voluntary interscholastic sports organization or a conference within the jurisdiction of a voluntary interscholastic sports organization. Immunity would be extended to these individuals for any damages resulting from the exercise of judgment or discretion in connection with the duties of their office, unless the actions evidence a reckless disregard for the duties imposed by the position.

The bill also would extend immunity to individuals who provide volunteer service or assistance for any nonprofit corporation, society or association, or for a nonprofit federation, council or affiliated group composed of these organizations or a voluntary interscholastic athletic association or a conference affiliated with an interscholastic athletic association. These volunteers would not be given immunity for any act of commission or omission which is willful, wanton or grossly negligent or for negligence in connection with the operation of a motor vehicle.

Nonprofit organizations have recently experienced difficulty in attracting and keeping qualified individuals to serve as officers and on boards of directors of nonprofit and charitable associations because of the potential exposure to lawsuits which exists. Exposure to liability in these cases often means that the individual's own assets are placed in jeopardy, and many individuals have been reluctant to subject themselves to this risk. By giving immunity to trustees, officers, directors, and other uncompensated volunteers, the bill's purpose is to permit nonprofit and charitable organizations to continue to attract able people to serve in these capacities.

P. L. 1986, CHAPTER 13, approved May 12, 1986

1986 Senate No. 1678 (Second Official Copy Reprint)

AN ACT providing civil immunity from liability to certain volunteer athletic coaches *and officials* and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. a. Notwithstanding any provisions of law to the contrary, no
2 person who provides services or assistance *free of charge, except*
3 *for reimbursement of expenses,* as an athletic coach *[or]* *;*
4 manager, or official for a sports team *[,* free of charge, except
5 for reimbursement of expenses.] *which is organized or perform-*
6 *ing pursuant to a non-profit or similar charter* shall be liable in
6A any civil action for damages *to a player or participant* as a re-
6B sult of his acts of commission or omission arising out of and in the
6C course of his rendering that service or assistance.

7 b. The provisions of subsection a. of this section shall apply not
8 only to organized sports competitions, but shall also apply to prac-
9 tice and instruction in that sport.

10 c. Nothing in this section shall be deemed to grant immunity to
11 any person causing damage by his willful, wanton, or grossly
12 negligent act of commission or omission, nor to any coach, man-
13 ager, or official who has not participated in a safety orientation
14 and training program established by the league or team with
15 which he is affiliated.

16 *d. Nothing in this section shall be deemed to grant immunity*
17 *to any person causing damage as the result of his negligent opera-*
18 *tion of a motor vehicle.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted March 24, 1986.

**—Senate amendment adopted April 7, 1986.

1

19 e. *Nothing in this section shall be deemed to grant immunity*
20 *to any person for any damage caused by that person permitting a*
21 *sport competition or practice to be conducted without supervision.*

22 f. *Nothing in this act shall apply to an athletic coach, manager,*
23 *or official who provides services or assistance as part of a public*
24 *or private educational institution's athletic program.**

1 2. This act shall take effect immediately.

P. L. 1987, CHAPTER 239, *approved August 17, 1987*

1987 Assembly No. 3718 (*Official Copy Reprint*)

AN Act exempting certain sports officials from liability for damages under certain conditions.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Notwithstanding any provisions of law to the contrary, '[no]'
2 *a* person who is accredited as a sport official by a voluntary asso-
3 ciation as provided by P. L. 1979, c. 172 (C. 18A:11-3) and who
4 serves that association, a conference under the jurisdiction of the
5 association, or a public entity as defined in Title 59 of the New
6 Jersey Statutes in the capacity of a sports official, whether or not
7 compensated for his services, shall *not* be liable in any action for
8 damages as a result of his acts of commission or omission arising
9 out of and in the course of his rendering the services. Nothing in
10 this act shall be deemed to grant immunity to any person causing
11 damage by his willful, wanton, or grossly negligent act of commis-
12 sion or omission, nor to any person causing damage as the result of
13 his negligent operation of a motor vehicle.

1 2. This act shall take effect immediately and shall apply to all
2 causes of action arising on or after the effective date.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted March 5, 1987.