

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

555 SSTA HB 59 - HB 85

127

Alternative Sentencing and Pretrial Diversion Programs

The Department of Law Pretrial Diversion Program made an outstanding contribution to litter reduction in 1984. The results of the efforts of this program were well up over 1983 (See Table III).

Table III

The Department of Law Pretrial Diversion Program

	<u>1983</u>	<u>1984</u>
Number of participants	50	220
Number of hours	1,600	2,800
Number of communities	1 - Juneau	4 - Fairbanks, Juneau*, Kenai and Sitka

- * 40 assigned to ALPAR patrols for 700 hours
- 100 assigned to DOT/PF on weekends for 800 hours

In FY 1984, the Municipality of Anchorage's Community Work Services Program assigned 400 sentenced misdemeanants to 8,000 hours of litter pickup. These misdemeanants were referred by the Court to this program, and picked up a total of 250,000 pounds of litter. The program not only reduced litter in Anchorage, but seemed to have a positive impact on the recidivism of the offenders, most of whom had been convicted of DWI. Other offenses included shoplifting, reckless driving, and littering. Virtually all the participants commented they would never litter again, after seeing firsthand what a problem litter is.

Working closely with the District Court, the Fairbanks North Star Borough's Environmental Services Division supervised the community service work required of litter offenders and those who had committed other minor offenses. The 53 individuals assigned to this program performed 1,001 hours of work, for an average of 18.9 hours per person. Juveniles performed 465 hours of work; adults, 536 hours. Thirty-three persons were assigned to community work service who did not perform the work, totalling 1344 hours of work assigned which was not performed.

Volunteer Efforts

DEC spring cleanups mobilize the people in a community and often lead to voluntary efforts to keep their communities clean year round. One spinoff of the DEC spring cleanup in 1984 was the voluntary placement of litter receptacles and antilitter signs in more than a dozen communities. Port Heiden went a step further, installing a large community dumpster and instituting a weekly pickup. In some areas, which did not have formal youth litter patrols, local people started voluntary cleanups. In Takotna such activity led to the demolition of three houses and the graveling over of the resulting vacant lot.

Many communities went beyond picking up litter and beautified areas which had previously been eyesores. They developed gardens and parks, planted trees, and placed flower boxes. In these communities volunteers did the work of creating and maintaining the beautified areas. Juneau and Fairbanks established committees, which included DEC litter program staff, to plan, carry out, and reward beautification activities. In Juneau the Beautification Subcommittee of the Mayor's Hospitality Committee honored individuals, businesses, and government agencies for their significant efforts to beautify Juneau. The Fairbanks Chamber of Commerce Beautification Committee beautified formerly littered areas in response to a perceived need in the community to enhance civic pride and foster ongoing antilittering behavior.

LITTER PREVENTION

Reduction of litter on the ground is necessary and desirable, but prevention of acts of littering is the key to long-term litter reduction in Alaska.

Litter is the result of personal habits and decisions. In order to affect the litter rate in Alaska, individual attitudes towards litter must be changed, and efforts made to influence personal decisions about the act of littering.

Secured Truckloads

The 1981 litter survey showed that deliberate littering comes from pedestrians aged 6 to 25 and occupants of motor vehicles aged 10 to 45. Most accidental littering is from unsecured truckloads and trash escaping from truck beds.

Since 1981 there has been a shift in the composition of litter. Deliberately littered convenience product packaging litter has decreased from 56% of all fresh litter items in 1981 to 49% in 1983. At the same time, the percentage of accidentally littered items from trash can spills, unsecured loads and uncovered truck beds has increased from 38% to 45%.

These figures indicate public attitudes towards deliberate littering is improving; fewer people are unconsciously tossing wrappers on the ground. The figures show, however, that more work needs to be done to motivate truck owners to cover their loads.

In 1984 the Municipality of Anchorage passed an ordinance requiring that trucks bringing loads to the municipal landfill be covered or pay an "uncovered load" fee of \$10.00 for small trucks and \$10.00 a ton plus a \$30.00 fee for large trucks. By July 1984, 98.8% of the trucks coming to the landfill were covered.

DEC will encourage other municipalities to follow the lead of this highly successful program and conduct their own covered load campaigns in FY 85.

Community Outreach

Using information provided by litter surveys, DEC gears educational efforts to those groups primarily responsible for litter in Alaska. Attitudes and decisions are substantially shaped by both the mass media and personal contact.

1984 DEC media efforts included press releases, production and distribution of public service announcements, and arrangement of media coverage of local cleanup and recycling efforts. Litter caused by travelers was addressed by a full page ad in the 1984 Milepost. A full page "ad" on uncovered loads was published in the April 1984 edition of the State of Alaska's Driver's Manual.

Public information and public education services are an important means of encouraging litter reduction and resource recovery activities throughout Alaska. Table IV shows public awareness services provided by litter program staff in FY 1984.

Table IV

Community Outreach Services

School Presentations	12
Community Presentations	44
Hotline Calls	1591
Newspaper Interviews	161
TV Interviews	18
Radio Interviews	3
Other	12

Commodities Distributed

Another way DEC encourages communities and citizens to become involved in litter control is by distributing free commodities. These range from car litter bags to cleanup incentives for children, including patches and "sort-n-save" magnets. Table V shows the items distributed during FY 1984.

Table V

Commodities Distributed

DEC car litter bags	27,550
SOHIO car litter bags	90,800
Cleanup bags	166,100
Milepost posters	123
Fish & Game posters	30
Pins	12,995
Patches	8,981
Receptacle decals	6,668
"Aluminum only" decals	928
Miscellaneous brochures	4,002

At the beginning of the 1984 tourist season, DEC sent 2,000 DOT/PF car litter bags to U.S. border stations at ALCAN/TOK and Skagway.

Education

Since young people comprise a large number of those groups identified as deliberate litterers, DEC has attempted to reach them through an elementary school curriculum.

The Legislature appropriated \$150,000 for litter reduction programs in schools. With the approval of the Litter Reduction and Resource Recovery Advisory Council, DEC contracted with the Department of Education to produce a series of three 15-minute lessons on videotape for the Learn/Alaska instructional television network. The series will be designed for grades 4- and aired on Learn/Alaska. Printed teacher's guides will be developed and used in conjunction with the video program.

The educational objectives of this series of video lessons are to increase the students' knowledge of their environment, affect their attitude toward conservation of natural resources, and encourage their personal commitment to antilitter, antiwaste behavior. By airing this program on the Learn/Alaska network, we expect to reach the largest possible target audience in the most effective way. The video series is expected to be aired on the Learn/Alaska network beginning in the fall semester 1985.

Litter Receptacles

An important means of preventing litter is to make receptacles available in high use areas. Litter receptacle regulations became effective in October, 1983. Those regulations require receptacles marked with the State's anti-litter logo to be installed, routinely serviced and maintained at commercial, recreation and civic areas. The 1983 litter survey showed a significant increase in receptacles at 10 commercial sampling sites (Syrek, 1983). Table VI shows the additions by site.

BILL SHEFFIELD, GOVERNOR

REPLY TO

DEPARTMENT OF LAW

CRIMINAL DIVISION

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 319
ANCHORAGE, ALASKA 99501-5903
PHONE: 907 273-7434

October 29, 1986

The Honorable Pat Pourchot
House Representative
P.O. Box 104836
Anchorage, Alaska 99504

Re: Littering - AS 46.06.080

Dear Representative Pourchot:

Recently, a request was made by a member of your staff for the number of littering cases prosecuted under AS 46.06.080 and the sentences received. Since January 1, 1983, a total of 142 littering cases have been referred to the district attorney offices for prosecution statewide. Of the 142 cases referred, 41 individuals have been convicted and sentenced. Of these 41 cases only one person went to jail and that was for one day. More likely than not, this individual was arrested and received credit for time already served when he was sentenced by the court. Two other people received fines and suspended jail sentences with the remainder not receiving any jail sentence but being required to pay fines ranging from \$25 to \$250. About one-quarter of the people were also required to perform community work service, including picking up litter from 2 hours to 50 hours. About half of the defendants were placed on probation anywhere from 11 days to one year.

The person on your staff with whom I spoke had expressed the opinion that the heavy maximum sentence for littering (90 days in jail and/or \$1000 fine) was a disincentive to enforcement, but our records show that this is unlikely. The average fine among these cases was \$60; the average community work service was about 10 hours. If the littering laws are not being enforced it seems much more likely that in this era of declining revenues there are other areas of law enforcement that take a higher priority.

Representative Pourchot

October 29, 1986
Page -2-

If I may be of further assistance, do not hesitate to
contact me.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: *Genelle Massey*
Genelle Massey
Special Assistant

GM:ab-29

STEVE COWPER, GOVERNOR

HB 31
DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

January 8, 1987

The Honorable Pat Pourchot
Alaska State Legislature
P.O. Box 104836
Anchorage, AK 99510

Dear Representative Pourchot:

Thank you for your letter of December 9, 1986.

Littering the highways is covered by 13 AAC 02.530(a) through (d), and 17 AAC 25.050, unsecured loads. At present, I believe both are mandatory court appearances, due to the fine the court often imposes.

Obviously, these sections do not address the littering of public and private property, or waters in the state.

I do not believe the mail-in citation would make a great deal of difference in enforcement, but it could reduce court time for judges and police. The fine is low and should, at least, be doubled, considering the expense involved in cleaning up these people's litter.

I personally believe your approach is correct. Perhaps there could be a second section with a mandatory court appearance to be used in aggravated circumstances. In any event, we need one comprehensive law, rather than multiple regulations.

The level of enforcement is a difficult question. The police seldom observe people littering because people watch for police. The Troopers have such limited patrol outside major municipalities that the perception of risk of being apprehended is small. Most law enforcement officers claim they cannot respond to all the calls for assistance they receive now. Littering complaints, including garbage on the right of way, have a low priority.

The Honorable Pat Pourchot

-2-

January 8, 1987

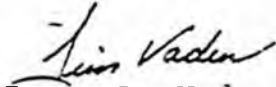
In truth, I believe most, if not all, officers would cite for littering under the aforementioned regulations. However, they do not like to sort through garbage alongside the road in an attempt to identify the depositor. It is also questionable if the district attorneys would prosecute these circumstantial cases, due to the difficulty in obtaining a guilty verdict.

In reference to out-of-state registered vehicles, perhaps we should keep the mail-in system, but make it a mandatory court appearance if the bail and a copy of the registration is not received by the court within a ten-day period. Other sanctions could be applied, i.e., increased penalties for every day after the tenth day.

I believe the residents want the initial enforcement, and the vehicle registered as expeditiously as possible.

If we can be of any further assistance, please let me know.

Sincerely,


James D. Vaden
Deputy Commissioner

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POURCHOT, PAT POURCHOT
LEGISLATIVE AFFAIRS AGENCY
11/25/86

M E M O R A N D U M

November 25, 1986

SUBJECT: Litter laws
(Work Order No. 15-0182)

TO: Representative Pat Pourchot

FROM: Edward H. Hein *EH*
Legislative Counsel

You are correct that littering is prohibited under AS 46.06.080, and that AS 46.06 is repealed, effective July 1, 1987. In the event that AS 46.06 is allowed to terminate, there are other statutes under which littering might be prosecuted, but that depends on how we define "litter."

Under AS 46.06.150(4), "litter" means all waste material except "the wastes of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing." But under AS 46.03.710, pollution of the air, land, subsurface land or water of the state is prohibited. For purposes of that section, "pollution" is defined as "the contamination or altering of waters, land or subsurface land of the state in a manner which creates a nuisance or makes waters, land or subsurface land unclean, or noxious, or impure, or unfit so that they are actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life." Under AS 46.03.760, a polluter is liable to the state for civil damages; AS 46.03.790 provides for criminal penalties.

With regard to your idea of establishing a "two-tier" system for littering offenses, that seems like a practical approach. As you know, a bail forfeiture schedule is in effect for minor traffic offenses, and this works well. A similar schedule was required to be established for violations of the smoking-in-public-places law. AS 18.35.341(d). Serious litter offenses could be distinguished from minor litter

Representative Pourchot

Page 2

November 25, 1986

offenses on the basis of the amount of damage done, i.e. the cost of cleaning up and restoring the site to its pre-littered condition. As an alternative, you might want to distinguish on the basis of the weight, amount, or contents of the litter.

I have not discussed this matter with anyone else. I would be happy to work with you or any of your staff members, or to research the matter further on my own, if you wish. If you want me to draft some legislation, let's talk about it so I will have a better picture of what you have in mind.

EHH:mkr

m7/033



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

December 2, 1986

Jeannie Larson
c/o Representative Pat Pourchot
Box 104836
Anchorage, Alaska 99510

Dear Jeannie:

As we discussed, you asked if I could provide a rough draft of a statute which would permit enforcement of anti-littering laws by a mail-in payment rather than a mandatory court appearance.

A copy of a draft is enclosed. Although my primary interest is in the section dealing with the mail-in fine payment, I have included substantive language so that you can see how such a statute might be laid out. The draft is written in legislative style, with new language underlined and deleted language in brackets.

I assumed the framework of the existing littering statutes, and that the existing anti-littering law would not be repealed. In other words, adoption of this draft would override the repealer clause in the existing legislation. However, AS 46.06.080(b), which deals with uncovered loads would be repealed, and replaced by AS 28.35.251, which the legislature enacted last year.

Using AS 16.05.160 as a model, I then drafted new language which would establish a fine rather than a bail schedule method of processing these payments. This process would apply to AS 46.06.080 only; other violations would require a court appearance.

Some of the questions I am sure you will want to address include whether you want to retain the existing anti-littering language or draft new language, whether the \$25.00 fine is appropriate, and whether all violations of the chapter should be processed this way. You may want to solicit the views of enforcement officers regarding these provisions.

Jeannie Larson
December 2, 1986
Page Two

I hope this draft is helpful to you . Again, please be advised that it is merely a concept and that the administrative office does not take a position about the desirability of anti-litter legislation or the proper fine amount. The only concern of this office is that a procedure be adopted which will require the least expenditure of fiscal resources by the court system. If enforcement officers project a substantial level of enforcement, the court system would have to consider the need for additional clerical staff to process these citations and the payments. It is very important to have adequate staff to process these payments, because inaccurate records can lead to improper issuance of bench warrants and subsequent lawsuits for false arrest.

Please let me know if you have any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II, Administrative Director
Susan Miller, Manager of Special Projects

11/25/86-7

HB

68

SENATE COMMITTEE REPORT

FURTHER:

DATE TURNED INTO OFFICE 3-19-87

Mr. President:

STATE AFFAIRS Committee considered CSHB 68(SA)

authority of fire department officers

and recommended:

replace with _____ CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

Jack Kelly (Do Pass)
Don Filler
Don Josephson

OTHER RECOMMENDATIONS

Don Filler
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature

REPRESENTATIVE
MIKE W. MILLER
P.O. Box 55094
North Pole, Alaska 99705
(907) 488-2687

District 18
North Pole
Badger Road
Eielson
Moose Creek
Salcha



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-4976

House of Representatives

TO: Senator Mitch Abood

FROM: Representative Mike Miller

A handwritten signature in black ink, appearing to read "Mike Miller", written over a horizontal line.

RE: Analysis CS for House Bill 68 (State Affairs)

DATE: 3/13/87

Page 1, Lines 10-23

Amends current statutory language which allows officers of a municipal fire department to control activities at a fire. Broadens the language to include emergency situations other than fire suppression and extends the authority to fire officers of any fire department registered with the state fire marshal's office under AS 29.60.130.

Page 1, Lines 24-29

Page 2, Lines 1-2

Minor technical changes to the current statute as recommended by the Revisor of Statutes.

Page 2, Lines 3-8

Replaces the phrase "inspect for preplanning" with "conduct a prefire planning survey" to clarify that this subsection allows fire departments to conduct planning surveys in the event they should have to fight a fire at a particular location where combustible materials are or may be stored. Also expands language to include all registered fire departments.

Page 2, Lines 9-12

Minor technical changes to the current statute as recommended by the Revisor of Statutes.

Page 2, Lines 13-19

Amends the current statutory language dealing with persons who interfere with the operation of fire department personnel in the performance of their duties. Broadens the scope of duties covered and extends the authority to all fire departments registered with the state fire marshal's office.

Page 2, Lines 20-29

Amends the current statutory language by adding a definition for "emergency" and amends the old definition of "inspection for preplanning" to cover "prefire planning survey".

Offered: 2/9/87
Referred: Community &
Regional Affairs

EXISTING LANGUAGE

PROPOSED NEW LANGUAGE 5-0338B

MINOR TECHNICAL CHANGE

Original sponsors: Miller, Cato,
Frank and Koponen

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 68 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the authority of fire department
7 officers."

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

9 * Section 1. AS 18.70.075 is amended to read:

10 Sec. 18.70.075. AUTHORITY OF [MUNICIPAL] FIRE DEPARTMENT OFFI-
11 CERS [AND THEIR PERSONNEL]. (a) ~~A fire~~ [AN] officer of a municipal
12 fire department or ~~a fire department registered under AS 18.70.130~~ [AN
13 AUTHORIZED REPRESENTATIVE], while providing fire protection ~~for other~~
14 ~~emergency~~ services, has the authority to

15 (1) control and direct activities at the ~~scene of a fire or~~
16 ~~emergency~~;

17 (2) order a person to leave a building or place in the
18 vicinity of a [THE] fire ~~or emergency~~, for the purpose of protecting
19 the person from injury;

20 (3) blockade a public highway, street, or private right-of-
21 way temporarily while at ~~the scene of a fire or emergency~~;

22 (4) trespass upon property at or near the scene of a fire
23 ~~or emergency~~ at any time of the day or night;

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

28 (6) enter a building, including a private dwelling, or
29 premises near the scene of a [THE] fire for the purpose of protecting

1 the building or premises or for the purpose of extinguishing the fire
2 that is in progress in another building or premises;

3 (7) upon 24-hour notice to the owner or occupant, ~~conduct a~~
4 ~~pre-fire planning survey in~~ [INSPECT FOR PREPLANNING] all buildings,
5 structures, or other places within the municipality ~~of the registered~~
6 ~~fire department's district~~, except the interior of a private dwelling,
7 where combustible material is or may become dangerous as a fire menace
8 to the building;

9 (8) direct the removal or destruction of a fence, house,
10 motor vehicle, or other thing ~~judged~~ [THAT THE OFFICER OR AUTHORIZED
11 REPRESENTATIVE MAY JUDGE] necessary [TO REMOVE OR DESTROY] to prevent
12 the further spread of ~~a~~ [THE] fire.

13 (b) An owner or occupant of a building or place specified in
14 this section or any other person on the site of a fire or other ~~fire~~
15 ~~department~~ emergency who refuses to obey the order of ~~a fire~~ [AN]
16 officer of a municipal ~~or registered~~ fire department [OR AN AUTHORIZED
17 REPRESENTATIVE] in the exercise of official duties is guilty of a
18 misdemeanor, and upon conviction, is punishable by imprisonment for
19 one year, or by a fine of not more than \$1,000, or by both.

20 (c) In this section [,]

21 (1) "emergency" means a situation in which the services of
22 fire department personnel are necessary or appropriate to protect
23 life, property, or public health;

24 (2) ~~"pre-fire planning survey"~~ ["INSPECT FOR PREPLANNING"]
25 ~~means a limited inspection for the purpose~~ [TO CONDUCT LIMITED INSPEC-
26 TIONS FOR PURPOSES] of preparing a fire attack plan in the event of a
27 future emergency [, BUT DOES NOT INCLUDE INSPECTIONS FOR PURPOSES OF
28 DETERMINING COMPLIANCE WITH STATUTORY OR MUNICIPAL FIRE CODE REQUIRE-
29 MENTS].

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

ce

REQUEST: _____
Revision Date: _____
Title: An Act relating to the authority of fire department officers.
Sponsor: Miller, Cato, Frank & Koponen
Requestor: House C & RA

Bill Version: CSHB 03 (SA)
Publish Date: HOUSE 2/13/87
Agency Affected: Public Safety
BRU: Fire Prevention
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Gordon Brunton *GB* Phone: 465-4331
Division: Fire Prevention Date: 2-09-87
Approved by Commissioner: [Signature] Date: 2-9-87
Agency: Public Safety

*JNR
2/14/87*

Distribution (by preparer):

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

JAN 23 1987



ALASKA FIRE CHIEF'S ASSOCIATION

PCST OFFICE BOX 304 • CORDOVA, ALASKA 99574 • TEL. (907) 424-7475

RESOLUTION 86 - 11

TITLE: Alaska Statute 18.70.075

Whereas AS 18.70.075 identifies officers only from "municipal fire department" in addressing the authority of these individuals at fire scenes; and

Whereas most local fire chiefs are not part of organized municipalities in Alaska; and

Whereas AS 18.70.075 also makes reference to only "fire protection services" in identifying the duties of these 'municipal fire departments'; and

Whereas it is a well known fact that fire departments respond to and are called upon to handle a wide variety of emergencies that are not fire related or involve burning structures, vehicles, etc;

Therefore, be it resolved that

The Alaska Fire Chiefs Association and the Alaska State Firefighters Association strongly urge the State of Alaska to change the wording in AS 18.70.075 to reflect the following:

- 1) change "municipal fire department" to "registered fire department"
- 2) change "fire protection services" to "fire department related emergencies which may include, but are not limited to, fire suppression, rescue services, and hazardous materials incidents...."

Recommendation: PASS

Adoption: PASS NO PASS

Distribution: Legislative Distribution
Governor


Dewey Wretsell, Pres., A.F.C.A.


Jason Elson, Pres., A.S.F.A.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FIRE PREVENTION

REPLY TO:

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4331

5700 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507-1225
PHONE: (907) 269-5604

1979 PEGER ROAD
FAIRBANKS, ALASKA 99709
PHONE: (907) 456-4002

March 9, 1987

The Honorable Mitch Abood
Chairman, Senate Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

C
cmte
?

RE: HB 68 Hearings

Dear Senator Abood:

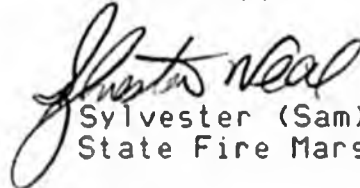
The fireground authority of a fire chief in the State of Alaska has been unclear for many years. Borough and City attorneys are reluctant for their fire departments to perform their customary role without more clarity in the State statutes.

The Division of Fire Prevention has received repeated requests to adopt emergency regulations to address the issue. House Bill 68 would provide the solution to the problem and is the preferred method.

I would urge that your committee set early hearings and urge passage by the Senate body.

The Fire Chiefs and Firefighters Associations both support this legislation and little or no opposition is expected.

Sincerely,


Sylvester (Sam) Neal
State Fire Marshal

SN:BJN

Attachments

L87-118

RECEIVED
MAR 12 1987

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FIRE PREVENTION

REPLY TO:

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4331

5700 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507-1225
PHONE: (907) 269-5604

1979 PEGER ROAD
FAIRBANKS, ALASKA 99709
PHONE: (907) 456-4002

March 9, 1987

The Honorable Mitch Abood
Chairman, Senate Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

C
cmille
7

RE: HB 68 Hearings

Dear Senator Abood:

The fireground authority of a fire chief in the State of Alaska has been unclear for many years. Borough and City attorneys are reluctant for their fire departments to perform their customary role without more clarity in the State statutes.

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Sincerely,

Sylvester Neal
Sylvester (Sam) Neal
State Fire Marshal

SN:BJN

Attachments

L87-118

RECEIVED
MAR 12 1987

X

February 17, 1987

The Honorable Juanita Helms
Mayor, Fairbanks North Star Borough
P.O. Box 1267
Fairbanks, Alaska 99707

Dear Mayor Helms:

Thanks for your letter and your support of our attempts to clarify the traditional services our fire departments perform throughout the state. As you may be aware, our attempts to pass HB 514 last session failed. Based on direction from the Fire Chiefs at our annual conference in Kodiak, we found a sponsor for what is now HB 68.

I feel HB 68 substantially addresses the issues of any fire chief's authority to handle local emergencies. Had HB 68 not been introduced this session, I would not have hesitated to address the issue through the emergency regulatory process.

Our administrative regulations cannot repeat or conflict with a statutory provision. Input from the fire chiefs and local governments during public hearings is the best avenue to address any concerns lacking in the legislation.

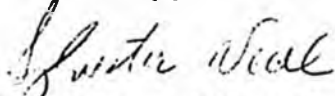
The legislation is subject to further amendments when it reaches the Senate. Should it fail to pass or meet the basic needs of the fire service, we will seriously evaluate all options, including the adoption of emergency regulations, to properly address the issue.

In summary, I believe it would be counter-productive to address the issue while it is being reviewed by the legislature. Your concept is a viable alternative. I commend the entire Interior Chiefs Organization for their input and concerns.

Mayor Helms
Page two
February 17, 1987

Thank you for your strong support to resolve this issue.

Sincerely,



Sylvester (Sam) Neal
State Fire Marshal

cc: Barry Jennings, President, Interior Fire Chiefs Assn.
Dewey Whetsell, President, Alaska Fire Chiefs Assn.
Gordon Brunton, Deputy Fire Marshal II
Vern Long, Deputy Fire Marshal II
James Vaden, Deputy Commissioner, Public Safety

Enclosure

L87-104



**Fairbanks
North
Star
Borough**

Mayor: Juanita Helms

January 28, 1987

RECEIVED

FEB 02 1987

DIRECTOR'S OFFICE
DIVISION OF FIRE PREVENTION
ANCHORAGE, ALASKA

M
Sylvester Neal, State Fire Marshal
Department of Public Safety
Division of Fire Prevention
5700 E. Tudor Road
Anchorage AK 99507

RE: Emergency Regulations Requested for 13 AAC 52.030

Dear Mr. Neal:

The fire service in Alaska is being placed in an extremely dangerous position of being expected to respond to a wide variety of emergency situations without having statutory authority for such life and property saving actions.

Therefore, I am requesting your support in issuing Emergency Regulations to 13 AAC 52.030 (Title: Standards of Organization and Services of a Fire Department) that will provide this critical support to the fire service throughout our state.

It is through the issuance of such Emergency Regulations that this administrative code as well as AS 18.70.075 will become more meaningful and practical for emergency responding agencies.

The enclosed proposal for Emergency Regulations is a copy of that recently submitted by the Interior Fire Chiefs Association.

I would appreciate hearing from you on the anticipated time period and administrative procedures necessary to accomplish this issuance.

Sincerely,

Juanita Helms

JUANITA HELMS
Borough mayor

enclosure

cc: Barry Jennings, Fire Chief & President,
Interior Fire Chiefs Association

*cc Borden
Vandy
2/2*



FIRE DEPARTMENT CITY OF FAIRBANKS

656 7th AVENUE
FAIRBANKS, ALASKA 99701
907-452-1527



WILLIAM T. SHECHTER
FIRE CHIEF

January 29, 1997



Alaska Fire Chiefs Association
c/o Cordova Fire Department
P.O. Box 304
Cordova, AK 99754



Attn: Chief Whetsell

Ref: Emergency Regulation for 13 AAC 52.030



Enclosed is a copy of the letter signed by Mayor Helms supporting the proposal for emergency regulations of this administrative code.



I have also enclosed a draft copy of the letter to be signed by Barry Jennings, President, Interior Fire Chiefs Association.



Since this approach is consistent with the wishes of the Alaska Fire Chiefs Association as identified in previous resolutions, I am requesting a similar letter be prepared on A.F.C.A stationary under your signature to be sent to Sam Neal.



Please give this your attention as soon as possible.

Sincerely,

William Shechter, Fire Chief

WTS:nba



INTERIOR FIRE CHIEFS ASSOCIATION

PROPOSAL

13 AAC 52.030

TITLE: STANDARDS OF ORGANIZATION AND SERVICES OF A FIRE DEPARTMENT

ADD NEW SUBSECTION (c): "Definitions"

(c) Definitions

(1) "Municipal Fire Department" (ref: AS 18.70.075)

Defined to mean any fire department located in the State of Alaska and registered with the Office of the State Fire Marshal, Department of Public Safety.

(2) "fire protection services" (ref: AS 18.70.075)

Defined as follows: (ref: 1985 UFC-Article 10, Div. 1, Section 10.101)

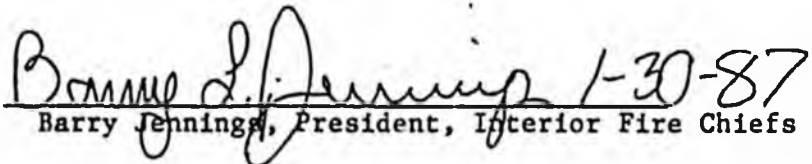
The chief and his authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property and any part thereof, shall have the power and authority to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty.

SUBMITTED BY: INTERIOR FIRE CHIEFS ASSOCIATION

SUBMITTED TO: SYLVESTER NEAL, STATE FIRE MARSHAL

SUBMITTED FOR: ADOPTION AS AN EMERGENCY CHANGE TO THE APPROPRIATE ADMINISTRATIVE CODE

SIGNED:

 1-30-87
Barry Jennings, President, Interior Fire Chiefs Assoc.

TESTIMONY IN SUPPORT OF CSHB 68

My name is Bill Hagevig. I am presently serving as legislative liaison for the Gastineau Chapter of the Alaska State Firefighters Association. It is in that capacity that I am here today. I am a former fire officer, and am retired from state service wherein I served 15 years as Supervisor of Fire Service Training.

CSHB 68 was requested by the Alaska Fire Service to update the existing statute, AS 18.70.075 which was enacted in the early seventies. At that time, it was becoming apparent in many states that much of the authority exercised by fire officers was assumed, and not substantiated in law. In Alaska, most cities with long established fire departments had appropriate enabling ordinances which established the fire department and outlined the responsibilities and authority of its officers. In most small communities and rural villages, this was not the case. This, of course, left fire officers without protection from potential liabilities which could arise out of the performance of their duties. Officers of volunteer and part-paid fire departments were especially vulnerable.

To resolve the problem, the Fire Service, through its fraternal organizations, asked the State Legislature to assist with an appropriate statute to validate the specific kinds of decisions exercised in the course of fireground operations. The result was AS 18.70.075.

CSHB 68 was requested to update the existing statute. AS 18.70.075 applies only to fire scene situations. For that period the provisions of

the law were adequate. This is no longer the case. Fire department personnel are now called upon to respond to a wide range of emergency medical situations, as well as rescue operations involving air crash and marine incidents. Most recently, fire personnel have become concerned with incidents involving a wide variety of hazardous materials in their local communities.

When these incidents occur, and fire department personnel and equipment are committed, it should be under the command of legally authorized fire officers. This is not regarded as an incursion into the duties and responsibilities of other public safety disciplines such as local police or state troopers. Nor does it conflict with statutory authority of agencies such as the Department of Environmental Conservation or the Office of the State Forester. Each of the above agencies has their own statutory authority, and have a long record of working closely with the fire service when the need arises.

Finally, Section(a)(7) of the statute being considered in amendment provides for pre-fire planning surveys by fire service personnel on buildings or other structures with significant potential for life loss, explosion, toxic gas emission, or any other characteristics which may make fire suppression or rescue operations more difficult or dangerous without a preconceived plan. Emphasis was placed on changing the original text from inspection to survey, so that the public understands that this is not an enforcement activity. Nor would a pre-fire planning survey be conducted without permission of the owner or occupant.

Thank you for considering these comments. If there are any questions, I will do my best to respond to them.



ALASKA FIRE CHIEF'S ASSOCIATION

POST OFFICE BOX 304 • CORDOVA, ALASKA 99574 • TEL. (907) 424-7475

RESOLUTION 86 - 11

TITLE: Alaska Statute 18.70.075

Whereas AS 18.70.075 identifies officers only from "municipal fire department" in addressing the authority of these individuals at fire scenes; and

Whereas most local fire chiefs are not part of organized municipalities in Alaska; and

Whereas AS 18.70.075 also makes reference to only "fire protection services" in identifying the duties of these 'municipal fire departments'; and

Whereas it is a well known fact that fire departments respond to and are called upon to handle a wide variety of emergencies that are not fire related or involve burning structures, vehicles, etc;

Therefore, be it resolved that

The Alaska Fire Chiefs Association and the Alaska State Firefighters Association strongly urge the State of Alaska to change the wording in AS 18.70.075 to reflect the following:


- 1) change "municipal fire department" to "registered fire department"
- 2) change "fire protection services" to "fire department related emergencies which may include, but are not limited to, fire suppression, rescue services, and hazardous materials incidents...."

Recommendation: PASS

Adoption: PASS NO PASS

Distribution: Legislative Distribution
Governor


Dewey Whetsell, Pres., A.F.C.A.


Jason Elson, Pres., A.S.F.A.

HB

74

SENATE COMMITTEE REPORT

FURTHER:

TRANSPORTATION
Finance

3/26/87

DATE TURNED INTO OFFICE 3/15/88

Mr. President:

STATE AFFAIRS

Committee considered CSHB 74(Trsp)am

motor vehicle registration and license plates.

and recommended:

replace with SCS FOR CSHB 74(SA)) same title
 or adopt _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

Riddle (DO PASS)

OTHER RECOMMENDATIONS

Lawrence (Ab/Re)

Donna Wood DeFoss
Chairman signature and recommendation

Committee Backup Attached

A M E N D M E N T

Offered in the SENATE

By Kelly

TO: CSHB 74 (Transportation) am

Page 2, after line 2:

Insert new bill sections to read:

"* Sec. 3. AS 28.10.181 is amended by adding a new subsection to read:

(n) Special request Winter Olympics commemorative plates. The department shall issue registration plates commemorating the Winter Olympics upon application by the owner of a passenger vehicle, noncommercial van or pick-up truck, or motor home.

* Sec. 4. AS 28.10.421(d) is amended by adding a new paragraph to read:

(14) special request Winter Olympics commemorative plates
.....\$70
plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates; the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska Winter Olympics account under AS 05.35.100.

* Sec. 5. AS 28.10.421 is amended by adding a new subsection to read:

(f) In addition to the fees imposed under (b) and (d) of this section, the following special annual registration fee is imposed upon

renewal of registration for a passenger vehicle, motor home, pick-up truck, or a van with special request Winter Olympics commemorative plates.....\$30;
the commissioner of administration shall separately account for the fees received under this subsection and the legislature may appropriate money in the account as provided in (d)(14) of this section.

* Sec. 6. The Department of Public Safety shall issue the special request Winter Olympics commemorative license plates described in AS 28.10.181(n), enacted in sec. 3 of this Act, based on a design received from the Anchorage organizing committee that is approved by the department."

A M E N D M E N T

Offered in the SENATE

By Kelly

TO: CSHB 74 (Transportation) am

Page 1, line 7, after "plates":

Insert "; and providing for an effective date"

Page 1, after line 8:

Insert new bill sections to read:

"* Section 1. AS 28.10 is amended by adding a new section to read:

Sec. 28.10.165. SOUVENIR WINTER OLYMPICS PLATE. The department may issue a souvenir Winter Olympics commemorative license plate. A person may not attach a souvenir plate to a motor vehicle in the manner described in AS 28.10.171 for attachment of registration plates. The department shall charge a fee of \$30 for each plate issued under this section. The commissioner of administration shall separately account for fees received under this section that the department deposits in the general fund. The legislature may appropriate the annual estimated balance in the account to the Alaska Winter Olympics account established under AS 05.35.100.

* Sec. 2. AS 28.10.165 is repealed and reenacted to read:

Sec. 28.10.165. SOUVENIR WINTER OLYMPICS PLATE. The department may issue a souvenir Winter Olympics commemorative license plate. A person may not attach a souvenir plate to a motor vehicle in the manner described in AS 28.10.171 for attachment of registration

plates. The department shall charge a fee of \$30 for each plate issued under this section. The commissioner of administration shall separately account for fees received under this section that the department deposits in the general fund. The legislature may appropriate the annual estimated balance in the account to the Alaska sports fund established under AS 05.35.150."

Page 1, line 9:

Delete "* Section 1."

Insert "* Sec. 3."

Renumber the following bill section accordingly.

Page 2, after line 2:

Insert new bill sections to read:

"* Sec. 5. AS 28.10.181 is amended by adding a new subsection to read:

(n) Special request Winter Olympics commemorative plates. The department shall issue registration plates commemorating the Winter Olympics upon application by the owner of a passenger vehicle, noncommercial van or pick-up truck, or motor home.

* Sec. 6. AS 28.10.421(d) is amended by adding a new paragraph to read:

(14) special request Winter Olympics commemorative plates
.....\$70
plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;

the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska Winter Olympics account established under AS 05.35.100.

* Sec. 7. AS 28.10.421(d)(14) is repealed and reenacted to read:

(14) special request Winter Olympics commemorative plates\$70 plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates; the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska sports fund established under AS 05.35.150.

* Sec. 8. AS 28.10.421 is amended by adding a new subsection to read:

(f) In addition to the fees imposed under (b) and (d) of this section, the following special annual registration fee is imposed upon renewal of registration for a passenger vehicle, motor home, pick-up truck, or a van with special request Winter Olympics commemorative plates.....\$30; the commissioner of administration shall separately account for the fees received under this subsection that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska Winter Olympics account

established under AS 05.35.100.

* Sec. 9. AS 28.10.421(f) is repealed and reenacted to read:

(f) In addition to the fees imposed under (b) and (d) of this section, the following special annual registration fee is imposed upon renewal of registration for a passenger vehicle, motor home, pick-up truck, or a van with special request Winter Olympics commemorative plates.....\$30; the commissioner of administration shall separately account for the fees received under this subsection that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska sports fund established under AS 05.35.150.

* Sec. 10. The Department of Public Safety shall issue the Winter Olympics souvenir license plate described in AS 28.10.165, enacted in sec. 1 of this Act, and the special request Winter Olympics commemorative license plates described in AS 28.10.181(n), enacted in sec. 5 of this Act, based on a design received from the Anchorage organizing committee that is approved by the department.

* Sec. 11. Sections 2, 7, and 9 of this Act take effect on the effective date of an Act enacted by the Fifteenth Alaska State Legislature that establishes the Alaska sports fund."

Analysis of proposed amendment to CSHB 74.

Purpose of the amendment: to allow for the development and sale of winter Olympic commemorative license plates and souvenir plates, from which the sales proceeds will go to the promotion and development of Alaskan athletes and winter sports in Alaska.

Sections 1 and 2 allows for the development and sale of a souvenir winter Olympic commemorative license plate which may not be affixed to a vehicle. The cost of the plate will be \$30.00 and will be separately accounted for by the commissioner of administration.

Section 5 allows for the issuance of winter Olympics commemorative plates by the Department of Motor Vehicles.

Sections 6 and 7 provides that the winter Olympics commemorative plate will be \$70.00 plus the regular registration fee for the motor vehicle to which it will be affixed (\$35 for a car and \$40 for a truck). It also states that the receipts from the sales of these plates will be separately accounted for by the commissioner of administration.

Sections 8 and 9 provides that renewal of the special commemorative plates will be \$30.00 plus regular registration costs. Again the receipts will be separately accounted for in the general fund.

Section 10 provides that the costs associated with designing the special commemorative plates will be paid for by the Anchorage Organizing Committee and that the Director of Motor Vehicles will have final authority in the design and issuance of the plates.

Sections 1, 5 and 6 all provide that the legislature may appropriate the receipts from the sales of the special commemorative plates to the Alaska Sports Fund, which is designed to promote and develop Alaskan athletes and sports in Alaska.

LETTER OF INTENT

It is the intent of the legislature that the costs associated with the production and shipping of the special request Winter Olympic commemorative license plates and special request Winter Olympic commemorative souvenir license plates be established and subtracted from the proceeds of the sales of those plates before the legislature appropriates the surplus revenues to the Alaska Sports Fund.

JOHN SUND, REPRESENTATIVE
2504 2nd Avenue
Ketchikan, Alaska 99901
(907) 225-5552

*While in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-4919*

M E M O R A N D U M

To: Senator Abood
Chairman, Senate State Affairs Committee

From: Representative John Sund

Date: March 12, 1988

Subj: HB 74
"An Act relating to motor vehicle registration and
license plates."

The personalized license plate program generates some \$45,000 into the state's general fund. Extending the program to include motorcycle plates would generate an additional \$7,000.

As originally drafted, House Bill 74 simply added motorcycles to the list of vehicles eligible for vanity license plates.

In response to the Department of Public Safety's decision to discontinue the entire program last year, the House passed an amendment by Representative Mike Miller to make the program mandatory rather than discretionary. Floor discussion focused on the issue that agencies should not discontinue revenue generating programs simply because the funds from those programs are sent to the general fund and not directly to the agency.

Currently, the state charges an additional \$30 license fee for personalized plates above the standard license plate fee.

FISCAL NOTE

REQUEST:

Revision Date: 1-20-88
Title: An Act relating to motor vehicle registration and license plates.
Sponsor: Sund
Requestor: Senate State Affairs

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		32.6	33.6	34.6	35.6	36.7
TRAVEL						
CONTRACTUAL		1.2	.2	.2	.2	.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	33.8	33.8	34.8	35.8	36.9

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

REVENUE	-0-	7.1	1.1	1.1	1.1	1.1
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND		33.8	33.8	34.8	35.8	36.9
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	33.8	33.8	34.8	35.8	36.9

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The current DMV Special Program Unit, which issues personalized plates, is not funded in the FY88 or FY89 operating budget. Since the House amendment changed "may" to "shall", DMV will be required to continue to issue these plates, and funding for the position is included in this fiscal note.

Prepared by: Jay N. Dulany Phone: 269-5551
Division: Motor Vehicles Date: 1-20-88

Approved by Commissioner: Wayne A. Hertel Date: 1-22-88
Agency: Public Safety

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB74(Trans)am

EXPENDITURES:

Personal Services	
MVR III, Anchorage, Range 10B	32.6
Contractual	
Motorcycle Plates @ \$2.50 x 250	.6
Postage @ \$.76 x 250	.2
Specialized Plates @ \$5.00 x 50*	.3
Postage @ \$1.76 x 23	.1
	<u>33.8</u>
TOTAL	33.8

After the original impact of 250 personalized motorcycle license plates and 23 specialized plates the first year, it is estimated there will be 50 motorcycle plates and 5 specialized plates issued in FY90 and subsequent years. When the fiscal note was originally prepared we had to estimate the number of Pearl Harbor survivors in the State. We have been informed by the Pearl Harbor Survivors Association there are 23 survivors in Alaska. Thus, this fiscal note has been revised accordingly.

* License plates are obtained in multiples of 50.

REVENUE:

Motorcycle Plates @ \$30 x 250	7.5
Specialized Plates @ (\$30 x 10)	(.4)

FY89 is based on issuance of 250 personalized motorcycle license plates at a cost to the owner of \$30 per plate. The revenue loss is based on registration fees that would not be collected on specialized plates for Pearl Harbor survivors. All Pearl Harbor survivors are over 65 years of age, therefore, currently eligible to register one vehicle without payment of registration fee or municipal registration tax. It is estimated 10 of the survivors have an additional vehicle for which they are currently paying the fee and tax, and for which this bill will exempt them from paying.

FY90 and subsequent years is based on issuance of 50 new motorcycle license plates per year, \$1.5. The revenue loss would remain fairly stable on the specialized plates.

INFORMATION:

As a result of the FY88 budget decrement, the position that processes personalized license plates applications was deleted as of July 1, 1987. The amendment adopted on the House floor changed the word "may" to "shall". Therefore, the Division would be required to continue issuing these plates and funding to restore the position is included in this fiscal note.

06-12-04-04-00 (12-55-7-07-01-04)

STATE OF ALASKA -- COMPONENT BUDGET ANALYSIS

SALSFRMA 16:33 5/27/87
LEG. FIN.

AGENCY: DEPARTMENT OF PUBLIC SAFETY
CATEGORY: PUBLIC PROTECTION

PROGRAM: MOTOR VEHICLES
SUB-PROGRAM: ADMINISTRATION

***** C. C. ANALYSIS *****

LEGISLATIVE INTENT:
IT IS THE INTENT OF THE LEGISLATURE THAT THE PERSONALIZED LICENSE PLATE PROGRAM BE CONTINUED.

***** SEN REV ANALYSIS *****

***** HOUSE ANALYSIS *****

THE HOUSE COLUMN RESTORES PROGRAM RECEIPTS BY \$29.6 AND REDUCES GF BY THE SAME AMOUNT.

LEGISLATIVE INTENT:
IT IS THE INTENT OF THE LEGISLATURE THAT THE PERSONALIZED LICENSE PLATE PROGRAM BE CONTINUED.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 74 (Trans)
Publish Date: _____

Revision Date: _____
Title: An Act relating to motorcycle license plates.
Sponsor: Sund
Requestor: House Finance

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		.8	.2	.2	.2	.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	.8	.2	.2	.2	.2

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

REVENUE		7.5	1.5	1.5	1.5	1.5
---------	--	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND		.8	.2	.2	.2	.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See page 2.

Prepared by: Bill Brown
Division: Motor Vehicles

Phone: 465-4335
Date: 3-5-87

Approved by Commissioner: [Signature]
Agency: Public Safety

Date: 3/5/87

Distribution (by preparer):

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

JWR
3/4/87

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 74 (Trans)

EXPENDITURES:

Contractual	
License Plates @ \$2.50 x 250	.6
Postage @ \$.76 x 250	<u>.2</u>
Total	.8

After the original impact of 250 personalized motorcycle license plates the first year, it is estimated there will be 50 such plates issued in FY89 and subsequent years.

REVENUES:

FY88 is based on issuance of 250 personalized motorcycle license plates at cost to owner of \$30 per plate.

FY89 and subsequent years based on issuance of 50 new personalized motorcycle license plates per year.

INFORMATION:

As a result of the FY88 budget decrement the Division of Motor Vehicles may discontinue issuing personalized license plates as of July 1, 1987.

It is realized there will be few requests for personalized motorcycle plates. However, if the position in the Special Programs Unit of DMV, which now issues personalized plates, is not funded in the operating budget it is the intent of the department to not issue any personalized license plates under AS 28.10.181(c), including motorcycles.

The department feels it would not be appropriate to request funding in this fiscal note for a part-time position so personalized plates could be issued only to motorcycle owners if we discontinue issuing such plates to the other classes of vehicles that are now eligible. It is also felt it would be inappropriate to request funding in this fiscal note to reestablish a position that may be deleted in the operating budget when the majority of the position's duties are not affected by this bill.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 74(Trans)am

EXPENDITURES:

Personal Services	
MVR III, Anc'rage, incumbent, 10D	36.5
Contractual	
Motorcycle Plates @ \$2.50 x 250	.6
Postage @ \$.76 x 250	.2
Specialized Plates @ \$5.00 x 200	1.0
Postage @ \$1.76 x 200	.4
	<hr/>
TOTAL	38.7

After the original impact of 250 personalized motorcycle license plates and 200 specialized plates the first year, it is estimated there will be 50 motorcycle plates and 20 specialized plates issued in FY89 and subsequent years.

REVENUES:

Motorcycle Plates @ \$30 x 250	7.5
Specialized Plates @ (\$35 x 200)	(7.0)

FY88 is based on issuance of 250 personalized motorcycle license plates at the cost to owner of \$30 per plate. Revenue loss is based on registration fees that would not be collected on Specialized plates for 200 vehicles at \$35 per vehicle. An assumption is made the Pearl Harbor survivor plates would be no fee.

FY89 and subsequent years based on issuance of 50 new motorcycle license plates per year, \$1.5. Revenue loss would remain the same on the Specialized plates, (\$7.0), again assuming they will be no fee.

INFORMATION:

As a result of the FY88 budget decrement, the Division of Motor Vehicles plans to discontinue issuing personalized license plates as of July 1, 1987. The amendment adopted on the House floor changed the word "may" to "shall". Therefore, the division would be required to continue issuing these plates, and funding for the current position is included in this fiscal note.

It is realized there will be few requests for personalized motorcycle plates. However, if the position in the Special Programs Unit of DMV which now issues personalized plates is not funded, it was the intent of the department to not issue any personalized license plates under AS 28.10.181(c), including motorcycles. Since the House amendment mandates issuance of the plates, funding is requested to retain the position.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 74 (Trans)am
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: An Act relating to motor vehicle registration and license plates
Sponsor: Sund
Requestor: House Finance

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		36.5	37.6	38.7	39.9	41.1
TRAVEL						
CONTRACTUAL		2.2	.3	.3	.3	.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	38.7	37.9	39.0	40.2	41.4

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

REVENUE		.5	(5.5)	(5.5)	(5.5)	(5.5)
---------	--	----	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	38.7	37.9	39.0	40.2	41.4
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	38.7	37.9	39.0	40.2	41.4

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

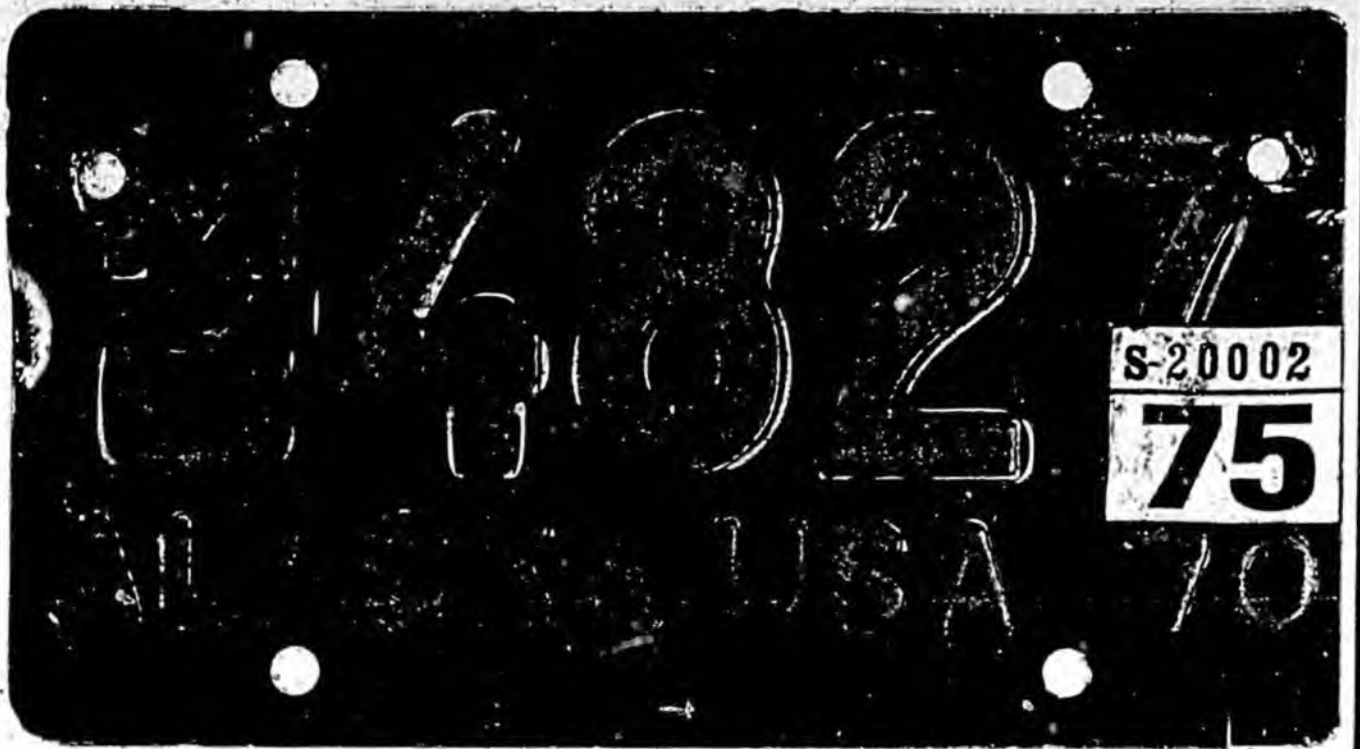
The current DMV Special Program Unit which issues personalized plates is not funded in the FY88 operating budget. Since the House amendment changed "may" to "shall", DMV will be required to continue to issue these plates and funding for the current position is included in this fiscal note.

Prepared by: Charles R. Hosack Phone: 269-5551
Division: Motor Vehicles Date: 4-2-87

Approved by Commissioner: [Signature] Date: 4/2/87
Agency: Public Safety

Distribution (by preparer):

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



1970 issue



Current plate ↑

Dear Mitch:

2 Copies F.V.I.

~~17 States are now honoring Pearl Harbor Survivors
with individual license plates.~~

Please!

Paul Paulsen
State Chairman, Alaska

RECEIVED
FEB 8 1988

Pearl Harbor Gram July 1987!

NEW SECTION ADDED TO BILL

Substitute Senate Bill No. 5136

State of Washington, 50th Legislature, 1987 Regular Session

by Committee on Transportation (originally sponsored by Senators Owen, Bender, Warnke, Conner, Stratton and Garrett)

Read first time 1/29/87.

AN ACT Relating to motor vehicle license plates; and adding a new section to chapter 46.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.16 RCW to read as follows:

(1) A resident of this state may, in addition to the application required by RCW 46.16.040, apply to the department for a set of license plates designed by the department to indicate that the recipient of the plates is a survivor of the Japanese attack on Pearl Harbor if he or she:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:45 a.m. to 9:45 a.m. Hawaii

tance not to exceed three miles;

(c) Received an honorable discharge from the United States Armed Forces; and

(d) Is certified by a Washington state chapter of the Pearl Harbor Survivors Association as satisfying the qualifications in (b) of this subsection.

(2) The plates shall be issued upon payment of the regular license fee and furnishing of proof satisfactory to the department that the recipient fulfills the requirements provided by subsection (1) of this section. Only one motor vehicle owned by the applicant may be so licensed at any one time.

(3) If the license plates issued pursuant to this section are lost, stolen, or mutilated, the recipient of the plates shall be issued replacement plates upon request and without charge.

(4) The plate shall remain with the recipient upon transfer or other disposition of the vehicle, and may be used on another motor vehicle registered to the recipient in accordance with the provisions of RCW 46.16.595 for such transfers.

Signed by Gov
1420 Hrs, 14 April 1987

1st Plane Shot Down

By Cpl. Steve Spanovich, 295576

Was this the first Japanese airplane to be shot down during the attack on Pearl Harbor and if so, who claimed the kill?

As I remember it, only a few people were witness to the crash of the Japanese airplane that was shot down and crashed onto the grounds of the U.S. Naval Hospital. It was shot down a few minutes after the attack began and could have been the first enemy aircraft destroyed on Dec. 7, 1941. As an eye witness to the incident, this is how it happened as I remember it.

I was a patient in "J" ward (one of the single-story wards across the street from the main hospital building). On the morning of Dec. 7, several of us "up" patients were sitting on the sunporch reading the Sunday newspaper and discussing the possibility of walking over to the slop-chute at the Marine barracks in the afternoon for a pitcher of beer.

As I was serving with the 1st Defense Battalion, I was looking forward to visiting with some of my friends. The "up" patients who planned to go with me were from the sub base.

We never bothered to look up from reading the newspaper when we heard the first airplane

coming in with what seem like a power dive. As the sound of the engine became louder and louder, and finally ended in a thunderous crash, one of the sub-sailors commented that the pilot didn't pull out of his dive and crashed into the ground near by. But, after the sounds of another airplane, followed by the sounds of another doing the same thing, someone made the remark that they all couldn't be crashing onto the ground in broad daylight. We decided to get up and go outside to see what was going on.

As we gathered in the street in front of the main hospital building, some doctors and nurses came out of the entrance to stand on the steps near the flag pole.

About this time, we heard the approach of a low-flying airplane and we all looked up in time to see an airplane with large red balls painted on the underside of its wings, and a large torpedo hanging from the underside of the airplane itself. The nose of the torpedo was painted bright red.

As the aircraft passed almost directly above our flag pole and continued over some palm trees in the direction of the inner har-

(Continued on Page 38)

State of Virginia Authorizes Distinctive Auto Plates for Survivors

Late this summer or early fall, survivors in Virginia can have their autos easily identified.

In December of 1986, Robert B. Ball, Sr., representing the County of Henrico in the Virginia House of Delegates pre-filed a bill (House Bill #876) amending the Code of Virginia to provide that the Commissioner of Motor Vehicles could issue "appropriately designed license plates identifying the vehicle as registered to a Pearl Harbor survivor." When the General Assembly convened on January 14, 1987, the bill was considered by the appropriate committees and on the floors of the House of Delegates and the Senate, passed both houses and was sent to the Governor. Signature by Governor Gerald Baliles on March 30, 1987, made the new law effective as of July 1, 1987.

The accompanying photograph shows the Governor affixing his signature in the presence of Delegate Ball and a representative delegation of PHSA members: (left to right) Max Green, Clark Martin, John Gunther and Brandon Perkins. The passage of the legislation was successful because of the support and efforts of the Virginia members in contacting their Delegates and Senators and urging their approval.

It is expected that the Com-

missioner of Motor Vehicles will approve the application process and the design of the license plate in June 1987 and the first plate will be issued in August. Effort is being made to have the PHSA logo appear on the plate, as authorized by the National Executive Board. The Division of Motor Vehicles has requested that applications be certified by the Virginia State Chairman; the language of the law replicates the qualifications for PHSA membership.

1987 SESSION

HOUSE BILL NO. 876

Offered January 14, 1987

Prefiled December 17, 1986

A BILL to amend the Code of Virginia by adding a section numbered 46.1-105.15, relating to special license plates for survivors of the attack on Pearl Harbor.

Patron-Ball

Referred to the Committee on Roads and Internal Navigation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.1-105.15 as follows:

§ 46.1-105.15. Special license plates for survivors of the attack



on Pearl Harbor. — A. Upon receipt of an application on a form prescribed by the Commissioner and receipt of written evidence that the applicant is an honorably discharged former member of one of the armed forces of the United States and, while serving in the armed forces of the United States, was present during the attack on the island of Oahu, Territory of Hawaii, on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m., Hawaii time, the

Commissioner shall issue such applicant appropriate designed license plates identifying the vehicle as registered Pearl Harbor survivor. Issuance of such license plates shall be limited to passenger vehicles and pickup or panel trucks as defined in § 46.1-1

B. The Commissioner shall charge ten dollars plus the prescribed cost of state license plates for each set of plates issued under the provisions of this section.

THE CONSTITUTION AND BY-LAWS

*Pearl Harbor Gram
July, 1987!*

Senator

*When is HB 74 scheduled?
TE-
see me pls
18 Dec 87*

Mitch Abcock,

I would like to ask your help in getting a bill amended and passed. Last year H.B. 74 was introduced; its purpose was to permit motorcycle owners to have custom or "vanity" license plates. The original bill allowed the motorcycle owner to have six characters (letters or numbers) for artistic expression. This is a reasonable number, as the current plates have six; indeed, Representative Menard of Wasilla remarked that even seven would be preferable.

The problem is that Bill Brown of DMV testified that the Department of Public Safety "recommended that the plates have four (characters)...because of their small size." (16 Feb 87, House Transportation Committee). On the same day, Representative Miller of North Pole rose to the bait, and made a motion that only four characters per plate be allowed. Committee Substitute H.B. 74 was thus created without the knowledge of, nor input from, the concerned public.

Let me argue the case for an amendment back to the original language permitting six characters per "vanity" plate.

First, please look at the enclosed Xerox of two plates; one is current, one is from 1970. Note that motorcycle plates have had six characters for the past seventeen years.

Second, four letters and numbers makes creativity difficult. Six would allow more artistic freedom, and would, therefore, be more in demand. To restrict the permutations would make the program less popular, and perhaps a money-loser rather than a money-maker for the State's coffers. (The Fiscal Note of 9 Feb 87

projects but a small net profit for the program).

Third, a restriction to only four characters means that duplication will be difficult to avoid; hence, a rider may be unable to get a desirable combination (such as HD74, an acronym for a popular bike, the Harley Davidson seventy-four cubic inch model).

Fourth, again, look at the Xerox of the 1987 plate. If six characters were used, then the fifth and sixth characters would replace the month&year stickers, and the miniscule $\frac{M}{K}$. The new letters or numbers need be no smaller than the current ones!

Fifth, the custom plate makes the motorcycle more recognizable. For example, my personal machine is an Italian make, a Ducati. The plate I want would say DUCATI ; instead of the random number gibberish, 8795 $\frac{M}{K}$. Ask yourself, which would be easier for a patrolman or witness to remember if I were to be seen leaving the scene of a crime, or, to be zapped with a radar gun? The answer is obvious.

As for the rest of the Bill, the Pearl Harbor Survivors plate, I have no objection.

I thank you for your time and for your cooperation in this small matter.

Yours,



Paul Stoddard

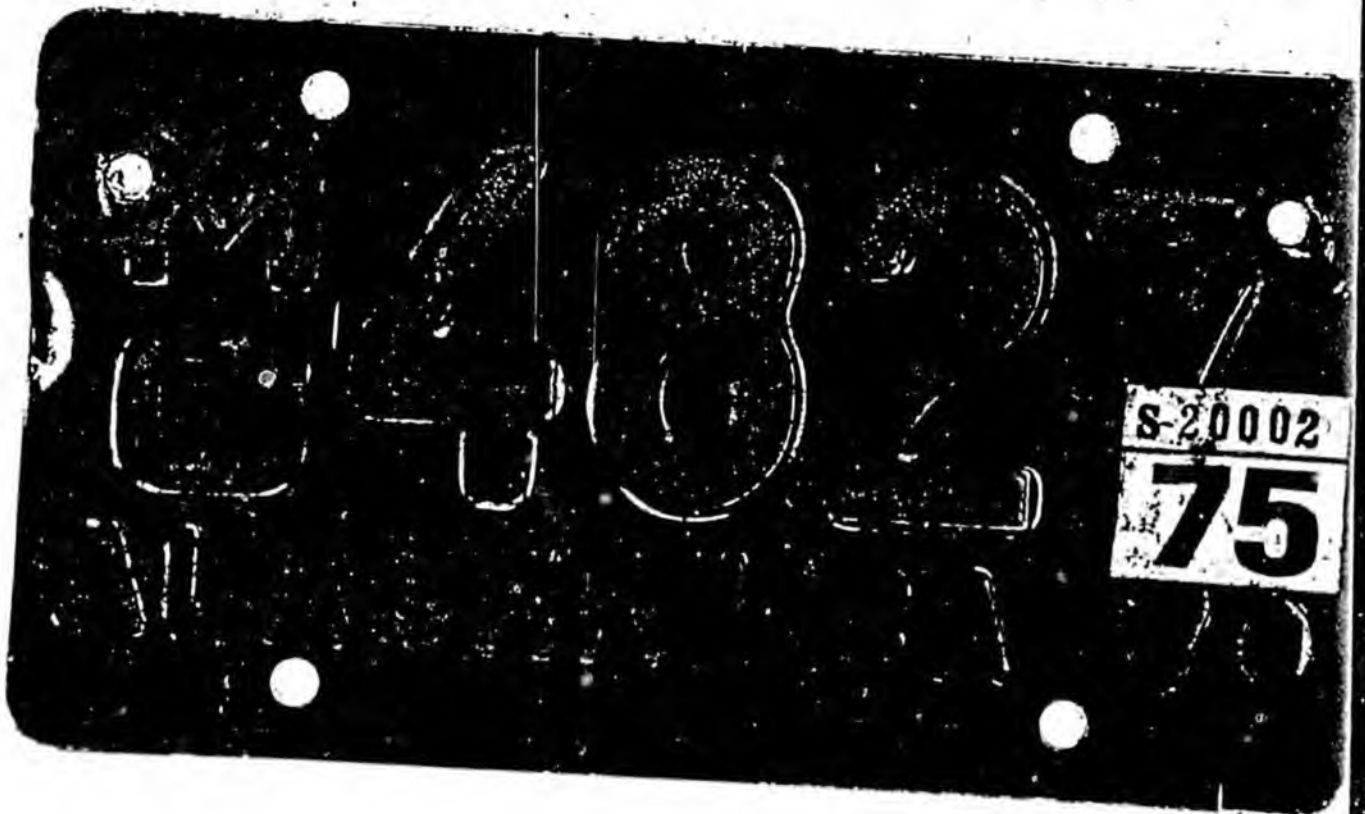
P.O. Box 916

Fairbanks, AK, 99707

*Copies to Uehling, Jones,
Coghill, Lauren Kamp, and
Fanning, also*

I apologize for the quality of the copies,

but
blue &
yellow
don't
xerox
too well!



State Affairs Committee
Transportation Committee

6 Apr 87

HB 74
RECEIVED
APR 21 1987

Senators,

I am writing you in regards to the Committee Substitute for House Bill #74, "An Act Relating to Motor Vehicle Registration and License Plates." These are the so-called "vanity plates."

The original bill called for a maximum of six letters (or numbers, in combination) on the plates. (Representative Martine suggested even seven digits.) The purpose of vanity plates is, obviously, to allow the citizen to "customize" his/her vehicle. The program of personalized plates is a break-even or net generator of revenue for the State, and, presents no enforcement check problem; re: testimony given by Mr. Brown of DMV, Home State Affairs Committee, 2 Feb 87.

My problem with CS HB 74 is this: the number of letters is now restricted to four. Mr. Brown (Chief of Drivers Services?, Dept. of Public Safety, DMV) advocated only 4 letters on motorcycle plates "because of their small size." House Trans. Committee, 16 Feb 87. I am amazed that he could testify thusly, with a

2/2

Straight face! Motorcycle plates in Alaska now have six letters & numbers in combination! (Please look at the enclosed Xerox of my plates; the current one is from my Ducati, the older one is from a collection). Since at least as far back as 1970, the number has been six. The reason for six digits is to allow a degree of artistic freedom, without problems of duplication. The testimony of one individual swayed the committee to substitute four letters; please consider the motorcycling community, the constituents directly impacted, want six, as proposed in the original bill.

Thanks for your time,

Paul Stoddard

PO Box 916

Fairbanks

AK, 99707

HB

83

SENATE COMMITTEE REPORT

FURTHER: FINANCE

4/27/87

DATE TURNED INTO OFFICE 12 MAY 1987

Mr. President:

STATE AFFAIRS Committee considered CSHB 83(Fin)am

eligibility for and computation and payment of permanent fund dividends; efd.

and recommended:

replace with CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

r w updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

W. Kennedy
Jan. Fink

Senator Mike Reed
Chairman's signature and recommendation

Committee Backup Attached

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 29, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting two bills -- one, a substantive measure, and the other, an appropriation bill -- relating to permanent fund dividends.

The first bill relates to computation and payment of the dividends. The major purpose of the bill is to amend the formula for determining the amount of each year's dividend, to reflect disbursements made from the dividend fund for payment of prior-year dividends. Section 1 of the bill. Existing AS 43.23.055(3) provides a mechanism for persons to establish, in later years, that they have a right to a prior-year dividend. Those affected are children who reach the age of majority and establish that one or more applications were not filed on their behalf in prior years. Under the bill, proposed AS 43.23.025(1)(C) provides for current-year payment of prior-year dividends approved for payment in that year, by recognizing that the amount available for payment of current-year dividends is reduced by the amount necessary to pay approved prior-year dividends.

The legislature addressed the problem of funding prior-year dividends in the 1982 appropriation for the dividend program, by specifying that the appropriation was nonlapsing. The "nonlapse" provision was not, however, included in the FY 1983, 1984, 1985, and 1986 appropriations. (The second bill deals with the 1982 -- 1985 appropriations, and is discussed later in this letter.) This first bill will preclude the necessity for a "nonlapse" provision in future appropriations by statutorily providing that each year's batch of approved prior-year dividends is paid from money in the dividend fund on October 1 of that year. This method of payment will provide a much more accurate way of dealing with an unknown number of prior-year dividend applicants than will a method requiring an "estimate" of that unknown number and the setting-aside of the amount "estimated" necessary to pay those dividends.

Proposed AS 43.23.045(d), in sec. 2 of the bill, provides a "lapse" provision for appropriations made to implement AS 43.23. An appropriation has been the vehicle for the "transfer" of permanent fund income to the dividend fund that is required by current AS 43.23.045(b). The lapse provision in proposed AS 43.23.045(d) will make certain that that appropriation remains available to pay dividends. This provision assures that, to the maximum extent possible, money appropriated to the dividend fund is used to pay dividends. One of the amendments in sec. 1 of the bill, proposed AS 43.23.025(1)(E), amends the dividend determination formula to reflect the new lapse provision.

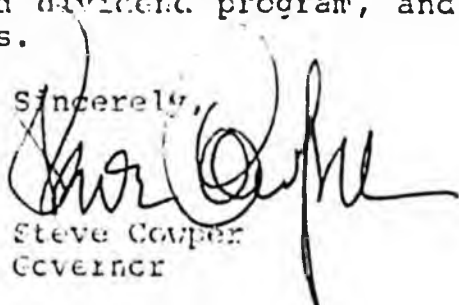
As mentioned earlier in this letter, the second bill deals with the 1982 -- 1985 appropriations made to pay permanent fund dividends. The primary purpose of this bill (in secs. 2 -- 7) is to provide a June 30, 1987 lapse date for the 1983, 1984, and 1985 appropriations, lapsing them to the dividend fund under AS 43.23.045(d) (proposed in the first bill).

Unlike the others, the 1982 appropriations were made from the general fund. Under sec. 1 of the second bill, the remaining portion of the 1982 appropriations lapses back to the general fund June 30, 1987.

The permanent fund dividend appropriation enacted for fiscal year 1987 is not dealt with in this bill because, if enacted, the new lapse provision in the first bill (AS 43.23.045(d)) will take effect before the end of fiscal year 1987 and will apply to that appropriation.

This pair of bills resolves complicated problems in the administration of the permanent fund dividend program, and I urge your support of these measures.

Sincerely,



Steve Cooper
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 83(Fin)
Publish Date: HOUSE 4/10/87

REQUEST _____

Revision Date: _____
Title: An act relating to computation and payment of permanent fund dividends
Sponsor: Rules, Governor
Requestor: Finance

Agency Affected: Revenue
BRU: Permanent Fund Dividend

Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

No fiscal impact.

Prepared By: Eryn B. Jones
Division: Administrative Services

Phone: 465-2313
Date: 4/9/87

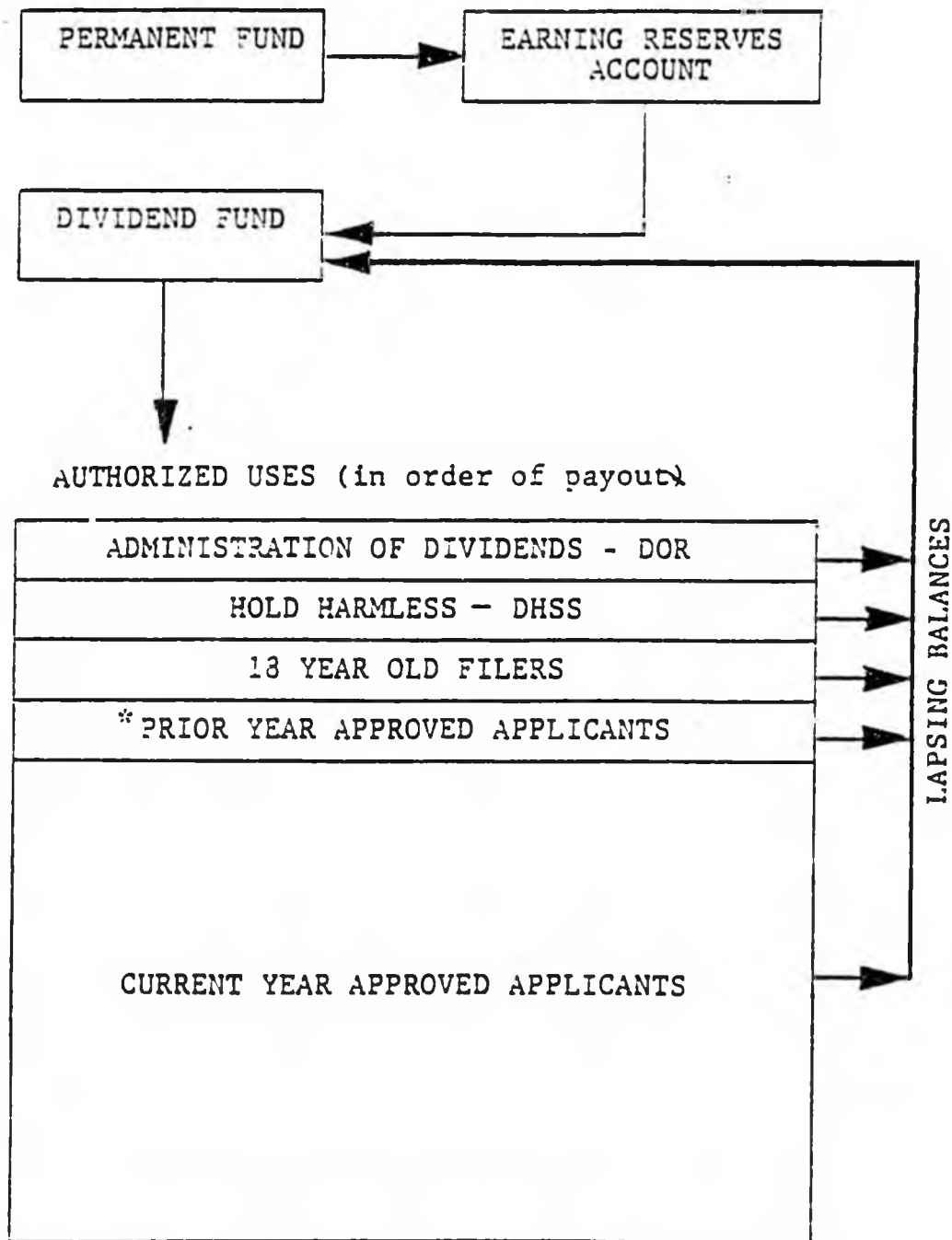
Approved by Commissioner: Hugh Malone *RW*
Agency: Revenue *FOR*

Date: 4/9/87

Distribution (by Agency preparing fiscal note):

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

FLOW CHART FOR CS HB 83 (FIN)



* Amendment to CS HB 83 (Fin)

H B

8 5

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE ULMER

NAME: LEONARD HOFFITT

TITLE:

ADDRESS: POB 478

CITY: PALMER

PHONE: 745-3384

ZIP: 99645

BILL NO:

SUBJECT: ALASKA POLITICAL OFFICES COMMISSION

MESSAGE: SEEMS MISUSE OF APOC FOR POLITICAL NAME EXPOSURE COULD BE MONITARILY PENALIZED RATHER THAN TAKING INVESTIGATIONS UNDERGROUND FROM PUBLIC & PRESS. ALSO PLEASE DO NOT DISCREDIT THE LEGISLATURE BY INCLUDING PROVISIONS THAT WILL HAMPER INVESTIGATIONS.

POMID: 14111710

DATE: 04/12/88

TIME: 11:17:10

LIONAME: MAT-SU LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

ADAMS
BOUCHER
BROWN
COLLINS
DAVIDSON
DONLEY
FRANK
GOLL
GRUSSENDORF
HERRMANN
HUDSON
LARSON
MENARD
NAVARRE
PETTYJOHN
POURCHOT
SHULTZ
SUND
TAYLOR
ZAWACKI

BARNES
BOYER
CATO
COTTEN
DAVIS
ELLIS
FURNACE
GRUENBERG
HANLEY
HOFFMAN
KOPONEN
MARTIN
MILLER
PEARCE
PHILLIPS
RIEGER
SPRINGER
SWACKHAMMER
WALLIS

ABOOD
BYNKLEY
COGHILL
DUNCAN
ELIASON
FAHRENKAMP
FAIKS
FARJING
FISCHER
HALFORD
HENSLEY
JONES
JOSEPHSON
KELLY
KERTTULA
RODEY
STURGULEWSKI
SZYMANSKI
UEHLING
ZHAROFF

MAC

Alaska State Legislature

INTERIM OFFICE
3111 'C' STREET, SUITE 535
ANCHORAGE, ALASKA 99503
(907) 561-7614

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4747



Senator Mitch Abood
SENATE DISTRICT G-A

CHAIRMAN
STATE AFFAIRS
MAJORITY WHIP

MEMBER
TRANSPORTATION
COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
INTERNATIONAL TRADE

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- V. Excerpts from Campaign Practices Acts &
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 4. Minnesota
 5. Nebraska
 6. Illinois
 7. Florida
 8. Kansas
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 12. March 4, 1987
 13. March 9, 1987
- VIII. Senate Advisory Council Report on Campaign
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FISCAL NOTE

REQUEST:

Revision Date: 3/8/88
Title: "An Act Relating to the
Alaska Public Offices Commission"
Sponsor: Sen. Abood
Requestor: Senate State Affairs

Agency Affected: Alaska Public Offices Comm.
BRU: A.P.O.C.

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	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	19.5	19.5	19.5	19.5	19.5
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	19.5	19.5	19.5	19.5	19.5
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	19.5	19.5	19.5	19.5	19.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	19.5	19.5	19.5	19.5	19.5

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

see attachments

Prepared by: Karla Forsythe, Executive Director Phone: 276-4176
Division: Alaska Public Offices Commission Date: 3/10/88

Approved by Commissioner: Daniel Patrick O'Tierney, Chairman Date: 3/10/88
Agency: Alaska Public Offices Commission

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

CSSB 85 (State Affairs)

Fiscal Analysis

Although many of the provisions contained in this measure would codify existing commission procedures, two sections would change current practice in ways which would create a fiscal impact for the agency.

Proposed Section 44.21.470(a) states that the commission may impose a penalty only if the respondent either admits or pleads no contest to allegations, or if the commission holds a hearing. This language has the effect of prohibiting the commission from settling a matter unless the terms of the settlement agreement contain an admission or a statement of no contest to factual allegations of wrongdoing.

In FY 87 the commission settled three matters. None of the settlement documents contain an admission or a plea of no contest; two of the documents expressly indicate that the respondent does not admit to the allegations. It is assumed for purposes of this fiscal note that these respondents would have chosen to proceed to hearing rather than to enter into a settlement which required an admission of wrongdoing or a statement of no contest.

Two of the settled matters involved simple factual allegations, and each hearing could have been concluded within one day. One of the matters involved more complex facts as well as a large number of respondents, and would have required a minimum of three hearing days. Costs for a hearing officer, witness fees and transcription total \$3000 per hearing day. Since it is difficult to quantify additional time spent by commission members in deliberation over these matters and additional staff time devoted to hearing preparation, these costs are not reflected in the fiscal note.

Proposed Section 44.21.475 will have a minor fiscal impact on the agency. This section provides that in matters amenable to summary disposition, the commission may follow less formal due process standards unless respondents wish to dispute the facts. In FY 87 150 matters subject to summary disposition were appealed to the commission. Of these, five matters appear to have involved factual disputes (focusing primarily on controverted facts about mailing of reports). Since these matters center on very simple facts, and it is unlikely that respondents will raise complicated issues through legal counsel, it is assumed that these five matters would have required a total of one and one-half days of hearings. Staff would endeavor to schedule these matters at one time to avoid any hearing officer costs attributable to five separate appearances at commission offices. Based on costs of \$3000 per day, one and one-half days of hearing would require an additional expenditure of \$4500 to fund the more formal due process procedures warranted when factual disputes arise.

Alaska State Legislature



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(907) 465-4747

Senator Mitch Abood
SENATE DISTRICT G-A

CHAIRMAN
STATE AFFAIRS
MAJORITY WHIP
MEMBER
TRANSPORTATION
COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
INTERNATIONAL TRADE

SECTIONAL ANALYSIS AND NARRATIVE

FOR

CSSB 85 (SA), "An Act relating to the powers and duties of the Alaska Public Offices Commission, and providing for an effective date."

Index of Sections

44.21.450	Alaska Public Offices Commission
44.21.455	Duties of the Commission
44.21.460	Preliminary Investigations
44.21.465	Hearings
44.21.470	Imposition of Penalty
44.21.475	Summary Disposition of Violations
44.21.480	Confidentiality
44.21.485	Judicial Review
44.21.490	Compelling Testimony; Examination of Records
44.21.495	Judicial Review
44.21.500	Definition
	Several conforming amendments
	Immediate effective date

** Section 44.21.450. ALASKA PUBLIC OFFICES COMMISSION.

This section corrects a serious constitutional problem with the manner in which the commission chooses its fifth member. Article II, Section 26 of the Alaska Constitution requires all members of regulatory or quasi-judicial boards or commissions to be appointed by the Governor and confirmed by the legislature. However, since the commission was established in 1974, the four members have

chosen the commission's fifth member themselves, without appointment by the Governor or confirmation by the legislature. This section sets out a procedure for the appointment and confirmation of the fifth member; the selection of successors; and deletes obsolete material relating to the initial terms of members.

Subsection (h) is a new provision 1/ which holds commission staff to the same standard as commission members by prohibiting staff from engaging in political activity while they are employed by the APOC.

**** Section 44.21.455. DUTIES OF THE COMMISSION.**

This section is identical to present law, AS 15.13.030, which describes the responsibilities of the commission to administer AS 15.13 (campaign disclosure), AS 24.45 (lobbying) and AS 39.50 (conflict of interest).

**** Section 44.21.460. PRELIMINARY INVESTIGATIONS.**

Existing statutes governing APOC investigations are hopelessly confused and raise serious questions about the lack of constitutional due process afforded individuals who are subjected to APOC staff investigations.

Subsection (a) is similar to present regulation 2 AAC 50.450 (c)(1), which sets out a procedure for handling complaints which are properly filed and sworn. However, this subsection sets out a new requirement for the executive director to notify each person against whom a complaint is filed. The present APOC regulation only requires staff to acknowledge receipt of a complaint to the complainant but not to the respondent. Subsection (a) also sets out a new requirement that both parties be notified immediately.

1/ The use of language such as "new provision" or "new requirement" means that similar language does not exist in present law.

Subsection (b) adds a new requirement for the executive director to make an initial determination whether a complaint sets out facts which, if true, would constitute a violation of the law, within 10 working days after first receiving the complaint, for purposes of notifying the complainant and the respondent.

Present APOC regulation 2 AAC 50.450 (c)(2), simply states that the staff must make this determination "promptly".

Subsection (c) provides that the staff may conduct a preliminary investigation of violations of the campaign disclosure, conflict of interest and lobbying laws on its own motion. Present APOC regulations (2 AAC 50.460 (a)(2), (b) and 2 AAC 50.450 (e)), which describe these procedures are poorly written and extremely confusing.

Subsection (c) also sets out a new requirement for an investigation which the staff begins on its own motion, that requires the executive director to immediately notify a person against whom a preliminary investigation is proceeding of the nature of the alleged violation. Present law and regulation do not require commission staff to notify a person that he or she is under investigation. It has happened in the past that individuals were not aware of the existence of an APOC investigation which involved them until after the staff terminated its investigation and made public charges in a report to the commission which recommended that action be taken against them.

Subsection (d) is a new provision which is modeled after similar provisions in Florida, Nebraska and Hawaii. The subsection provides that a person whose name is mentioned in a complaint or identified during an investigation or at a hearing as someone who may have violated AS 15.13, AS 24.45, or AS 39.50 shall be advised by the executive director of the information obtained by the commission. This person may appear personally and

testify at the hearing or may file a signed and sworn written statement of the facts or other evidence for incorporation into the record.

The intent of this subsection is to ensure that individuals who are identified as possible violators of the law, but who have not been formally made a party to an action, be allowed an opportunity to provide facts or other evidence so that an investigation or hearing can develop a full and fair record. This does not mean that everyone whose name merely comes up in a commission matter will be notified, as the APOC staff fears. It is hoped that professional staff will be able to distinguish between a casual, frivolous or malicious mention and the point at which the evidence raises a serious possibility that an individual may have violated the law.

Commission staff have also pointed to the Florida provision and argued that notification should be restricted to hearings only. While it is true that the Florida provision pertains to hearings, it is also true that the hearings in Florida are kept closed, while those in CSSB 85 (SA) are open to the public. The point being -- that an individual whose conduct is seen to rise to the level of possibly violating the law during proceedings which are confidential and hidden from public view, should be given the opportunity to incorporate his or her side of the story into the record, before being blind-sided by possibly damaging, defamatory and inaccurate staff accusations in a public hearing. This is precisely what has occurred to individuals in the past, and is the reason why the subsection was put in the bill.

* * *

When staff concludes the preliminary investigation and submits their report, the commission deliberates. The purpose of this initial deliberation is to elicit evidence on the question of whether or not the complaint was filed on justifiable grounds.

Subsection (e) is a new provision and provides that when a preliminary investigation is ended and the commission makes a determination that there is probable

cause to believe that the person named in the complaint has committed a violation of AS 15.13 (campaign disclosure), AS 24.45 (conflict of interest) or AS 39.50 (lobbying), the commission will then commence violation proceedings by filing and serving an accusation on the person who is alleged to have committed the violation.

Subsection (f) is a new requirement which provides that if a preliminary investigation is terminated and the commission finds that no probable cause exists that the person named in the complaint has committed a violation, the commission shall immediately inform the complainant and each person against whom the complaint was filed, of the information which was reviewed and that the commission will not be taking further action concerning the complaint. The commission will then close the file.

** Section 44.21.465. HEARINGS.

There is very little existing law governing the actual administrative procedures that the commission must follow in adjudicating violations and imposing penalties. In the absence of statutory provisions, the commission has filled the void with a large number of its own administrative regulations.

It is much better policy to include basic procedures in the law, rather than leaving such important matters to questionable regulations and staff interpretation.

Subsection (a) is new and provides that a hearing shall be conducted if a respondent requests a hearing on a contested accusation or under the conditions described in the "Summary Disposition of Violations". In the absence of a request, the commission in its discretion may decide to hold a hearing. The hearing shall be conducted under the provisions of the Administrative Procedures Act and will be open to the public.

Subsection (b) is a new requirement that when a

hearing officer submits a proposed decision to the commission, the respondent and the commission staff may, within 10 working days after receipt of a copy of the proposed decision, submit written comments on the proposed decision to the commission. This is to allow an opportunity for both sides to comment on the hearing officer's proposed decision. The commission is required to consider these written statements before adopting the hearing officer's decision.

*** Section 44.21.480 IMPOSITION OF PENALTY

This entire section contains new provisions and has no counterpart in existing law.

Subsection (a) provides that the commission may impose penalties only after a person has admitted or plead no contest to an accusation or after the commission holds a hearing at which certain due process rights have been afforded to the respondent, and at which the commission determines by substantial evidence that the person has actually committed the violation. Existing law does not address standards of proof in hearings before the commission.

Subsection (b) provides that in cases where there is evidence of a willful violation (emphasis added) of the law, the commission staff may not formally or informally make a recommendation to the commission members as to a particular penalty in a pending matter or make a commitment to the respondent to make a particular recommendation to the commission in the future until after the respondent has admitted or pleaded no contest to the accusation or until after a hearing and a final determination by the commission that the respondent has actually committed the acts charged in the accusation. This ban on plea bargaining by staff is restricted to instances where there is evidence of a flagrant, willful violation and does not in any way impair staff's ability to negotiate settlements in other cases.

Subsection (c) states that before the executive director may make a recommendation to the commission for the imposition of a particular penalty in a matter, the respondent must first be given notice of the recommendation and afforded an opportunity to respond to the recommendation in person or in writing.

Subsection (d) contains specific guidelines for the commission to follow in imposing penalties. This subsection provides that the higher penalties should be reserved for egregious conduct where the violation has impeded public disclosure of information as to the amount and source of contributions; and the extent to which the respondent's conduct, including prior violations of AS 15.13, AS 24.50, or AS 39.50 shows a disregard for the law.

The intent of this section is for the legislature to provide clear guidelines to the commission in exercising its discretionary "sentencing" authority, so that the law is the determining factor in the commission's imposition of penalties and not the staff's interpretation; It is also intended to provide some standards for judicial review of commission actions.

*** Section 44.21.485. SUMMARY DISPOSITION OF VIOLATIONS

This section authorizes the commission to establish by regulation the less serious violations that are amenable to summary disposition without formal accusation. This category of violations makes up the vast majority of the commission's business and involves such transgressions as inadvertent mistakes and the late filing of reports.

The intent of this section is to permit the commission to continue to deal with relatively minor violations in a summary fashion, without having to employ the more detailed procedures of the Administrative Procedures Act. The concept of the "summary disposition of violations" by means of a schedule of fines, is modeled after the "mail-in-bail" provisions of the Motor Vehicle Code (AS 28).

Subsection (b) states that a notice of fine may be mailed to the person who is alleged to have committed a summary violation which indicates the circumstance of the violation and the amount of the fine. The person may then pay the fine within 30 days after receiving the notice, file a notice of defense disputing the facts and requesting a hearing, or file an affidavit stating facts in mitigation of the amount of the fine.

Subsection (c) provides that if a person does not properly respond under the requirements of the section, that the notice of fine constitutes an accusation and the commission shall proceed against the person under AS 44.21.465 - 44.21.470.

Subsection (d) provides that if the person files an affidavit stating facts in mitigation of the fine, the members of the commission shall hold a hearing limited to the amount of the fine. This is not an APA-type of hearing and does not require a hearing officer.

*** Section 44.21.490. CONFIDENTIALITY

This entire section contains new provisions and has no counterpart in existing law.

Most states, including the Federal Elections Commission provide for confidentiality. In drafting the confidentiality provision for CSSB 85, we reviewed the following states: South Carolina; Hawaii; Minnesota; Nebraska; Illinois; Florida; Kansas; Washington; Massachusetts and California.

In CSSB 85, the complaint, the commission proceedings related to the complaint, and the records and information obtained by the commission during a preliminary investigation are confidential until a determination of probable cause has been made by the commission and an accusation is filed under 44.21.465, unless the person alleged to be in violation requests in writing that the proceedings be public.

If the commission finds that there is no probable cause to believe an individual has committed an offense, the parties are notified, the file is closed and the matter remains confidential. This is the same procedure used by the Ombudsman.

It is no secret that complaints have been filed as a campaign strategy to inflict maximum damage upon an opponent. It is also no secret that prejudicial material has been leaked to the press by commission staff in order to bolster their "case" in front of the commission, with no regard for whether the information is true or false.

Whatever its source, this practice denies an individual his or her constitutional rights to privacy and due process and destroys any expectation to be treated fairly under the law. A person who is targeted for staff investigation should not be blind-sided by the dissemination of prejudicial and defamatory material before the commission even makes a determination that there is probable cause to proceed.

Sensational press accounts which are purposely timed to appear before commission decisions, make a mockery out of the common law doctrine of the "deliberative process privilege" which is intended to protect from public disclosure those pre-decisional documents that reflect the decision-making authority of an agency.

The rationale for the privilege was discussed in Ryan v. Department of Justice, 617 F. 2d 781 (D.C. Cir. 1980), in which the court stated:

The [privilege] was created to protect the deliberative process of the government, by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision-makers without fear of publicity. In the course of its day-to-day activities, an agency often needs to rely on the opinions and recommendations of temporary consultants, as well as its own employees. Such consultations are an integral part of its deliberative process; to conduct this process in public view would inhibit the frank discussions of policy matters and likely impair the quality of decisions.

The United States Supreme Court has emphasized that documents that are protected by the privilege remain privileged even after a final decision is reached in the matter, unless ideas expressed in the document(s) are incorporated in the final decision. The rationale for this is that "disclosure at any time could inhibit the free flow of advice, including analysis, reports, and expression of

opinion within the agency." Federal Open Market Committee of the Federal Reserve System v. Merrill, 443 U.S. 340, 360 (1979). 2/

Commentators Stone and Liebman discuss this privilege, as recognized by the federal courts, in part as follows:

...a document is protected if its disclosure would reveal "the methods by which a decision is reached, the matters considered, the contributing influences, or the role played by the work of others."

The ultimate purpose of the privilege is "to prevent injury to the quality of agency decisions." Its particular purposes are (1) to encourage open, frank discussions on policy matters between subordinates and their superiors by assuaging fear of public ridicule or criticism; (2) to protect against premature disclosure of proposed policies before they have been finally formulated or adopted; and (3) to protect against confusing the issues and misleading the public by disclosure of reasons that were not in fact the actual reasons for the agency's actions.

....The scope of the privilege is not so narrowly confined, however, it has been held to extend to "recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinion of the writer rather than the policy of the agency."

2/ Index for Inspection or Discovery of Public Records, Dept. of Law, 1986.

S. Stone & R. Liebman, Testimonial Privileges (1983).

I think it is important not only to review the provisions of the confidentiality section in terms of the deliberative process privilege, but to weigh those provisions with the constitutional right to privacy in Alaska, which exceeds even that of the federal standard. According to a 1984 Attorney General's Opinion (1984 Inf. Op. Att'y Gen. Oct. 366-625-84):

"Regarding the (constitutional) right to privacy, first it must be determined whether the information is of the type that would be protected under Article I, Section. 22 of the Alaska Constitution, which provides that:

The right of the people to privacy is recognized and shall not be infringed.

In this regard, the issue is whether the information is "sensitive"; that is, information

. . . which a person desires to keep private and which, if disseminated, would tend to cause substantial concern, anxiety or embarrassment to a reasonable person.

Falcon v. Alaska Public Offices Commission, 570 P.2d 469, 479 (Alaska 1977). If the information is not "sensitive" it is not protected by the right to privacy.

If it is determined that the information is "sensitive", and thus protected by the constitutional amendment, then the second step in the analysis must be taken. This step involves a balancing process, in which the nature and extent of the harm to the individual that would be caused by public disclosure is balanced against the public interest furthered by disclosing the information."

At the Supreme Court's direction after the Falcon decision, the Public Offices Commission in 1978, adopted 2 AAC 50.100, a regulation which specifies the procedures to be

used when a person claims that information is exempt from disclosure under the right of privacy. The regulation reads in part:

(a) Disclosure of another person's name in a report is not required and should not be made where that disclosure alone would likely result in disclosing sensitive information which the person would want to keep private and which, if made public, would tend to cause substantial concern, anxiety, or embarrassment to a reasonable person....

The APOC narrowly restricted the application of this regulation to AS 39.50 (Conflict of Interest), in instances when a candidate for public office claims that disclosure of information to the commission, as required by statute, would violate someone's right to privacy. However, I think that it can be reasonably argued that the Falcon test which prompted this APOC regulation, is broader than APOC's interpretation and also extends to certain documents such as complaints, reports or other sensitive material obtained or produced prior to the hearing stage under 15.13, 24.45 and 35.50. These matters fall within the confidentiality provision contained in CSSB 85 (SA).

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As far as the actual procedures specified in CSSB 85 for the handling of complaints on through the hearing phase, I would like to briefly discuss similar procedures used by South Carolina, which, like CSSB 85 (SA) allows the executive director to determine from the facts presented in a complaint if sufficient cause exists to conduct a preliminary investigation of the alleged violation or failure to file required statements. If it is determined that facts are not sufficient to constitute a violation, the complaint will be dismissed and all parties will be notified. If the executive director determines that facts are sufficient to constitute a violation, a preliminary investigation will be conducted by the staff.