

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988

8672

5557

SSTA

HB 85

- HB 117

7/29

Mary Haidukovich Hollander - 1987 Fairbanks Assembly Candidate

Appeal: \$140 CPA, 10 Day Post-Municipal Report, 14 days late

Staff Recommendation:

Accept the affidavit in part and reduce the fine by 65% to \$50, if it is paid within thirty days of notice.

Ms. Hollander could have filed a Campaign Reporting Exemption Form had she been aware of it or anticipated the lack of campaign activity. Her campaign contribution and expenditure activity totaled approximately \$400. The entire fine would be overburdensome for a campaign of this size. Staff realizes that mailing reports can be problematic and encourages Ms. Hollander to use every precaution available to her to ensure timely reports in the future.

Reporting History:

1987: 30 Day Pre-Municipal Report: timely
7 Day Pre-Municipal Report: Zero Policy letter, 1 day late
10 Day Post-Municipal Report: \$140 CPA, 14 days late, appealing
1986: All Municipal reports timely
1985: 10 Day Post-Municipal Report: \$10 CPA, 11 days late, paid
1983: 30 Day Pre-Municipal Report: \$1 CPA, 1 day late, paid
1982: 10 Day Post-Municipal Report: \$10 CPA, 11 days late, paid

January 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.
_____ Accept the affidavit and waive the fine.
_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

APCO-ANCP
SM HC

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery
(Extra charge)†

3. Article Addressed to: <i>AK. Pub. Off. Comm. 2221 E. N. L. Blvd. Room 128 Anchorage AK 99508</i>	4. Article Number <i>P066708091</i>
5. Signature - Addressee <i>X B Cornish</i>	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail
6. Signature - Agent <i>X</i>	Always obtain signature of agent or agent and DATE DELIVERED
7. Date of Delivery <i>11/2/87</i>	8. Addressee's Address (ONLY requested and fee paid)

Jacob Kagak - 1986 House District 22 candidate

Appeal: \$70 CPA, 1986 10 Day Post-General Report, 7 days late

Staff Recommendation: Deny the affidavit and uphold the fine.

Mr. Kagak developed a poor reporting history during his 1986 campaign. Both he and his treasurer, Maggie Ahmaogak, traveled frequently during his campaign and neglected to ensure that reports were timely filed or that fines incurred were paid or appealed. Currently, Mr. Kagak has a \$230 CPA outstanding (neither appealed or paid) for his 30 Day Pre-Primary report. He has paid an additional \$200 in fines assessed for late reports in the primary and general.

Communication with Mr. Kagak and his treasurer has been difficult due largely to distance and travel. Staff has made numerous phone calls and sent additional letters in an effort to assist the campaign. During a June office visit (1987), Mr. Kagak informed staff that he had closed out his campaign account and taken as income the \$2100 surplus (approximately). Staff requested that a final report be filed at that time and Mr. Kagak has yet to file the report.

The late 10 day report is a Zero (0) report. Total campaign activity reported equals \$5430 in contributions and \$2960 in expenditures. Although the campaign was small and the late report a Zero report, staff does not recommend mitigation because the campaign was careless with reporting requirements. Staff does not feel that Mr. Kagak made a strong effort to correct the reporting problems his treasurer was experiencing. Steps should have been taken to ensure that reports would be filed in her absence.

Reporting History:

1986: 30 Day Pre-Primary, \$230 CPA, 23 days late, not paid or appealed
7 Day Pre-Primary, \$50 CPA, 1 day late, paid
10 Day Post-Primary, timely
30 Day Pre-General, 1 day late, 0 Report, Zero Policy letter
7 Day Pre-General, \$150 CPA, 3 days late, paid
10 Day Post-General, \$70 CPA, 7 days late, appealing
Year-end report, timely

1984: North Slope Borough School Board Candidate, Exempt.

JANUARY 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit and waive the fine.

_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

Issac Kayutak - 1987 North Slope Borough Assembly Candidate

Appeal: \$500 CPA: 7 Day Pre-Municipal Report, 10 days late

Staff Recommendation:

Accept the affidavit in part and reduce the fine by 90% to \$50.

Mr. Kayutak ran a small campaign without benefit of a treasurer. The 7 day report shows that he received no outside contributions and spent \$1058 of his own money, with 46% of that total spent on travel and air freight costs. His affidavit states that he failed to file the report timely due to time spent away fishing for subsistence. Staff sees no serious violations with the information reported and believes a \$50 fine is sufficient to convey the importance of timely disclosure to Mr. Kayutak. A large fine would be overburdensome for Mr. Kayutak.

Reporting History:

1987: 30 Day Pre-Municipal Report not required by NSB candidates
7 Day Pre-Municipal Report: \$500 CPA, 10 days late, appealing
10 Day Post-Municipal Report: Not filed as of 1/12/88.

No previous history

JANUARY 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit and waive the fine.

_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

Eileen P. MacLean - 1987 North Slope Borough Mayoral Candidate

Appeal: \$120 CPA, 10 Day Post-Municipal Report, 12 days late

Staff Recommendation:

Accept the affidavit in part and reduce the fine to \$60 (by 50%), if it is paid within 30 days of notice.

Staff does not believe the maximum civil penalty should be assessed because Ms. MacLean conducted a small campaign: \$5286 in contributions, \$3928 in paid expenditures, \$2358 in outstanding accruals, and the late report contained minimal contribution activity (\$200 monetary). The late report did not affect the outcome of the election and its lateness caused minimal public harm.

Ms. MacLean has a good reporting history and staff feels she was complying with the spirit of the law (if not the letter) through her good intentions to fully disclose the period's activity. A \$60 fine will be punitive for a campaign of this size, but not overburdensome, and will convey to Ms. MacLean the importance of filing the most accurate report possible in a timely manner.

Reporting History:

1987: 30 Day Pre-Municipal Report not required
7 Day Pre-Municipal Report timely
10 Day Post-Municipal Report, \$120 CPA, 12 days late, appealing

1984: North Slope Borough Assembly Candidate
All reports timely

JANUARY 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Accept the affidavit and waive the fine.

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

Phil Younker - 1987 Fairbanks North Star Borough Assembly Candidate

Appeal: \$150 CPA, 30 Day Pre-Municipal Report, 15 days late.

Staff Recommendation: Accept the affidavit and waive the fine.

Staff recommends waiver of this assessment because agency error may have prevented the report being turned in on time and the delinquent statement was a Zero report.

According to staff memos (attached), confusion surrounded the mailout of additional candidate packets to the Fairbanks North Star Borough area. Staff supplied the FNSB Clerk's office with candidate packets prior to the candidate filing period (8/7 - 8/27). The clerk apparently ran out of materials and called our office (around 9/7) and asked that staff mail reporting packets to those candidates which had not already received materials. The confusion lay in the question of who had or had not received packets. Mr. Younker was mailed a packet on 9/15/87. Unfortunately, the 30 day Pre-primary report was due 9/8/87.

In addition, Mr. Younker's campaign was financed entirely by his own funds and totaled \$1924 in personal contributions and expenditures.

Staff feels that Mr. Younker made a good faith effort to obtain his reporting materials and regrets that he was frustrated by the mailout system.

Reporting History:

1987: 30 Day Pre-Municipal Report, \$150 CPA, 15 days late, appealing
7 Day Pre-Municipal Report, timely
10 Day Post-Municipal Report, timely

1984: FNSB Assembly Candidate, Exempt

1982: FNSB Assembly Candidate
7 Day Pre-Municipal Report, \$5 CPA, 1 day late, paid
10 Day Post-Municipal Report, Zero (0) Report, 12 days late, Zero
Policy Letter sent

JANUARY 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit and waive the fine.

_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

ARRIVED

Sept. 23, 1987

SEP 25 1987
9/22
APOG ANCH
PM HC

Alaska Public Offices Comm.
2221 E. Northern Lights Blvd.
Room 128
Anchorage, Alaska 99508

Dear Sirs:

I would like it entered into the record that I was not provided with a packet of materials from your office when I filed for Borough Assembly Seat k, of the Fairbanks North Star Borough. The Borough clerk did not have any packets available in her office, however she did state that she had ordered it for me. I did not receive the packet until Sept. 21 1987 and would note that it was not mailed from your office until Sept. 15, 1987.

Failure to be provided the necessary material to file my first two reports is the reason you are receiving these late. I would expect that any penalty be waived due to the above.

Sincerely yours

Phil A Younker

September 22, 1987

- APPROX 9/7 or 9/8

Earlier in September (date - can't remember) Fairbanks North Star Borough Clerk called and talked with Belinda. Belinda said, they did not receive enough packets so everyone did not get packets. She said the clerk would find out who did not get packets and call us back. Apparently we did not get a call back. Fairbanks North Star Borough clerk called again on September 15th and said they are still waiting for the packets. On September 15th Roxann sent all candidates on the list who are Letter of Intent, Missing Information.

This was a note from
Winona that I requested
after discussing the
packet situation with
her. JSS

**GROUP
CD
AFFIDAVITS**

AK Public Emp Assn, FBKS GGU Epic - William Newman, Treasurer

Appeal: \$5250 CPA; 7 Day Pre-Special (6/30/87) Report, 105 days late
\$870 CPA; 10 Day Post-Special (6/30/87) Report, 87 days late
\$280 CPA; 30 Day Pre-Municipal Report, 28 days late
\$350 CPA; 7 Day Pre-Municipal Report, 7 days late
\$6,750

Staff Recommendation: Accept the affidavit in part, and reduce the fines to 2% to \$135.

This group has had a good reporting history until 1987. They failed to file reports for the special Fairbanks election in June. They then changed treasurers, and the first report filed by the new treasurer uncovered the oversight. The group had minimal activity in the June election [one \$250 transaction], and almost no activity in the October election [\$21 in xeroxing costs]. A reduction to \$135 is recommended given the perspective of the unreported data for the June election [one \$250 newspaper ad expenditure], the relative inactivity [one transaction per election], the transitional difficulties, the lesser known reporting requirement deadlines for special elections.

Reporting History:

1987: 7 Day Pre-Special (6/30) Report; \$5250 CPA, 105 days late
10 Day Post-Special (6/30) Report; \$870 CPA, 87 days late.
30 Day Pre-Municipal Report; \$280 CPA, 28 days late, appealing
7 Day Pre-Municipal Report; \$350 CPA, 7 days late, appealing
10 Day Post-Municipal Report; timely

1986: All Primary & General Reports; timely
1985: All Municipal Reports, timely
1984: 30 Day Pre-General Report, timely
7 Day Pre-General Report, \$50 CPA, 20 days late, reduced to \$25, Pd.
10 Day Post-General Report; \$3 CPA, 3 days late, Pd.

January 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.
_____ Accept the affidavit and waive the fine.
_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

Alaskan's for Responsible Government - Don Smith, Treasurer

Appeal: \$240 CPA, 10 Day Post-Municipal Report, 24 days late.

Staff Recommendation: Accept the affidavit in part and reduce the fine to \$100.

Mr. Smith has had long experience with the campaign disclosure laws in his numerous campaigns and should be held accountable for understanding when a "zero" report is due. However, this was a report due after an election, and the fine is proportionately high in relation to the level of the group's expenditures.

Reporting History:

1987: 30 Day Pre-Municipal Report, timely filed.
7 Day Pre-Municipal Report, timely filed.
10 Day Post-Municipal Report, \$240 CPA, 24 days late, appealing.

No previous reporting history.

January 27-28, 1988 MEETING, COMMISSION ACTION:

- _____ Deny the affidavit and uphold the fine.
- _____ Accept the affidavit and waive the fine.
- _____ Accept the affidavit in part and reduce the fine to \$_____ if it is paid within 30 days of notice.

Building Industry Assn of Anchorage Build PAC.

Appealing: \$310 CPA; 10 Day Post-Municipal Report, 31 days late.

Staff Recommendation: Accept the affidavit in part and reduce the fine to \$100.

Building Industry PAC was sent a "zero" report policy letter on October 8th advising them that similar delinquencies would not be viewed lightly in the future. Some reduction, however, is in order, in that the group had a low level of activity [it collected \$2140 in contributions and disbursed \$1000 in the initial Mayoral election and no funds in the runoff].

Reporting History:

- 1987: 30 Day Pre-Municipal Report; timely filed.
7 Day Pre-Municipal Report; 8 days late, Zero Policy letter sent.
10 Day Post-Municipal Report; timely filed.
7 Day Pre-Run off Report, 1 day late, Zero Policy letter sent.
10 Day Post-Municipal Report; \$310 CPA, 31 days late, appealing.
- 1986: No Primary activity.
30 Day Pre-Municipal Report; timely filed.
7 Day Pre-Municipal Report, 6 days late, Zero Policy letter sent.
10 Day Post-Municipal/30 Day Pre-General Report, timely filed.
7 Day Pre-General Report; timely filed.
10 Day Post-General Report; timely filed.

January 27-28, 1988 MEETING, COMMISSION ACTION:

- _____ Deny the affidavit and uphold the fine.
_____ Accept the affidavit and waive the fine.
_____ Accept the affidavit in part and reduce the fine to \$_____ if it is paid within 30 days of notice.

Juneau Building & Construction Trade PAC - Dwight Perkins, Treasurer

Appeal: \$700 CPA, 7 Day Pre-Municipal Report, 14 days late.

Staff Recommendation: Accept the affidavit in part and reduce the fine to \$350 or 50%.

This group's report was incomplete as originally filed. The source of \$4701.61 in contributions was not adequately itemized. Staff, however, recommends accepting the original filing date, contingent upon a prompt audit reply addressing the itemization problem. Mr. Perkins has had prior experience in campaign disclosure reporting and should have been aware of the need to see that the reporting responsibilities of his position were delegated to another officer pending the appointment of a new treasurer.

This is, however, a new group, and staff does recommend some allowance for their personnel turnover problems.

Reporting History:

1987: 7 Day Pre-Municipal Report, \$700 CPA, 14 days late, appealing
10 Day Post-Municipal Report, timely

No previous reporting history.

January 27-28, 1988 MEETING, COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit and waive the fine.

_____ Accept the affidavit in part and reduce the fine to
\$_____ if it is paid within 30 days of notice.

Personal Liberties Committee PAC - Grace Mitchell, Treasurer.

Appeal: \$280 CPA; 10 Day Post-Runoff Report, 28 days late

Staff Recommendation: Accept the affidavit and waive the fine.

This group had "zero" activity in the runoff. They would have been eligible for a zero report waiver if the delinquency notice was sent out in staff's customary 5 day time period. It was sent out late because of a member of our staff's absence due to a death in the family. This group had "zero" activity in the runoff. The delinquent report was a "zero" report. They did respond promptly to the delinquency notice and replied within a day of receiving the notice.

Reporting History:

- 1987: 30 Day Pre-Municipal Report; timely filed
7 Day Pre-Municipal Report; timely filed
10 Day Post-Municipal Report; timely filed
7 Day Pre-Municipal Run-off Report; timely filed
10 Day Post-Municipal Run-off Report; \$280 CPA, 28 days late, appealing, above.
- 1986: 30 Day Pre-Primary Report, timely filed.
7 Day Pre-Primary Report; timely filed.
10 Day Post-Primary/30 Day Pre-Municipal Report; timely filed.
7 Day Pre-Municipal Report; \$300 CPA, 6 days late, appealed, upheld, Pd.
10 Day Post-Municipal/30 Day Pre-General Report; timely filed.
7 Day Pre-General Report; timely filed.
10 Day Post-General Report; timely filed.
- 1985: 7 Day Pre-Municipal Report; 1 day late, \$5 CPA, appealed, denied, Pd.
All other reports timely filed.
- 1984: 30 Day Pre-Primary Report; \$1 CPA, 1 day late, Pd.
All other Reports timely filed.

January 27-28, 1988 MEETING, COMMISSION ACTION:

- _____ Deny the affidavit and uphold the fine.
_____ Accept the affidavit and waive the fine.
_____ Accept the affidavit in part and reduce the fine to \$_____ if it is paid within 30 days of notice.

SeaPAC - Robert W. Loescher, Treasurer

Appeal: \$350 CPA; 7 Day Pre-Municipal Report, 7 days late.

Staff Recommendation: Accept the affidavit in part and reduce the fine to \$150.

This group has had a good reporting history and had minimal campaign activity [one \$150 contribution]. This appears to a classic example of a report "slipping between the cracks", as opposed lack of respect for reporting deadlines: the request for a contribution came at the last minute, was not a part of a plan to make contributions, and happened as the person to whom reporting had been delegated was going on leave.

Reporting History:

1987: 7 Day Pre-Municipal Report; \$350 CPA, 7 days late, appealing.
10 Day Post-Municipal Report; timely filed.

1986: All Primary Reports; timely filed.
All General Reports; timely filed.

1984: 30 Day Pre-Primary Report; \$4 CPA, 4 days late, Pd.
7 Day Pre-Primary Report; \$40 CPA, 8 days late, Pd.
10 Day Post-Primary Report; timely filed.
All General Reports; timely filed.

1982: No Primary Reports filed.
All General Reports; timely filed.

January 27-28, 1988 MEETING COMMISSION ACTION:

_____ Deny the affidavit and uphold the fine.

_____ Accept the affidavit and waive the fine.

_____ Accept the affidavit in part and reduce the fine to
\$ _____ if it paid within 30 days of notice.

**CONFLICT
OF
INTEREST
AFFIDAVITS**

Eileen Norbert, member, Alaska State Council on the Arts, fined \$335 for 41 days late filing of the initial 1987 Conflict of Interest Statement.

Recommendation:

Reduce the fine to \$250 payable on a self-monitored schedule of \$10/month.

Summary:

Ms. Norbert was sent the initial notice on October 20 and a delinquency notice on December 21. The Statement was received on December 30.

Ms. Norbert states the delay was due to notarizing more than one filing. However, our office only received one self-certified (i.e., without a notary seal) Statement.

Consistent with mitigation criteria, we recommend a reduction of 25% of the assessment, since Ms. Norbert responded quickly to the first late notice.

AFFIDAVIT

19 ___ MUNI STATE COI

NAME: Eileen Norbert

POSITION: AK. STATE ARTS COUNCIL

INSTRUCTIONS: If you send payment, you need not file this form. An affidavit is required only if you are appealing the civil penalty assessment. An affidavit must be self-certified or notarized by any person authorized to administer oaths.

I do hereby swear and affirm that:

(1) This statement of facts is offered in mitigation of the late filing of my Conflict of Interest Statement.

(2) State reason statement was filed late:

I had one form notarized and did not realize there were more. The notary public at Nome Public Schools can verify this.

(3) State any other reason(s) the civil penalty should not be assessed:

I am a single parent. This civil penalty would cause a financial hardship on me at this time unless I can pay a minimal amount like \$10/month.

CERTIFICATION:

I, the undersigned, certify that the information in this Statement is, to the best of my knowledge, true, correct and complete. In the absence of a Notary Public or other official authorized to administer an oath, I personally certify under penalty of perjury that the Statement is true. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Eileen Norbert 1/11/88 Nome, AK.
Signature Date Location

Thomas R. Tatka, member, Agriculture Revolving Loan Fund, appealing a \$785 fine for 86 days late filing of the initial 1987 Conflict of Interest Statement

Recommendation:

Reduce the fine to \$300 if paid within 30 days

Summary:

Mr. Tatka was sent an initial notice on May 18 and a delinquency notice on June 17. Both notices refer to fines for late filing. On September 8, we called the staff of ARLF to request help in obtaining the Statement before a removal from office action was taken. The filing was received on September 11 and the Commission deferred on proceeding with a removal recommendation.

Mr. Tatka believed he had already filed the Statement and that a fine should not be assessed to board members who are not full-time state employees. However, this law sets uniform penalties for noncompliance, regardless of the type of office hold.

While Mr. Tatka does not meet specific mitigation criteria, the criteria allow reduction of fines to \$300 if the assessment exceeds perceived public injury. We believe this is the case. Mr. Tatka's filing appears complete on its face. We are not aware of a public inquiry on its contents during the delinquency period nor does there appear to be a reason Mr. Tatka withheld the information intentionally. Therefore, we recommend a reduction to \$300, if paid within 30 days.

ARRIVED

AFFIDAVIT AND RESPONSE

NOV 27 1987

1987 STATE

Thomas R. Tatka
APOC-ANCH
ARLF Board Member^{PM} HC

As to the factual representations set forth herein, I swear that these statements are true to the best of my recall, knowledge, or belief.

You have proposed to penalize me for late filing of a disclosure statement. I request that you reconsider.

During the period prior to submission of my disclosure statement I was first under the impression that disclosure of my law clients' identities would be illegal. I then resolved to comply. This required preparation of a list by my bookkeeper. After that preparation I mistakenly believed that the statement had been submitted. I was later informed by an ARLF staffer that my disclosure statement was not in. I complied immediately (after having to search through a stack of ARLF work materials to locate the compilation of client information which I provided.

It is inequitable to require th payment of a penalty. The service I provide to the state in not compensated. Several hours of preparation are necessary prior to each ARLF Board meeting. For each meeting day I lose several hundred dollars in revenue.

I did not seek appointment to the ARLF Board. I was sought out and my services were requested.

There has never been a situation in regard to board work where I have had a conflict of interest. On two occasions when there might have been the slightest appearance of conflict, I have withdrawn.

It would be manifestly unjust to penalize me for an inadvertent delay in filing a form, especially since I have most scrupulously and generously performed by duties. No information on an earlier form would have disclosed any conflicts.

The APOC's adjudicatory determination to penalize me appears to have been made prior to my being notified that such a procedure or accusation was pending. I hope that these defenses will be given due consideration after the fact. I propose that no penalty be levied in these circumstances.

As to further action which you may undertake, please be advised that I will be out of state from December 12, 1987 to January 2, 1988.

Thank you for the consideration you will be giving this response.

I personally certify under penalty of perjury that the facts recited above are true to the best of my recollection, knowledge and belief.


Thomas R. Tatka

MEMORANDUM

State of Alaska

Exhibit C

[18]

TO: Alaska Public Offices Commission
FROM: Jane Barcott, *Jane Barcott* Assistant Director
DATE: January 19, 1988
RE: Mitigation Criteria

Attached is a proposal for staff criteria in mitigating Campaign Disclosure fines for late reporting (agenda no. 19). The first document outlines the purpose and rationale of the criteria. The second document is the actual criteria and applicable reduction percentages.

Please review both documents for discussion and adoption at the next meeting.

TO: Alaska Public Offices Commission
FROM: Jane Barcott, ^{Jane Barcott} Assistant Director
DATE: January 11, 1987
SUBJ: Staff Criteria for Campaign Disclosure Civil Penalty Appeals

I. Purpose of the Criteria

Last spring, the Commission reviewed drafts of staff mitigation criteria for civil penalties assessed under the Campaign Disclosure and Conflict of Interest Laws. The Conflict of Interest criteria were subsequently approved. Campaign Disclosure criteria were continued for further work. Staff is now proposing the attached criteria for Commission review and approval.

The Commission routinely acts on affidavits appealing civil penalties assessed for late reports under the disclosure laws. Members review the affidavit and a staff recommendation on its disposition. The Commission is not required to follow a staff recommendation, although the staff advice is often the foundation of a discussion and provides information on filing history. It is important that appellants who appeal assessments on similar grounds receive comparable treatment under the criteria.

The impetus for mitigation criteria arose from discussions with the Department of Law on the process of civil penalty appeals and the burgeoning number of affidavits filed. The proposed criteria reduce the appearance of arbitrary recommendations by staff and of personal bias or inequitable results. This should reduce the potential of successful legal challenges to the Commission's appeal process. The Department of Law may have additional comments about general principles the commission should consider in deciding civil penalty appeals.

The number of affidavits has increased markedly in the past two years. We believe standard staff mitigation criteria will reduce preparation time by codifying current reduction/waiver factors and assigning flat percentages to each. If approved, the criteria would first be used on any affidavits presented at the April meeting.

II. Summary of the Criteria

The criteria reflect many of the complex factors staff reviews in making a recommendation for disposition of affidavits. They set a floor (\$25) and ceiling (\$200) for recommendations of meritorious appeals; outline circumstances in which a reduced fine is contraindicated; and, take a conservative approach to late 24 hour reports, based on the imminence of an election. The basis for waivers is given. A number of modest offenses are outlined that would result in a standard reduction to \$25.

APOC Members
January 13, 1988
Page 2

For somewhat more serious offenses, Section IV directs staff to consider prior filing history, corrective action taken by the filer, and the content of activity reported, as factors permitting a 50% reduction. Section V includes criteria specific to small campaigns in acknowledgment of their more informal organization and general lack of resources.

III. Implementation of Criteria

The criteria were developed through several discussions with the campaign disclosure staff. We are confident they initially reflect most factors considered in developing a recommendation and value such factors appropriately. To monitor implementation, Greg Granquist has volunteered to develop a limited database on affidavit history for analysis and comparison with the criteria. This database and any problematic areas arising in using the criteria, should identify areas of needed revision. The campaign disclosure staff will propose modifications as needed and monitor the effectiveness of the criteria.

Mitigation Criteria for Campaign Disclosure Late Reports

I. Introduction

The following criteria are guidelines for staff recommendations on appeals of civil penalties assessed for late reports. The criteria should standardize recommendations; describe factors used in making a recommendation; assure equitable recommendations; and, reduce time to prepare staff recommendations. The criteria include mitigating factors commonly recognized by the Commission in past appeals. The criteria are not intended to replace sound judgment. In making a recommendation, the staff can override the criteria by describing reasons for an exception. They should be reviewed periodically by staff and amended where necessary. Major amendments will be brought forward for Commission review, if warranted.

II. General Principles

A. Fines will not be reduced below \$25. Staff will recommend either a waiver of the fine or a reduction to \$25, depending on the merits of the affidavit.

B. Appeals based on factors listed herein will result in a recommendation for a reduced fine which does not exceed \$200.

C. Generally, the staff will not recommend mitigation of fines for late 24 hour reports filed by large campaigns or experienced candidates. These reports represent significant contributions received in the week prior to the election. For others, the staff will make a recommendation based on the factors listed below, the nature of the contributor, and the volume of activity during the period. Repeated failure to report or failure to report contributions by regular participants in the political process (lobbyists, political groups, and unions, for example) will indicate a reduction should not be granted.

D. Staff may override the criteria and recommend a fine not exceeding the original assessment, if the affiant:

- * received mitigation for the same reasons stated within the last two years, excluding appeals subject to waiver;

- * has filed more than 2 late reports within the last two years;

- * has filed reports which are significantly incomplete; i.e., the majority of contributions and expenditures cannot be identified;

- * has filed a late report indicating significant violations occurred; e.g., unregistered group activity, unidentified contributors, etc.

- * if agency information contradicts the facts stated in the appeal;

- * if the late report discloses information which may have affected the outcome of an election and would be advantageous to withhold.

III. Waivers and Flat Fees Recommendations:

a. Staff will recommend a waiver if:

- * there is independent proof of timely mailing such as a copy of a certified receipt or postal affidavit, etc.;
- * postmark illegible or nonexistent and it is beyond the knowledge or control of the filer;
- * agency confirms that agency error (sent the wrong reporting schedule, agency entered address wrong, etc) precluded timely filing;
- * candidate or treasurer had an unforeseeable, catastrophic event - a death in immediate family or hospitalization in the 2 weeks preceding the due date - that precluded timely filing;
- * the late report was a zero report, filed within ten days of the due date, and it was the first occurrence of this during the current calendar year;
- * it is a zero report by a group that registered for a reporting cycle in which it is not active, and the registration is properly revised within ten days of the delinquency;

b. Staff will recommend a flat reduction to \$25 or uphold the assessment, whichever is less, if:

- * it is the first report from a candidate or group in the prior four years, the delinquency was promptly rectified upon receipt of the initial late notice, and less than \$1,000 in activity is disclosed;
- * it is the second or more late zero report in the current reporting cycle;
- * if a municipal candidate files an exemption in lieu of the first report within ten days of the delinquency notice

IV. Reduction by 60% or to \$200, whichever is less:

- * there was minimal activity disclosed (less than \$1,000; contributors limited to the candidate and/or more than 4 individuals are guidelines for "minimal activity"); the report revealed no other more serious violations; there is no likely reason to believe the report or activity indicated had any significant effect on the outcome of an election;
- * agency notices were sent to the wrong address, due to failure of candidate/group to notify our office of change in address
- * the report indicated only administrative activity; there were no direct, reportable political contributions; and cash on hand is less than \$1,000.
- * the reporting requirements were misunderstood by a candidate or group which had not been active in the prior two years and had less than \$1,000 cash on hand.
- * the reporting history indicates at least 90% of the past two year's reports were timely filed and complete and there is a supportable reason for the delay in filing;
- * a good faith effort is demonstrated that future compliance problems should not occur - a professional bookkeeper or accountant is retained, adequate recordkeeping systems are in place, and any missing account records have been professionally reconstructed.

V. Additional Criteria Specific to Small Campaigns

Reduce by 50% or to \$200, whichever is less, for late reports with year-to-date activity of less than \$10,000, if:

- * there has been a change in treasurers since the last report which resulted in the late filing; or,

- * there was confusion over the due date or place to file the report, and it is the first year of activity for the treasurer/candidate;

- * the report was hand-carried to the office after working hours

- * the candidate was the treasurer and failed to meet the due date because s/he was out of town campaigning.

- * the fine is assessed for failure to file an earlier report, based on information contained in the initial report that was filed AND there is no reason to believe the the failure was intentional;

- * there was a misunderstanding of the reporting requirements and the report had minimal activity that would have affected the outcome of an election.

Ex-worker criticizes APOC boss

Agency accused of party favoritism

By HAL SPENCER
Daily News reporter

The head of the Alaska Public Offices Commission staff has frustrated agency investigations of Democrats who may have violated campaign finance and reporting laws while vigorously pursuing Republicans. Chris Johansen, a recently resigned APOC investigator, asserted Wednesday.

Johansen, who is a lawyer, also accused Executive Director Theda Pittman of initially misleading VECO International Inc., an Anchorage-based oil services firm, about the legality of its campaign contribution payroll deduction plan that later was determined to violate APOC regulations.

Pittman on Wednesday declined to comment on the allegations, saying she was barred by state law from commenting on anything that could involve a personnel matter. "I have to operate out of caution about what I comment on because the prohibitions (regarding discussion of personnel matters) seems to be extremely narrow," she said.

Pittman was referring to an ugly, ongoing fight between her and Johansen that led Pittman to threaten to fire him and that prompted the associate coordinator to resign, effective July 16. Pittman last week placed Johansen on leave with pay until his resignation date, saying his abrasive letter of resignation made it clear that they no longer could work together.

Johansen's allegations seem likely to further damage the politically fragile campaign watchdog agency. The APOC, formed in the mid-1970s to enforce campaign finance regulations, already is

See Back Page. **CRITICISM**

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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Appellant:
Candidate for: _____
_____ days late on _____ report. Fine = \$ _____
Staff Recommendation:

Factors:

I. Waiver

proof of timely mailing illness, death in family
 first report of filer illegible postmark
 agency error

Reduce to \$25:

zero report report not required
 late exemption

II. Reduce to 50% or \$150, whichever less:

less than \$1000 activity wrong mailing address
 only administrative activity

III. Campaigns under \$ _____, Reduce by 40% or to \$150, whichever less:

treasurer change first time candidate, treas.
 late hand-carry group inactive for past year
 filed at wrong office candidate, treas. out of town
 first report filed indicates earlier filing was required

IV. Other

Full Fine Upheld:

prior appeal on same reason
 gross negligence in report filed
 more serious violations indicated on report

Additional Mitigation by 50%:

secured professional, experienced recordkeeper
 reconstructed report(s) based on bank statements
 proof of accurate record system in future reports

V. Exceptions and Recommendation:

Ex-worker criticizes APOC boss

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See Back Page. **CRITICISM**

CRITICISM: Alaska Public Offices Commission staff director target of criticism

Continued from Page A 1

under attack by prominent Republican politicians, some of whom sought to financially cripple the agency during the 1986 legislative session.

One of them, Sen. Jan Falks of Anchorage, on Wednesday reacted strongly to Johansen's assertions. "Hullabaloo," she said "I've been saying that for two years."

But two public offices commissioners, Burke Riley of Juneau and Dan O'Tierney of Anchorage, suggested Johansen's statements could have been motivated by personal animosity toward Pittman.

"I'm really shocked" at Johansen's assertions, O'Tierney said. "Apparently he is mad about some things."

Both O'Tierney and Riley said the commission, in executive session, probably would discuss Johansen's assertions as a personnel matter. Neither could say whether the allegations might be investigated to determine their veracity. "I'm sure they (the accusations) won't go unnoticed," Riley said.

Commission chairwoman Jean Rogers of Juneau could not be reached.

Johansen on Wednesday released a fistful of memoranda between him and Pittman that showed they clashed on items ranging from Pittman's alleged refusal to investigate campaign financing practices of Democratic Sen. Jay Kerttula of Palmer to whether Johansen should prop up his

feet on agency furniture.

In April, Pittman performed an employee evaluation of Johansen in which she cited "rumors" that Johansen "blackmails people."

Johansen said Wednesday the written suggestion that "I am an extortionist is one reason for my resignation." He said he was considering filing a libel suit on the statement.

Johansen, in an interview, made the following statements about Pittman's handling of campaign finance and reporting matters involving VECO, Kerttula, and Ashley Reed, a Juneau lobbyist and friend and advisor to Democratic Gov. Bill Sheffield.

• The VECO case: The oil services firm in late 1983 launched a plan in which campaign contributions automatically were deducted from employee paychecks and given to five Republican state senators.

Veco spokesmen insisted during an APOC investigation of the plan that Pittman initially had led the firm to believe its plan was legal. Faiks, who was among recipients of VECO contributions, also contended that Pittman had advised her campaign treasurer that the plan was legal.

She recently dropped a libel suit filed against Pittman on the matter.

Johansen said Wednesday that VECO was the victim of "bad information" from Pittman. Johansen contended that Pittman did not understand APOC regulations when first

approached by VECO attorney Bob Ely in December 1983.

Johansen said he had been on the job for only a short time, and had found APOC regulations generally to be "very confusing."

He said he asked Pittman her view on how to handle inquiries regarding interpretations of regulations not immediately understood by staffers and was told "Do just like I do. Bulls-t them."

Johansen asserted that "she bulls-ted" Ely by failing to tell Ely that the plan was illegal, primarily because she did not know if it was.

"We've said that all along," VECO Vice President John Kerrigan said Wednesday. The firm recently lost a Superior Court appeal of an APOC ruling that the firm acted illegally in deducting contributions from payroll checks, and Pittman's initial advice was an issue raised by VECO in its appeal. VECO has appealed to the Alaska Supreme Court. Kerrigan would not say if Johansen's statements would bolster VECO's case.

• The Kerttula case: In June, 1984, John and Karen Lee, owners of a Wasilla construction company and a Point MacKenzie dairy, gave some employees "tool allowances" of \$1,500 each. Days later, the Lees, their employees and their wives made 21 separate \$1,000 contributions to Kerttula's re-election campaign. Some workers told the Anchorage Daily News that

they had been told the tool allowance was meant to cover the contributions and leave \$500 bonuses.

The Lees acknowledged paying the tool allowance but denied there was any connection between the payments and the contributions to Kerttula.

When the contributions were disclosed by the Daily News in September 1985, Wasilla Republican Barbara Lacher, who lost the 1984 Senate campaign to Kerttula, asked the APOC to investigate. State law limits a contributor to a maximum contribution of \$1,000 a year to a candidate.

Pittman ordered her staff to write letters to Kerttula and the Lees asking for an explanation. That's where the matter rested. She later told Sitka Republican Sen. Dick Ellason that the agency was too busy to pursue the investigation further.

Johansen told a different story Wednesday. He said he had plenty of time in 1985 to investigate the Kerttula contributions, and in fact had been told by Pittman to go ahead and subpoena Lee's financial records.

"When I took the subpoenas into Theda to sign, she didn't want to sign them for reasons I can only speculate about. I don't know. Those subpoenas are probably still in Theda's office," he said.

• The Ashley Reed investigation.

Reed was late eight times in filing his 1985 reports on lobbying clients and finances.

The APOC staff in May recommended that Reed be fined \$8,000 and face possible criminal prosecution for a long history of reporting violations.

Johansen asserted Wednesday that he began an investigation of Reed in January, while Pittman was on vacation. He contended that upon her return, Pittman was "very agitated to have gone on a vacation and to come back and find her friend Ashley Reed was being investigated."

Johansen claimed he wanted to pursue criminal charges against Reed, but Pittman vetoed the idea, and plans instead to seek civil fines of Reed.

Pittman laughed Wednesday when asked her response. She said the APOC currently was pursuing sanctions against Reed and she could not comment further on the matter, including Johansen's assertion she was a "friend" of Reed.

But commission member O'Tierney said he failed to understand how Johansen could assert that Pittman wants to shield Reed from a criminal investigation since the matter has not yet been heard by an APOC hearing officer. "At this point, anything could happen. That case is far from decided," O'Tierney said.

Johansen, in his letter of resignation to the public offices commission and in an interview, makes no secret of his personal contempt for his

former boss.

"Theda's level of rudeness and lack of trust is of paranoid dimensions. Her attack on my credibility, integrity and honor are baseless lies. These attacks have become worse since I began proceedings against her close Democratic associates and friends." Johansen said in his resignation letter.

He also urged the commission, in future proceedings, "to cast a very jaundiced and skeptical eye towards anything Theda says or does in the future."

Johansen's copies of memoranda that flew like darts between him and Pittman range from serious accusations to almost comical disputes.

"Needs to improve planning skills," Pittman wrote of Johansen in an April 9 performance evaluation. "May have good investigative skills but it's hard to tell because of occasional rumors that he blackmails people."

In another memo, Pittman, among other things, criticized Johansen's habit of propping his feet on furniture.

In a memo of response, Johansen wrote: "It is a common trait of those taller people unburdened by the limitations of womanhood and legs to permit them to rise above the confines of floor space and allow them to find a suitable and non-offensive perch. The habit may be genetic, behavioral or imprinted at birth. It may be the result of being borne (sic) feet first."

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

Senate State Affairs

March 4, 1987

March 9, 1987 1:30 pm

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Abood
Senator Kerttula
Senator Sackell



PO Box V
State Capitol
Juneau, Alaska 99811
Phone: (907) 485-3114

Senate Advisory Council

MEMORANDUM

TO: Senator Abood
Alaska State Legislature

ATTN: Carol Heros

FROM: Carol R. Berryhill
Researcher

DATE: November 26, 1986

RE: Campaign Finance Investigation Procedures

As requested, following is information regarding the investigative procedures utilized by the Federal Election Commission, as well as the procedures used in several states, when processing campaign finance complaints. There are copies of statutes, along with the administrative regulations which interpret the codified laws, for the Federal Election Commission and the respective states. I have indicated the relevant areas with a yellow tab.

Responses received to date indicate that commission or board members generally do not participate in the initial stages of the investigative process. In addition, it appears that all complaints receive preliminary investigation. I have not located any state in which specific criteria is established for prioritizing complaints.

Unlike Alaska, many states have several agencies that handle different aspects of election related complaints. Some states, i.e., Wyoming, South Dakota, Vermont, and Nevada forward complaints to the Attorney General's office.

Federal Election Commission

Any person may file a complaint if he believes a violation of the Federal election law or Commission regulations has occurred or is about to occur. The complaint must be made in writing and sent to the Office of General Counsel, Federal Election Commission.

Senator Abood
November 26, 1986
Page 2

A complaint must comply with certain requirements. It must (1) provide the full name and address of the person filing the complaint; and (2) be signed, sworn to and notarized. Furthermore, in order for a complaint to be considered complete and proper, it should (1) clearly recite the facts that show specific violations under the Commission's jurisdiction (citation to the law and regulations are not necessary); (2) clearly identify each person, committee or group that is alleged to have committed a violation; (3) include any documentation supporting the allegations, if available; and (4) differentiate between statements based on the complainant's personal knowledge and those based on information and belief. Statements based on personal knowledge should identify the source of the information.

The Office of General Counsel reviews each complaint to determine whether it satisfies the above criteria of a proper complaint. If it does, the complaint is assigned a MUR (Matter Under Review) number, and the complainant is notified. The complainant generally will not hear from the Commission again until the entire case is resolved because, the Commission is required by law to keep all investigations confidential.

If the complainant does not meet the requirements, the General Counsel's Office notifies the complainant of the deficiencies within five days of receipt. If the complaint is corrected and refiled, it is given a MUR number and is assigned to a member of the General Counsel's staff.

Within five days after receiving a proper complaint, the Office of General Counsel sends each respondent a copy of the complaint and a description of the Commission's compliance procedures. The respondent has 15 days to respond in writing, explaining why no action should be taken.

In the case of a complaint that does not satisfy the requirements, the respondent nevertheless receives a copy of the improper complaint and a letter explaining that the matter will remain confidential for 15 days to give the complainant an opportunity to correct the complaint. If the complainant corrects and refiles the complaint, the respondent is sent a copy of the corrected complaint and is given 15 days to submit a response to the Commission.

A respondent who wants to be represented by counsel must inform the Commission by sending a "statement of designation of counsel". This statement, signed by the respondent, must include a statement authorizing the counsel to receive all communications from the Commission on behalf of the respondent and include the counsel's name, address and telephone number.

Once the Commission receives the "statement of designation of counsel", the agency will communicate only with the counsel unless otherwise authorized by the respondent.

Following the receipt of an answer from the respondent or at the end of the 15 day response period, the General Counsel recommends whether or not there is "reason to believe" the respondent has committed or is about to commit a violation of the law. The Commissioners, however, make the final decision by voting for or against a "reason to believe" recommendation. (Four affirmative votes are required to take any enforcement action.) In casting their votes, the Commissioners consider the complaint, the respondent's reply and the General Counsel's analysis and recommendation. (At any point during the complaint process, the Commission has the discretion to take no further action.)

A "reason to believe" finding means the Commission believes that an investigation should be conducted in order to determine whether a violation has occurred or is about to occur. (The law requires a "reason to believe" finding before the Commission may conduct an investigation.) If the Commission decides there is "no reason to believe" a violation has occurred or is about to occur, the case is closed and the parties involved are notified.

If, on the other hand, the Commissioners find that there is "reason to believe" the respondent has violated or is about to violate the law, the Commission sends a letter of notification to the respondent.

The Commission then begins an investigation, usually by sending questions and asking for a written reply. The investigation may include an audit of the respondent. The Commission may also issue orders requiring a person to testify or to produce documents. If necessary, the Commission may ask a Federal district court to enforce its subpoenas.

When the investigation is completed, the General Counsel prepares a brief that explains the factual and legal issues of the case and recommends whether the Commission should find there is "probable cause to believe" or "no probable cause to believe" a violation has occurred or is about to occur. The respondent is sent a copy of the brief and has 15 days to file a reply brief explaining the respondent's position.

Prior to the Commission's vote on the General Counsel's probable cause recommendation, the Commission may agree to resolve the matter informally. The respondent must initiate discussions in writing before the General Counsel's Brief is mailed to the Respondent. These pre-probable cause discussions, which are limited to 30 days (absent an extension), may result in a conciliation agreement between the respondent and the Commission, thereby resolving the matter.

However, if the matter is not resolved, the General Counsel sends the respondent a brief. The respondent must submit its reply brief within 15 days of receiving the General Counsel's Brief.

Senator Abood
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Page 4

Upon completion of the General Counsel's investigation (and assuming that the matter is not resolved through "pre-probable cause" conciliation), the Commissioners vote on whether or not there is "probable cause to believe" that a violation has occurred or is about to occur. (Four affirmative votes are required. If several violations are alleged, the Commission may vote on each one separately.) In making their determination, the Commissioners consider both the General Counsel's and the respondent's briefs.

If the Commission decides there is "no probable cause to believe" the case is closed and the parties are notified.

If the Commission determines that there is "probable cause to believe" the law has been violated, the General Counsel attempts (for at least 30 days, but not more than 90) to correct or prevent the violation through informal methods of conciliation, i.e., by entering into a conciliation agreement with the respondent.

If the General Counsel and respondent negotiate a conciliation agreement, the written agreement becomes effective once it is signed by the respondent and the General Counsel and is approved by an affirmative vote of four Commissioners. The agreement includes a description of the facts, legal conclusions, the actions that must be taken by the respondent and, in most cases, the payment of a civil penalty. The General Counsel sends a copy of the signed agreement to the respondent and, if the case is concluded as to all respondents, to the complainant as well.

If conciliation does not result in an agreement within the 90 day period, the Commission may file suit against the respondent in Federal district court.

A complainant who disagrees with the Commission's dismissal of a complaint or who believes the Commission failed to act in a timely manner may file a petition in the U.S. District Court for the District of Columbia. In the case of a Commission dismissal, the petition has to be filed within 60 days after the date of the dismissal.

To protect the interests of those involved in a complaint, the law requires that Commission activity concerning the complaint be kept strictly confidential until the case is resolved. On the other hand, because the public has the right to know the outcome of any enforcement proceeding, a case file is made available to the public in the Press Office and the Office of Public Records within 30 days after the parties involved have been notified that the entire matter has been resolved.

Senator Abood
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Page 5

Illinois

The Illinois State Board of Elections administers the campaign financing aspects of Illinois' version of sunshine legislation, and the Secretary of State is charged with responsibility to oversee the filing of ethics statements required of legislators and other elected and appointed governmental officials. In addition, lobbyists seeking to do business in Illinois must register with the Secretary of State, while matters involving conflict of interest are generally referred to the Attorney General's office.

As to the Board's responsibility to determine which complaints of Campaign Disclosure violations to pursue, this is generally addressed at the staff level. An auditor will review a number of political committee filings and determine those that are not in compliance with the law. Complaints may also be brought by outside parties. In the event of a complaint filing, the hearing procedures stated in the enclosed pamphlet are then triggered. As indicated in the rules, a two step hearing process - a closed preliminary hearing (Subpart B, page 52) and a public hearing (Subpart C, page 57) - are provided for. Subpart E, "Investigations, Inquiries and Hearings", beginning on page 64 provides interpretation for responsibilities carried by staff and by Board.

Iowa

The Iowa Campaign Finance Disclosure Commission is an independent state agency. The Executive Director, an appointee, reports to a five member policy setting body, who are appointed by the Governor and confirmed by the Iowa Senate. The jurisdiction of the agency is solely campaign finance disclosure reporting laws; they have no jurisdiction in conflict of interest, campaign ethics, personal financial disclosure or lobbying activity.

Any eligible elector may file a complaint with the Commission, or the Commission may initiate a formal complaint on its own motion. If an elector files the complaint, that person must prove up the case. If the Commission files the complaint, the Executive Director serves as the prosecutor and presenter of the evidence. The matter is set for Administrative Hearing, and the Hearing Officer is either the Chair of the Commission or another Commissioner appointed by the Chair. Rules of civil procedure apply, as well as the provisions of the Iowa Administrative Procedures Act. The Commission is a quasi-judicial body, and may convey its powers of discovery, subpoena, etc., to a complainant.

The hearing Officer prepares and presents a Findings of Fact, Conclusions of Law and Recommendation to the full Commission. The Commission then votes to (1) dismiss the complaint, (2) enter into an informal settlement

Senator Abood
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Page 6

agreement, or (3) refer the matter for criminal prosecution. The burden of proof on the Commission is "reason to believe" that a willful violation occurred.

Unless a complaint from an elector is totally without merit or basis, it is automatically accepted for hearing by the Commission. In the case of a Commission complaint, the discussion to file a complaint is made in executive closed session by the Commissioners, and if it is decided to file a complaint, this decision is then announced publicly upon return to open session. Information about a potential complaint is frequently brought to the Commissioners' attention by the Executive Director.

Nebraska

The Nebraska Accountability and Disclosure Commission is responsible for investigating complaints in Nebraska. Complaints are evaluated by staff for completeness and to determine if a violation of the Accountability Act has been alleged. Upon determination that the complaint properly alleges a violation, a preliminary investigation is begun; all Commission proceedings and records related thereto are confidential unless the respondent requests that they be made public. The preliminary investigation is conducted by staff, and its results are presented to the Commission in confidence; the Commission may then terminate the investigation or determine that there is probable cause to believe that a violation has occurred.

New York

In New York, Election Law 3-104 contains the authority for investigations by the State Board of Elections. Complaints are ordinarily handled in the order in which they are received. If, however, there is a danger that the Statute of Limitations may run, the complaint is placed on the top of the pile.

The determination as to which cases will be investigated is made by Counsel-Enforcement. If the complaint is extraordinary, i.e., politically sensitive, it may be brought before the members of the Board before any preliminary disposition.

Washington

Many of Washington's rules were amended a year ago following a fairly comprehensive review of the enforcement practices. The Public Disclosure Commission's staff has become the investigating and prosecutorial arm and the members of the Commission have the task of being judge and jury. The staff has been given considerable latitude for deciding what matters will be pursued and what will not. In WAC 39C-37-060(1) the Commission has established a criteria, albeit quite broad, for guiding the staff in its decisions. When the Executive Director determines a complaint does not merit further consideration he can dismiss it with the concurrence of the Chairman.

April 8, 1987

Senator Mitch Abood
State Affairs Committee
Capital Buidling
Juneau, Alaska

Dear Mr. Chairman:

The enclosed summary legal opinion commissioned at my expense clarifies the reasons I have opposed your committee's wasting time, money and effort on campaign financing problems in Alaska. The problem is not with campaign financing, but with the illegal and unconstitutional agency that you give jurisdiction over such problems.

If your committee insists of using public funds on behalf of judicious regulation of political campaigns in Alaska, I strongly suggest you address the real problem, not its symptoms..


I am a private citizen and intend to remain one; therefore, to avoid being dragged into this issue publicly by a biased and unreasonably hostile press, I am submitting the enclosed legal opinion anonymously.

If your committee is serious about representing the public's best interests, you will pursue the points raised in my document. If you feel its anonymity reduces its credibility, you still owe the Alaska public a thorough independent analysis of the legal points that are now brought to your attention.

In any event, it seems strange that, for all the time and money at the government's disposal, something as fundamental as this has to be paid for by a private party. If you do something about it, tho, it'll be worth the expense to me.

An Interested and Abused Citizen

P.S. I hope you will, in any event, show this to your committee and not ignore it.



April 7, 1987

Dear Mr. [redacted]

In response to your inquiry regarding the Alaska Public Offices Commission, I have prepared and herewith submit the following summary opinion.


It is my opinion that the enabling legislation for the APOC (AS 15.13.010 et seq) is constitutionally infirm. The commission is, by the legislation and regulations promulgated thereunder, purportedly granted regulatory, investigatory and adjudicatory powers.

Article II, Section 26 of the Alaska Constitution provides in pertinent part as follows:

Section 26. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its' members shall be appointed by the Governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law.

The Alaska Public Offices Commission is not in conformity with this provision and, as I suggested to you earlier, all policy arguments and disputes over staffing and staff conduct aside, the exercise by the APOC of what are clearly regulatory and quasi-judicial powers, constitutes a violation of Article III, Section 26 of the Alaska Constitution. I must admit that this opinion does not represent a novel or innovative position. APOC has been aware of the potential and real problems inherent in the APOC statutory structure since at least 1980. Legislation was drafted, introduced and passed by both houses of the legislature that year to modify AS 15.13.020 (a) and (b). That legislation was vetoed by Governor Hammond for reasons not related to the Constitutional issues.

Until or unless APOC is brought within Constitutional requirements, it is my opinion that the commission does not have the power to adopt regulations, conduct investigations or to make adjudications. If you have an interest in pursuing this matter further, I would strongly advise you to hire a recognized expert in the field of Alaska Constitutional law to prepare a formal detailed analysis of the statutes, regulations and




relevant constitutional provisions, and, using that as your
foundation, request the legislature to introduce and adopt
corrective legislation.

Please be assured that, although I have prepared
this opinion as your attorney and not as a specialist in the
field of Constitutional law, I believe the basic conclusions at
which I have arrived are clear and obvious. Another point to
keep in mind is that, once the statute is brought in line with
the constitutional provisions set out above, I believe you still
have a serious problem with an apparent lack of constitutional
due process for the targets of the APOC staff investigations
unless the current process is modified either by statute or
regulation. You might want to review some of the recent
testimony in the legislature and before the commission if you
have any questions about the due process issues.

If I can be of any further assistance to you in this
matter, please, as always, feel free to contact me.

Yours Truly,



H B

8 6

SENATE COMMITTEE REPORT

FURTHER:

JUDICIARY

2/26/87

DATE TURNED INTO OFFICE MARCH 30, 1987

Mr. President:

STATE AFFAIRS

Committee considered HB 86

definition of veteran for purposes of veterans' employment preference rights.

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

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup Attached

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 29, 1987

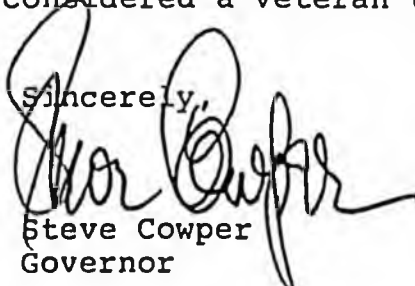
The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the definition of "veteran" for purposes of veterans' preference rights for state employment. This bill conforms the current definition of "veteran" found in AS 39.25.150(19)(A) to the federal definition in 5 U.S.C. sec. 2108.

In essence, the bill extends the period of time of active duty in the United States armed forces which qualifies an individual as a veteran for employment preference. The Alaska statute currently sets November 7, 1975 as the service cut-off date for qualifying as a veteran, while federal law establishes October 14, 1976 as the date. The bill amends AS 39.25.150(19)(A) to reflect the October 14, 1976 date, thereby conforming the federal and state periods of service for being considered a veteran to receive employment preference rights.

Sincerely,


Steve Cowper
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

REQUEST: _____
 Revision Date: 02/09/87
 Title: Definition of "Veteran" for purposes of employment preference
 Sponsor: Rules Committee
 Requestor: Governor

Bill Version: HB 86
 Publish Date: HOUSE 2/11/87

Agency Affected: Administration
 BRU: Personnel
 Components: _____

41

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
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-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

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)

The State Affairs Committee intends for all advertising to be done through public service announcements and veterans organizations.

Prepared by: Fran Ulmer, Chair
 Division: House State Affairs Committee

Phone: 465-4963
 Date: February 9, 1987

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

11/30/87

Revision Date : _____

REQUEST

Bill/Resolution No. : Law Log #773-87-0002
Title : Definition of "Veteran"

Sponsor : Rules Committee
Requestor : Governor
Date of Request : _____

FISCAL DETAIL

Agency Affected : Military & Veterans Affairs
BRU : _____

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	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

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 on this department.

Prepared by : *R.L.R.* Richard L. Rountree, Director
Division : Administrative & Support Services

Phone : 465-4600
Date : 10/13/86

Approved by Commissioner : *Richard L. Rountree* MG Edward G. Pagano
Agency : Dept. of Military & Veterans Affairs

Date : 10/13/86

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

1/30/87

Revision Date: _____

REQUEST
Bill/Resolution No.: _____
Title: Definition of veteran for
purposes of employment preference

FISCAL DETAIL
Agency Affected: Administration
BRU: Personnel

Sponsor: _____
Requestor: _____
Date of Request: _____

Components: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	1.7	0	0	0	0	0
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	1.7	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	1.7	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	1.7	0	0	0	0	0

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 Cost of running 2" x 4" display ad in newspapers around the state to notify applicants of the change--\$1,700. Assumes an effective date in FY 87.

Prepared By: Frank Raye
Division: Personnel

Phone: 465-4430
Date: _____

Approved by Commissioner: Eleanor Andrews
Agency: Department of Administration

Date: _____

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

The second 1982 amendment added paragraph (c)(17).

The third 1982 amendment rewrote this section.

The first 1984 amendment inserted "and Veterans" in paragraph (1) of subsection (c).

The second 1984 amendment changed the internal reference in subsection (b).

The third 1984 amendment substituted "of the public defender agency, and of the office of public advocacy in the Department of Administration" for "and of the public defender agency" in paragraph (3) of subsection (c).

The fourth 1984 amendment added paragraph (18).

Sec. 39.25.130. Extension of partially exempt and classified services. (a) The personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position in the classified service which, in the judgment of the board:

- (1) involves principal responsibility for the determination of policy;
- (2) involves principal responsibility for the way in which policies are carried out; or
- (3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) Positions may not be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) The personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position in the partially exempt service. (8 7 ch 144 SLA 1960, am §§ 9, 10 in 112 SLA 1982)

Effect of amendments. — The 1982 amendment "After June 30, 1961" from the beginning of subsections (a) and (c), deleted "which was" following "include any position" both in the introductory paragraph of subsection (a) and in subsec-

tion (c), and deleted "on April 19, 1960" following "in the classified service" in the introductory paragraph of subsection (a) and following "partially exempt service" in subsection (c).

NOTES TO DECISIONS

Cited in *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1741 (file No. 3418), 785 P.2d 870 (1978).

Article 3. Personnel Rules.

Section	Section
140. Amendment of personnel rules	153. Departmental personnel officers
150. Scope of the rules	155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At least 30 days before the adoption, amendment, or repeal of a personnel rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

- (1) posted in public buildings throughout the state;
- (2) published in one or more newspapers of general circulation throughout the state;
- (3) mailed to each person or group that filed a request for notice of proposed action with the secretary to the personnel board;
- (4) furnished to each member of the legislature and to the Legislative Affairs Agency.

(d) The rules may provide for exemptions and modifications that are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall be published in the Alaska Administrative Register and Code for informational purposes.

(f) Failure to mail notice to a person as required in this section does not invalidate an action taken by the personnel board.

(g) An amendment to the personnel rules takes effect 30 days after it is approved by the personnel board. The board, if requested to do so, may hold a public hearing on a proposed amendment. (8 12 ch 144 SLA 1960, am § 5 ch 5 SLA 1966, am §§ 11-13 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote subsection (c), substituted "shall be published" for "may be

published" in the second sentence of subsection (c), and added subsections (f) and (g).

NOTES TO DECISIONS

A right clearly created by statute cannot be taken away by regulation. *Muller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 1086 (file No. 738), 425 P.2d 145 (1967).
 Stated in *Kelly v. Zamatello*, Sup. Ct.

Op. No. 705 (file No. 1254), 186 P.2d 800 (1957).
 Cited in *State v. Dependent*, Sup. Ct. Op. No. 918 (file No. 1667), 512 P.2d 111 (1973).

The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

39.25.150(19)(A) →

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive examinations, when appropriate, that will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates; the rule adopted under this paragraph may include procedures providing a preference for certifying local residents when appropriate;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, the applicants' qualifications, performance records, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 — 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction, to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter, in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service, if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors, if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975.

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability.

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees.

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, that are necessary for its enforcement. (§ 13 ch 144 SLA 1960; am § 1 ch 130 SLA 1961; am § 1 ch 147 SLA 1962; am § 1 ch 117 SLA 1966; am § 1 ch 33 SLA 1967; am § 3 ch 226 SLA 1970; am § 1 ch 39 SLA 1971; am § 3 ch 42 SLA 1971; am § 1 ch 21 SLA 1973; am § 1 ch 27 SLA 1976; am § 1 ch 4 SLA 1978; am § 2 ch 67 SLA 1979; am § 38 ch 94 SLA 1980; am §§ 1, 2 ch 89 SLA 1982; am § 14 ch 112 SLA 1982)

Revisor's notes. — AS 39.25.150 was also amended by §§ 1 and 2, ch. 89, SLA 1982. That chapter amended former paragraphs (6) and (9). However, ch. 112, SLA 1982 is given effect here since it was enacted later than ch. 89, SLA 1982 and is a comprehensive repeal and reenactment of this section.

Cross references. — For the pay plan prepared under (2) of this section, see AS 39.27.011.

Effect of amendments. — The 1980 amendment substituted "November 7, 1975" for "a date to be determined by the legislature which shall be on or about six

months after the termination of hostilities involving forces of the United States in Viet Nam" near the middle of paragraph (23), and substituted a semicolon for a period at the end of paragraph (23).

The first 1982 amendment added "including the granting of employment preference to local residents in accordance with AS 39.25.181 or under appropriate circumstances" to the end of paragraph (6) and "including the granting of employment preference to local residents in accordance with AS 39.25.181" to the end of paragraph (9).

The second 1982 amendment rewrote this section.

NOTES TO DECISIONS

The scope of rules prepared pursuant to AS 39.25.050 is limited severely in this section, leaving the director of personnel very little discretion and virtually no policy-making power.

Kelly v. Zamarelli, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Chapter attempts to ensure most efficient expenditure of public funds.

— This chapter and the personnel rules attempt to ensure the state and its taxpayers that public funds will be spent in their most efficient manner. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

This section and personnel rule 7.05 prescribe the only manner in which the state may become obligated to pay for overtime performed by a classified service employee. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

A public employee is not entitled to payment for overtime in the absence of a valid contract executed pursuant to statutes or regulations specifically authorizing such compensation in addition to the employee's fixed monthly salary. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

When employee entitled to compensation for overtime. — This chapter and the applicable regulations adopted thereunder do not entitle an employee in the classified service, who is paid a fixed monthly salary, to receive any compensation for overtime, either in the form of cash or compensatory leave time unless: He is a member of the class eligible to receive overtime payment under personnel rule 7.052; he has worked hours in excess of his scheduled hours; and his appointing authority has authorized in writing payment for such overtime work. Even if these conditions are satisfied, personnel rule 9.04 stipulates that the employee is entitled to overtime pay only at his hourly rate. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

The establishment of normal working hours and provision for compensatory time off for work beyond those hours do not, themselves, give the employee a right to payment for overtime. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Requirement of an express written authorization for payment for overtime cannot be circumvented by the implied contract theory. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Collateral references. — Power to suspend or lay off public officers for a tempo-

A public employee undertakes to perform the duties of his position, whether those duties or the hours necessary to perform them, are increased or decreased. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

When a public servant is paid by time, for example by the month, rather than by the quantity of work performed, he is expected to perform his duties without extra compensation for overtime or holiday hours worked. This chapter and the personnel regulations are reflective of the widely accepted policy. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

The regulatory scheme under this section and personnel rule 7.05 centralizes decision-making power with respect to overtime in the appointing authority who presumably has a broad view of the department's needs and is shielded from dangers of favoritism by his distance from the particular employee. *State v. Bogenrief*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Right of probationary employee to appeal dismissal. — The intended scope of AS 39.25.150 as and its relation to paragraph (7) of this section is of sufficient importance to warrant legislative review in order that any potential ambiguity in the Personnel Act in regard to the question of whether a probationary employee in the classified service has the right to appeal his dismissal to the personnel board may be avoided. *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967), decided prior to the first 1971 amendment to this section.

Any ambiguity in personnel rule in regard to the right to appeal a dismissal to the personnel board should be resolved in favor of an employee who was promoted from a position in which he had (or subsequently attained) permanent status. *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967), decided prior to the first 1971 amendment to this section.

rary period without pay is an economy and not a disciplinary measure. 11 A.B.C. 142

HB

99



Alaska State Legislature House of Representatives

P.O. BOX 783
GIRDWOOD, ALASKA 99587
(907) 783-2905

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-2693/2719

REPRESENTATIVE
JIM ZAWACKI
DISTRICT 7

RECEIVED
JAN 19 1988

MEMBER
COMMUNITY & REGIONAL
AFFAIRS COMMITTEE
LEGISLATIVE BUDGET &
AUDIT COMMITTEE
FINANCE SUBCOMMITTEE

M E M O R A N D U M

January 16, 1988

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Representative Jim Zawacki *B*

SUBJ: Scheduling of HB 99

Mitch Abood
JZ

I would like to inquire into the possibility of have
CS 2d SSMB 99, establishing a legislative research division
within the Legislative Affairs Agency, be scheduled for a
hearing as soon as possible.

Attached is a copy of HB 99 as it passed the House last May.
I have also attached a copy of a Senate bill from 1985,
CSSB 43 (Jud) which is essentially the same bill that passed
the Senate 16 to 3.

I would think in these hard times you would seriously take a
look at the savings, both fiscally and administratively, that
this bill could do. I believe if we were to pass HB 99 it
would send a positive message back to the public that we, the
legislature, are also taking cuts.

I would appreciate a call from you if you feel you will not be
scheduling the bill for a hearing or moving the bill out of
committee.

Mitch, if you have any questions on this bill, please feel
free to contact me or my legislative assistant, Tally Johnson
at 465-2719.

Thank you for your consideration and understanding.

Original sponsors: Zawacki, Brown,
Frank, Gruenberg, et al

1 IN THE HOUSE BY THE FINANCE COMMITTEE/
2 CS FOR 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 99 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act establishing a legislative research division
7 within the Legislative Affairs Agency; and providing
8 for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. FINDINGS. The legislature finds that the staffs of the
11 House Research Agency, the Senate Advisory Council, and the Rural Research
12 Agency should be combined into a single legislative research agency and
13 that fiscal economies will be achieved by elimination of overlapping func-
14 tions and staffs of the present research agencies.
15 * Sec. 2. AS 24.20 is amended by adding a new section to read:
16 Sec. 24.20.055. LEGISLATIVE RESEARCH DIVISION. There is estab-
17 lished within the Legislative Affairs Agency a permanent research
18 staff, to be known as the legislative research division. The estab-
19 lishment of the division recognizes the need for nonpartisan, objec-
20 tive research to support the legislature in its decision making. The
21 division shall be headed by a research manager appointed by the
22 presiding officers of both houses of the legislature.
23 * Sec. 3. This Act takes effect July 1, 1987.

SEARCH - QUERY
00002 1 AND SB ADJ 43

SB0043 -P01 DOCUMENT= 1 OF 2

BILL SB0043
PAGE 00969
DATE 04/29/85
CHAMBER SENATE
TEXT

THE QUESTION BEING: "SHALL AMENDMENT NO. 1 BE ADOPTED?" THE
ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CS SB 43 JUD AM 1

YEAS: 8 BENNETT, COGHILL, FAHRENKAMP,
FERGUSON, KERTTULA, RAY, ZHAROFF,
ZIEGLER

NAYS: 11 ABOOD, DEVRIES, ELIASON, FAIKS,
FISCHER PAUL, FISCHER VIC,
HALFORD, JOSEPHSON, KELLY,
STURGIENSKI

ABSENT: 1 SACKETT

AND SO AMENDMENT NO. 1 FAILED.

SENATOR HALFORD MOVED AND ASKED UNANIMOUS CONSENT THAT CS FOR
SENATE BILL NO. 43 (JUD) BE CONSIDERED ENGROSSED, ADVANCED TO
THIRD READING AND PLACED ON FINAL PASSAGE. WITHOUT OBJECTION,
IT WAS SO ORDERED.

CS FOR SENATE BILL NO. 43 (JUD) WAS READ THE THIRD TIME.

THE QUESTION BEING: "SHALL CS FOR SENATE BILL NO. 43 (JUD)
(LEGISLATIVE RESEARCH DIVISION WITHIN THE LEGISLATIVE AFFAIRS
AGENCY; EFD) PASS THE SENATE?" THE ROLL WAS TAKEN WITH THE
FOLLOWING RESULT:

CS SB 43 JUD 3RD

YEAS: 16 ABOOD, BENNETT, COGHILL, DEVRIES,
ELIASON, FAIKS, FISCHER PAUL,
FISCHER VIC, HALFORD, JOSEPHSON,
KELLY, KERTTULA, RODEY,
STURGIENSKI, ZHAROFF, ZIEGLER

NAYS: 3 FAHRENKAMP, FERGUSON, RAY

ABSENT: 1 SACKETT

KERTTULA CHANGED FROM NAY TO YEA

AND SO, CS FOR SENATE BILL NO. 43 (JUD) PASSED THE SENATE.
SENATOR HALFORD MOVED AND ASKED UNANIMOUS CONSENT THAT THE
VOTE ON THE PASSAGE OF THE BILL BE CONSIDERED THE VOTE ON THE
EFFECTIVE DATE CLAUSE. WITHOUT OBJECTION, IT WAS SO ORDERED.

END OF DOCUMENT

SELECT - QUERY
00002 ALL ROOT EQ SB0043

CSSB43JUD DOCUMENT= 1 OF 2

BILL ROOT: SB0043
BILL NUMBER: CSSB43(JUD)

INTRODUCED: 2/8/85

REFERRED: FINANCE

ORIG SPONSOR: RODEY, STURGULEWSKI,
V.FISCHER, ET AL

SPONSOR: BY THE JUDICIARY COMMITTEE

BILL HEADING:

IN THE SENATE

CS FOR SENATE BILL NO. 43 (JUDICIA...)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION
A BILL

TITLE: FOR AN ACT ENTITLED:
"AN ACT ESTABLISHING A LEGISLATIVE RESEARCH DIVISION
WITHIN THE LEGISLATIVE AFFAIRS AGENCY; AND PROVIDING FOR AN
EFFECTIVE DATE."

TEXT: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
* SECTION 1. AS 24.20 IS AMENDED BY ADDING A NEW SECTION
TO READ:

SEC. 24.20.071. LEGISLATIVE RESEARCH DIVISION.
THERE IS ESTABLISHED WITHIN THE LEGISLATIVE AFFAIRS
AGENCY A PERMANENT RESEARCH STAFF WITH A RESEARCH
DIRECTOR, TO BE KNOWN AS THE LEGISLATIVE RESEARCH
DIVISION. THE ESTABLISHMENT OF THE AGENCY RECOGNIZES THE
NEED FOR NONPARTISAN, OBJECTIVE RESEARCH TO SUPPORT THE
LEGISLATURE IN ITS DECISION MAKING. THE RESEARCH DIRECTOR
IS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE AGENCY.

* SEC. 2. THIS ACT TAKES EFFECT IMMEDIATELY IN
ACCORDANCE WITH AS 01.10.070(C).

END OF DOCUMENT

828H
RECORDED
1-9

STATE OF ALASKA 1987 LEGISLATIVE SESSION No. 3
FISCAL NOTE

Bill Version: 2dCSSSHB 99 (Fin)
Publish Date: HOUSE 5/6/87

REQUEST: _____
Revision Date: _____
Title: Establishing a legislative
research division within LAA
Sponsor: Zawacki
Requestor: House Finance Committee

Agency Affected: Legislature
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL		0				
---------	--	---	--	--	--	--

REVENUE		0				
---------	--	---	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

ANALYSIS : (Attach a separate page if necessary)

This bill has already been accounted for in the House budget. See the attached cut sheet.

Prepared by: Al Adams, Chair Phone: 465-3706
Division: House Finance Committee Date: 5/2/87

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

LEGISLATIVE FINANCE

* * * * * LEGISLATURE * * * * *

SHORT
FORM
PAGE

BUDGET COMPONENT

FY86 ACT

FY87 ATH

4/14 REV

GOV REV

HOUSE

HOUSE - GOV REV
COMPARISON

GENERAL GOVERNMENT

BUDGET AND AUDIT COMMITTEE

LEGISLATIVE AUDIT

2387.1

2393.6

2393.6

2393.6

1960.8

-432.8

-18.1%

LEGISLATIVE FINANCE

3030.1

3999.4

3163.2

3163.2

2848.7

-314.5

-9.9%

COMMITTEE EXPENSES

298.4

322.0

322.0

322.0

364.2

42.2

13.1%

*** PROGRAM TOTAL ***

5715.6

6715.0

5878.8

5878.8

5173.7

-705.1

-12.0%

LEGISLATIVE COUNCIL

SALARIES & ALLOWANCES

3910.1

3697.8

3095.1

3697.8

2795.1

-902.7

-24.4%

EXECUTIVE ADMINISTRATION

2126.0

2121.3

1873.5

2121.3

1589.3

-532.0

-25.1%

PUBLIC SERVICES

2004.9

1956.8

1849.8

1956.8

1524.2

-432.6

-22.1%

ADMINISTRATIVE SERVICES

1542.5

1670.9

1660.8

1670.9

1376.5

-294.4

-17.6%

LEGAL SERVICES

1354.9

1415.5

1419.0

1415.5

1290.8

-124.7

-8.8%

SESSION EXPENSES

5938.0

5760.2

5634.1

5760.2

5248.7

-511.5

-8.9%

COUNCIL AND SUBCOMMITTEES

876.7

815.9

612.2

815.9

251.6

-564.3

-69.2%

OFFICE SPACE RENTAL

2067.9

1893.5

1843.9

1893.5

1815.5

-78.0

-4.1%

HOUSE RESEARCH

475.0

544.4

552.5

544.4

-544.4

-100.0%

SENATE ADVISORY COUNCIL

397.1

544.4

530.4

544.4

-544.4

-100.0%

LEGISLATIVE RESEARCH

788.4

788.4

100.0%

*** PROGRAM TOTAL ***

20693.1

20420.7

19071.3

20420.7

16680.1

-3740.6

-18.3%

LEADERSHIP

LEGISLATIVE LEADERSHIP

3763.0

4000.0

3763.0

-3763.0

-100.0%

SENATE LEADERSHIP

1634.7

HOUSE LEADERSHIP

1610.3

*** PROGRAM TOTAL ***

3245.0

3763.0

4000.0

3763.0

-3763.0

-100.0%

LEGISLATIVE INTERIM

SPEAKER/MAJORITY/MINORITY EXPE

974.5

974.5

100.0%

HOUSE INTERIM COMM EXPENSES

900.0

900.0

100.0%

SENATE LEADERSHIP

1874.4

1874.4

100.0%

*** PROGRAM TOTAL ***

3748.9

3748.9

100.0%

OMBUDSMAN

1591.0

755.6

725.6

725.6

666.0

-59.6

-8.2%

PERSONAL SERVICES REDUCTION

-1795.7

1795.7

-100.0%

*** GENERAL GOVERNMENT TOTAL ***

31244.7

31654.3

29675.7

28992.4

26268.7

-2723.7

-9.4%

***** TOTAL AGENCY EXPENDITURES

31244.7

31654.3

29675.7

28992.4

26268.7

-2723.7

-9.4%

***** AGENCY FUNDING

GENERAL FUND

31144.7

31393.3

29446.9

28761.4

26039.9

-2721.5

-9.5%

OTHER FUNDS

100.0

261.0

228.8

231.0

228.8

-2.2

-1.0%

HB

117

Sen. Abood:

586-1584

114 E. 6th

~~99801~~

My mother thought it
might be timely and appropos
to distribute these books (en-
closed) to your constituents
for home study, as they tell
the true story of the background
of the AK. Flag Song. Thank you
(S. Davis) Carol Davis

Carol B. Davis



*Alaska's
Flag*

FOREWORD

Juneau was my home during all the years covered by this story of Alaska's flag. Thanks is due to ex-Governor George Parks for the use of the flag presentation pictures, taken in Washington, D.C., and to Belle Simpson for her data on the flag's trip to Paris.

Benny Benson gave me his story in person which is augmented by bits of material from the office of the Jesse Lee Home in Seward and the Governor's office in Juneau. Credit is extended to the *Alaska Sportsman* magazine for the use of Benny Benson's picture as a youth with the home-made flag of his design.

Marie Drake, author of the lovely Alaska Flag poem for the school-children, was a long-time friend of mine, as is Elinor Dusenbury who composed its appropriate music. They have both given me intimate accounts of their efforts.

Howard Thompson, Tom Petrich, Warren A. Taylor and Harriet Rossiter all contributed information. The *American Legion Journals* were fruitful sources of interesting accounts of the contest and results.

Since my husband, Trevor Davis, was one of the committee of seven to choose the design, the flag has always been my pride.

This is a beautiful flag which unfurls just the right meaning over a mighty and wonderful land.

Carol Beery Davis

DEDICATION

This booklet is dedicated to the American Legion of Alaska, parent of Alaska's Flag.

C.B.D.



TREVOR M. DAVIS

The only living member of the Final Awards Committee of the American Legion on the selection of Alaska's Flag.

ALASKA'S FLAG

*"Eight stars of gold in a field of blue,
Alaska's flag . . ."*

Alaska's beautiful flag, with its magnificent symbolism, had its debut in Paris, France, in September of 1927, when it was scarcely six months old. Designed by a thirteen-year old school boy, it won the contest sponsored by Alaska's American Legion and the first flag went to Paris for an American Legion convention.

Early in 1926, Gov. George Parks of Alaska was making a call in Washington, D.C. on Postmaster General New. The rotunda of the old Post Office Building was lined with flags of the states and territories. The Postmaster General explained: "The only reason that Alaska is not up there with the others is that you have no flag."

Upon his return to Alaska, Gov. Parks brought this to the attention of the Territorial Commissioner of Education, Lester D. Henderson, and suggested that it would be a fine idea to put on a contest among the Alaskan children for the purpose of securing a design for the Territorial flag.

Himself a member of the American Legion, Gov. Parks said: "The American Legion is probably in a better position than any other organization to promote such a contest in the schools. I think the designs should be submitted and adjudged before the convening of the Territorial Legislature in March 1927. If the legislature saw fit, it could adopt the design chosen at that time."

The Department Adjutant, Tom Petrich, immediately dispatched this information to all Legion Posts in Alaska. The Legion opened the contest to all schools in Alaska—public, private and parochial—both native and white, to seventh and eighth grade and high school students. But

where to get ideas? The *National Geographic Magazine* of October, 1917, contained copies of official flags of the various states and territories. The contestants were encouraged to study these for helpful suggestions for designs.

By January of 1927, the rules of the contest had been formulated and sent out. In each town a local board of judges was to be set up. One member of the American Legion Post, the school superintendent (principal or teacher) and one other citizen, preferably a P-TA member, comprised it. This group was to choose the ten best designs and forward them to Tom Petrich, at Juneau, Alaska, for submission to the Final Awards Committee. In towns where there was no American Legion Post, the school superintendent, (principal or teacher) acted as chairman and selected the two other citizens for this committee, who chose the ten best.

Presenting the designs was made as easy as possible. They were to be on plain paper, cardboard or drawing paper, 8½ x 11 inches; to be done in ink, observing such proportions as to length and width as would apply to the proposed flag when enlarged. Designs could be submitted in color, or, if desired, the contestant could write the color proposed in the proper places in the design. In case the seal of the Territory was made part of the design, it could be indicated by a circle, labeled as such. The name, age and address of the contestant must appear in pencil on the reverse or back side of the design. The Juneau deadline for the designs was March 1, 1927.

The Department Executive Committee of the American Legion in Alaska selected the Final Awards Committee. This committee was not to take into account the excellence of the art work, but rather the idea conveyed for suitability of the design for use in an official flag of Alaska.

The winner of the contest was to receive a gold watch, on the back of which would be enameled his or her design with an appropriately engraved case. Second prize was \$15

and third, \$10. Should a design be accepted by the Territorial Legislature in 1927, the American Legion was to send the winner to Washington, D.C. to present the first flag to the then President, Calvin Coolidge. This would be an interesting and fruitful experience for the winner.

And what a splendid response! Designs came in from all over the Territory. The Legislature was invited to choose or appoint two members from each House to sit with the three members of the Final Awards Committee. The House of Representatives chose Charles Benjamin from Wrangell and Walter Fisher from Fairbanks. The Senate appointed Thomas Jensen from Nome and John Dunn from Ruby. With them on the Final Awards Committee were Florence (Sally) Shafer, Mrs. Geo. Simpkins and Trevor Davis, all of Juneau.

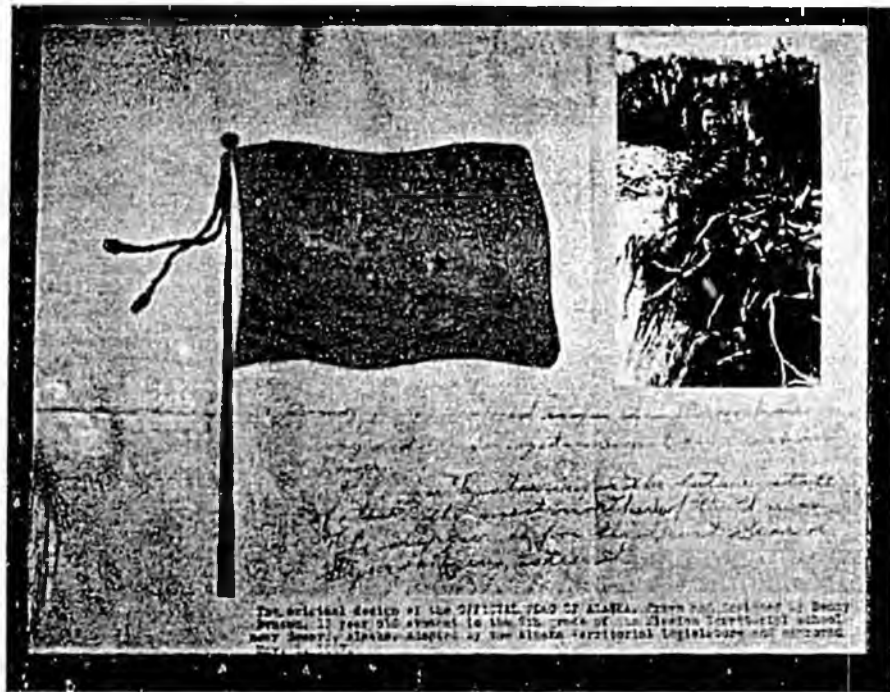
And what trends of creativity did these pioneer children show? From the 142 designs submitted, about one-third used the Seal of Alaska with accompanying features; six centralized a polar bear on an iceberg; many incorporated the North Star, and several, the midnight sun, the gold pan or northern lights.

"At one point in our deliberations," says Trevor Davis, one of the committee members, "we almost voted to select a polar bear on an ice-cream. But one of the ladies, another gentleman and myself protested so strongly on the grounds that it was not representative of all of Alaska, that a second vote was taken and the flag we now have was chosen." (Mrs. Geo. Simpkins and Trevor Davis are the only committee members still living at this writing.)

The award was given to that design drawn by Benny Benson, 13 years old, a seventh grade pupil in the Territorial School at Seward, residing in the Jesse Lee Mission Home. The second prize was won by Juanita Lewis, 16, of Wrangell, and the third was presented to Victor Wacker, 17, of Ketchikan.

Benny Benson's design consisted of the now familiar field of blue, with its eight gold stars, with these words written beneath:

"The blue field is for the Alaska sky and the forget-me-not, an Alaskan flower. The North Star is for the future state of Alaska, the most northerly in the union. The Dipper is for the Great Bear—symbolizing strength."



Benny Benson's original design for the Alaska flag.

The committee's report to the Legislature said: "Your committee, appointed to act with the committee appointed by the American Legion to select an official Territorial flag, begs to report as follows:

"There were 142 designs submitted from the schools all over the Territory. Many of them were beautiful and works of art. The one selected, however, was the most original and significant of Alaska. We respectfully recommend that this be adopted as our official Territorial flag."

Both Houses of the Territorial Legislature unanimously adopted the design of Benny Benson and their Act read as follows:

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That the winning design of the flag contest held in 1927 by the American Legion, Department of Alaska, in the public, private and Native schools of the Territory, be, and the same is, hereby adopted as the official flag of Alaska.

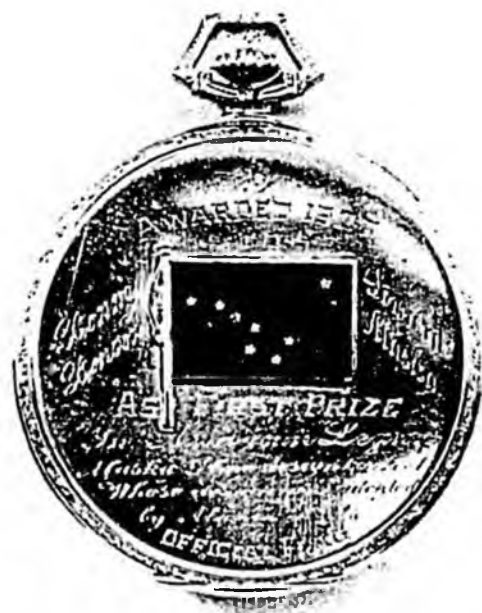
Section 2. That the design of the official flag is eight gold stars in a field of blue, so selected for its simplicity, its originality and its symbolism. The blue, one of our National colors, typifies the evening sky, the blue of the sea and of mountain lakes, and of wild flowers that grow in Alaskan soil, the gold being significant of the wealth that lies hidden in Alaska's hills and streams.

The stars, seven of which form the constellation Ursa Major, the Great Bear, the most conspicuous constellation in the Northern sky, contains the stars which for the 'Dipper,' including the 'Pointers' which point toward the eighth star in the flag. "Polaris," the North Star, the ever constant star for the mariner, the explorer, the hunter, trapper, prospector, woodsman, and the surveyor. For Alaska the Northernmost star in the galaxy of stars and which at some future time will take its place as the Forty-ninth star in our National Emblem.

Section 3. That the Governor shall cause the original design to be properly encased and placed in the Alaska Historical Museum, and that due credit be given to Benny Benson, aged thirteen years, a student in the seventh grade of the Territorial School, near Seward, Alaska, the designer of the flag herein described and adopted as the official flag of Alaska.

Since the design of the 13-year old school boy was crude and needed modification, Florence (Sally) I. Shafer, Forest Service draftsman, was appointed as a member of the Final Awards Committee, because of her high artistic ability. She made many drawings to perfect and make applicable Benny's design for the actual making of the flag. The Legislature had appropriated \$250 for the making of the first flag.

Arrangements were made by Howard Thompson, Department Finance Convention Officer, for Benny Benson to present the first flag of the Territory to President Coolidge, in company with a delegation of Legionnaires and their wives en route to Paris for the convention. The Legislature had approved \$1000 for this, along with his beautiful gold watch of Howard movement, purchased at the Nugget Shop in Juneau, which also attended to the work of enameling his flag on its back. In the early part of September, however, President Coolidge was visiting in the Black Hills of South Dakota, so Benny's presentation had to be postponed. The watch was awarded him by the Legion Post at Seward.



Benny Benson's watch, actual size, presented by the Seward Post of the American Legion.



Benny holding his own home made design.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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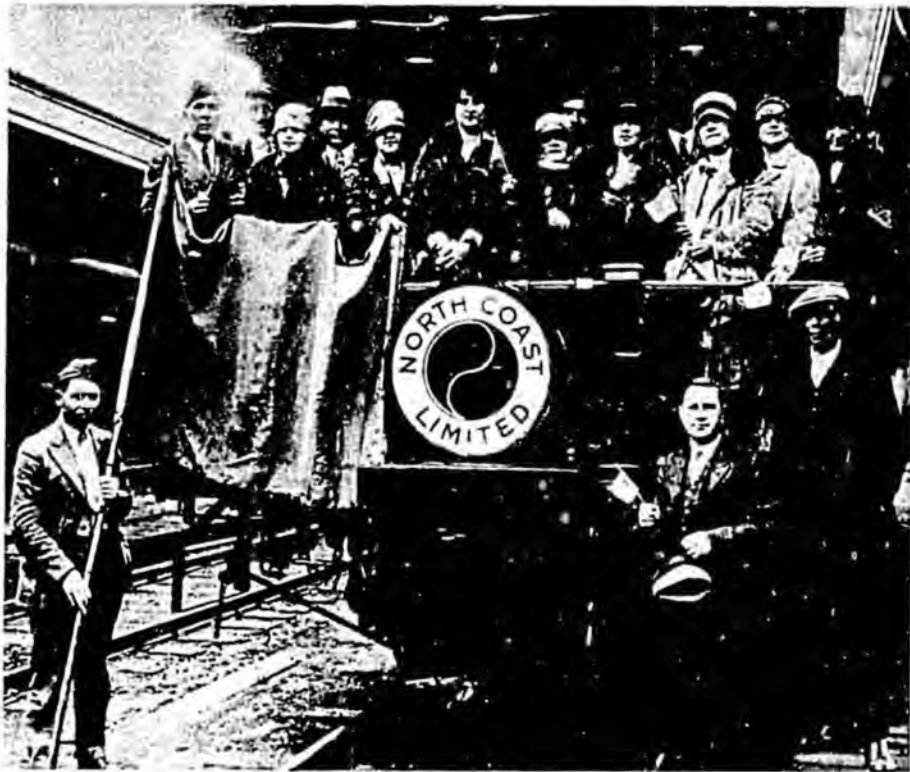


Benny Benson's watch, actual size, presented by the Seward Post of the American Legion.



Benny holding his own home made design.

For a few days the first flag was on display in the Territorial Museum in Juneau. Loaned by Governor George Parks, it left Alaska on the steamer, YUKON, accompanying the Alaskan Legionnaires to Seattle. There it was exhibited prominently in the main lobby of the Olympic Hotel. It then boarded a special car, chartered to Chicago, and attached to the North Coast Limited train of the Northern Pacific Railroad by courtesy of Karl Katz, representative of the Northern Pacific Railroad, who was a member of the Fairbanks Post.



The first Alaskan flag was displayed at the North Coast Limited just before it pulled out for the East from Seattle, Washington, in September, 1927, enroute to Paris, France to the American Legion Convention, where it was in the parade through the Arc d' Triomphe.
 Top row; left to right: Past Department Commander Warren A. Taylor of Cordova; E. C. Dromnes, Sitka; Mrs. Warren A. Taylor, Cordova; Peter Kostrominoff and wife, Sitka; Belle Simpson, National Executive Committeewoman of the Auxiliary, Juneau; Mrs. Marion McKinney, Wrangell; Howard Thompson, Department Finance Convention Officer, Juneau; Mrs. Howard Thompson, Mrs. J. C. Grant, Wrangell; Mr. N. Nussbaumer, National Executive Committeeman from Wrangell, Alaska; Mrs. N. Nussbaumer, Wrangell, Mrs. Mae Gartley, Wrangell.
 Bottom row: Holding the flag is J. R. Brabazon, Cordova; the man standing by the rail is Karl Katz, representative of the Northern Pacific Railroad Standing to the right on platform is J. Wilks from Little Squaw Mine, Chandalar District out of Fairbanks. (Mr. Wilks never returned, as he died of a brain tumor in London, England.)

Railroad publicity was built around Wilks, in connection with the party that traveled East in the latest style Pullman car, which they had all to themselves. Comrade Katz accompanied the party as far as Chicago. The delegation had stories in all the papers, along the railroad route, and often made the front pages. From Washington, D.C. the Legionnaires went to Paris on the S.S. LEVIATHAN. Again the flag was unfurled on the balcony in the main dining-salon, there being no other flags except the United States' and General Pershing's. Its symbolic meaning was explained in an article printed in the American Legion daily news sheet.

The Governor's office had also given the delegation a supply of small souvenir flags, with a description of the flag, for distribution while en route.

In Paris, the flag was honored with prominence in the Trocadero—the Convention Hall of the American Legion there. September 19th saw the convention parade of 20,000 Legionnaires. Gen. John J. Pershing, Marshal Foch and Commander Howard Savage headed it. According to Belle Simpson of Juneau, who participated: "Feeling was running high among the thousands of spectators and rampant anarchists, as Sacco and Vanzetti had just been executed. Regardless of our own opinions in the case, 31 of us from Alaska marched proudly behind our new flag down the Champ Elysees, through the Arc d' Triomphe. The women of the Auxiliary had been warned by the police that they might be snatched out of the parade. Bombs and assault were anticipated from the incited populace. So a French detective walked beside each Auxiliary member, there being 10,000 extra police drafted for protection duty.

"At the opening of the convention, one fellow shouted 'Vive Sacco et Vanzetti!' That is as far as he got. He was immediately arrested and placed in jail. Instead of the expected trouble, the parade was greeted with 'Vive l'Amérique!' and 'Vive l'Alaska!' all along the lines and 'enough kisses were thrown from the sidelines to smother us,'" wrote Bell Simpson.

Alaska's Flag

Words by
MARIE DRAKE

Music by
ELINOR DUSENBURY

Marcia moderato

PIANO

rall. *a tempo* *mf*

Eight stars of gold on a field of blue, A-LAS-KA'S FLAG, may it mean to you, The blue of the sea, the eve-ning sky, The moun-tain lakes and the flow'rs near-by, The gold of the ear-ly sour-doughs dreams, The

pre-cious gold of the hills and streams; The bril-liant stars in the north-ern sky, The "Bear," the "Dip-per," and shin-ing high, The great North star with its stead-y light, O'er land and sea a bea-con bright, A-LAS-KA'S FLAG to A-las-kans dear, The sim-ple flag of a last fron-tier.

vall. molto

Alaskans bound for Paris were Miss Ruth and Glow Williams from Anchorage; J. R. Brabazon and Mr. and Mrs. Warren A. Taylor from Cordova; J. Wilks from Fairbanks—the Chandalar region; Mrs. S. L. Botsford, Mrs. Ella Johnson, Mr. and Mrs. Henry Roden, A. McClanahan (Mrs. Sheelor's father), Mrs. Edith Sheelor, Belle Simpson, Louis Simon, and Mr. and Mrs. Howard Thompson from Juneau; Amy Barlow, Mrs. Edwin Dillon, and Miss Harriet Rossiter from Ketchikan; Mr. and Mrs. Eiler Hansen, Mr. and Mrs. Peter Kostrominoff and E. C. Dromnes from Sitka; Irene Coulter, L. C. Scribner, Mrs. O. B. McLaughlin, Mrs. Mae Gartly and Mr. and Mrs. N. Nussbaumer from Wrangell.

Since many of the Alaskans were taking the European side tours, Howard Thompson returned the flag to Juneau by express, and it was placed again in the Museum, where it is still on display. The Alaska Flag, however, received much attention and favorable comment throughout the trip.



Ex-Gov. Geo. Parks and Belle Simpson holding Alaska's first flag at the Alaska State Museum, where it is on display. George Parks instituted the flag contest and Belle Simpson accompanied the first flag to Paris.

At the next session of the Territorial Legislature, the Flag Act was amended to provide that Benny's \$1,000 appropriation (originally intended for his trip to Washington D.C.) be used for his education, after he left the Territorial School. Since the University did not then have the courses he desired, he chose to go to Hemphill Diesel School in Seattle, Washington.

Benny was born in Chignik, a small settlement on the Alaska Peninsula, Oct. 12, 1913. He lost his mother when he was four years old after which his father sent him to the Methodist Jesse Lee Memorial Home, then located at Unalaska in the Aleutian Islands. Later the Home was moved to Seward, where Benny stayed until he was 20 years old. Benny was in the seventh grade at the Jesse Lee Home when he designed the flag.

Kodiak named a street for Benny. He fished later in Southeastern Alaska, then made his home in Seattle for a time before World War II. Since that time he has lived in Kodiak, among other Alaskan towns, making his living as an airplane mechanic.



Ben Benson at Alaska Statehood Commemoration exercises July 4, 1959, in Juneau, Alaska