

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5583 STRA SB 108 - SB 155

Original sponsor: Coghill

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 108 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to decisions on right-of-way lease
7 applications."

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

9 * Section 1. AS 38.35.100(b) is amended to read

10 (b) If the commissioner makes the [THESE] determinations de-
11 scribed in (a) of this section favorably to the applicant, then the
12 commissioner may grant all [THE WHOLE] or part of the application.
13 Otherwise, the commissioner may [SHALL] deny the application or grant
14 the application subject to conditions established by the commissioner
15 that will ensure that the applicant is fit, willing, and able within a
16 prescribed period of time to perform the transportation or other acts
17 that will be required by the present or future public interest. In
18 order to grant all [THE WHOLE] or part of the application the commis-
19 sioner shall offer a lease to the applicant for its acceptance through
20 signing of the lease and agreeing to comply with its terms, condi-
21 tions, and obligations. Only upon proper acceptance of offered lease
22 by the applicant within 30 days after its having been presented is the
23 grant of the application consummated.

Introduced: 2/5/87
Referred: Transportation,
Judiciary and Finance

J-0555R

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BY COGHILL

2 SENATE BILL NO. 108

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23 sumated.

S B

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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of Feb 19 1987 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED ✓ **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE Feb 27, 1987

Mr. President:

TRANSPORTATION Committee considered SB 118

access to public buildings and facilities by the physically handicapped, aged, and infirm.

and recommended:

[] replace with CS _____ [] same title
[] attached amendment(s) and [] new title

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee [x] attached or [] adopted fiscal note(s)
[x] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tom Kelly
John Conner
John ...

David ...
Chairman signature and recommendation

[x] Committee Backup Attached

INTRODUCTION OF BILLS (Senate)

SB 118, (cont'd)

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to access to public buildings and facilities by the physically handicapped, aged, and infirm. This bill will give the Department of Transportation and Public Facilities greater flexibility in developing standards for particular facilities for which there currently are no standards.

Federal law and regulations, and the publication entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" are presently used to determine standards for many public buildings and facilities. Section 1 of the bill will provide the department with greater flexibility in this area by allowing it to choose the best and most applicable standards from the several now in existence. For example, the federal government in 49 Federal Register 31528 (August 7, 1984) has published standards which are comparable to and in many ways more comprehensive than those found in the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped."

In addition, there are public facilities for which standards have not been developed. It is the intent of sec. 2 of this bill to direct the Department of Transportation and Public Facilities to develop standards for unique public facilities in the State of Alaska for which there currently are no standards, e.g. for ski lifts, hiking trails, and boat harbors.

In short, this bill will clarify and broaden the authority of the Department of Transportation and Public Facilities to provide access to and use of public buildings and facilities by the physically handicapped, aged, and infirm. I urge your favorable action on this measure.

Public School
Funding
(per pupil
spending)

SENATE BILL NO. 119, by the Rules Committee by Request of the Governor. See HB 126, this report, identical.

Introduced February 10 and referred to Health, Education & Social Services; Finance.

Public Safety
Info Network
(re: minors)

SENATE BILL NO. 120, by Sens. Faiks and Szymanski. Relates to the entry of information regarding minors on the Alaska Public Safety Information Network (APSIN). Amends AS 47.10.090 (Delinquent Minors and Children in Need of Aid. Children's Proceedings. Records) to allow the court to transmit the terms and conditions of probation for entry into APSIN if a minor is released on probation. This would be allowed even though a section of the same law (AS 47.10.090(a)) states that all records pertaining to a minor are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. As soon as practicable after the minor completes the probation, the court would be required to request the Dept. of Public Safety to remove the information from the network. Does not provide for an effective date (bill becomes law 90 days after being signed by governor).

Introduced February 11 and referred to Judiciary.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SB 118

APPROVED: R. J. Knapp
Commissioner

TITLE: An Act Relating to Access to Public Buildings and Facilities by the Physically Handicapped, Aged and Infirm.

DATE: 11-18-86

The Department requests that the proposed language modifications be supported for the following reasons.

1. Modifications to AS 35.10.015(a) would allow the use of the "Uniform Federal Accessibility Standards" (UFAS) on all projects. Currently we administer "state" projects under the "American Standard Specifications" (ANSI) document and "federal" projects under UFAS.
2. Additional language to AS 35.10.015(e) would allow the Department to establish design parameters for specific facilities not identified in either the UFAS or ANSI codes. Presently designers working on these types of facilities have no guidelines other than applying the "inappropriate" requirements presented in the adopted codes.

All parties involved will benefit from the changes in that (1) the Department will only have to administer a single code, (2) designers will consistently know the "code" which is applicable to their project, (3) the handicapped community will receive uniformity in their built environment, and (4) the public at large will benefit from a more effective administration of accessibility requirements. These changes will not increase or diminish the already existing requirements for handicapped access to public buildings or facilities.

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 118
 Title : An Act Relating to Access to Public Buildings and Facilities by the Physically Handicapped, Aged, and Infirm.
 Sponsor : Governor's Office
 Requestor : Dept. of Transportation
 Date of Request : September 5, 1986

FISCAL DETAIL

Agency Affected : DOT&PF
 BRU : _____
 Components : Design, Construction, and Technical Services Units

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
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REVENUE						
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Requested changes only clarify present language and do not add to or delete from existing statutory requirements.

Prepared by : John J. Simpson, Director Phone : 465-2951
 Division : Engineering & Operations Standards Date : _____

Approved by Commissioner : R. J. Knapp Date : 11/19/86
 Agency : Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

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

SPB

125

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SB 125
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to the Alaska
Marine Transportation Advisory Board."
Sponsor: Duncan et al
Requestor: Duncan et al

Agency Affected: DOT/PE - AMHS
BRU: Marine Administration
Components: Advisory Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL		16.0	15.8	16.6	17.4	18.3
CONTRACTUAL		14.0	10.0	10.5	11.0	11.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		30.0	25.8	27.1	28.4	29.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		30.0	25.8	27.1	28.4	29.9
FEDERAL FUNDS						
OTHER						
TOTAL		30.0	25.8	27.1	28.4	29.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: George Davidson
Division: Alaska Marine Highway System

Phone: 465-3950
Date: 02/18/87

Approved by Commissioner: _____
Agency: Dept. of Transportation and P.F.

Date: 2/24/87

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 125

The proposed legislation creates an Advisory Board for the Alaska Marine Highway System, with five members to serve without compensation. Necessary costs, therefore, are limited to those of conducting the Board's meetings. After two familiarization meetings to be held in Juneau during the first three months, regular meetings will be held on a quarterly basis. The effective date is assumed to be July 1, 1987.

FY 88 COSTS

<u>Travel</u>		\$ 16.0
Transportation and per diem for five Board members	\$ 13.5	
Transportation and per diem for AMHS staff to attend Board meetings (locations other than Juneau)	2.5	
<u>Contractual Services</u>		14.0
Room rentals for Board meetings (estimated at \$125/day)	1.5	
Public Notice Advertising	2.5	
Transcription Services	10.0	
Total		\$ 30.0

An annual inflation factor of 5% has been included beginning in FY 89. Costs have been reduced for FY 89 to reflect a total of four quarterly meetings, three to be held in Southeast Alaska and one in Southcentral.



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

DATE: February 24, 1987

TO: Senator Lloyd Jones
Chairman
Senate Transportation Committee

FROM: Senator Tim Duncan

SUBJECT: SB 125, Marine Transportation Advisory Board

The creation of the Marine Transportation Advisory Board will guarantee that passengers who use the Marine Highway System, along with merchants who depend on the system for freight, will have a voice in the systems level of service.

Because the Alaska Marine Highway System is used by so many people, both in South Central Alaska and in Southeast, it is imperative they have a mechanism in which their concerns are considered. As has been the case in many private sector transportation organizations, an advisory board has proven to be an entity the public can focus on that takes into consideration their real needs. It is important that a formal citizens' group review budget-induced schedule changes in the system and make recommendations on potential changes that might have less of an effect on the public. More over, citizen advisory boards tend to bring out many good ideas that will enhance an organization's ability to operate effeciently.

The Marine Transportation Advisory Board will consist of five members from which at least three come from communities served by the Alaska Marine Highway System.

2/16/87

JUNEAU EMPIRE

WILLIAM S. MORRIS III
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Advisory board a good idea

For years, private companies have been using citizens' advisory boards to great advantage. When they want to test "trial balloons" or when they simply want a reading on how well they are doing, they go to their advisory boards and ask. The answers they get help correct problems, prevent mistakes and improve good ideas. Above all else, the boards prove that the companies *listen* to the people they serve.

Jurau Len. Jim Duncan has proposed incorporating this valuable private-enterprise tool into the state-run Alaska Marine Highway System. Last week he submitted a bill in the Senate that would establish a citizens' advisory board for the ferry system.

ISSUE: Advisory board proposed for state ferries

The idea is long overdue. For years, most decisions regarding the ferry system reflected the interests of either the management or the employees. The public's needs often seemed to be lost in the shuffle, even though the public pays for the ferries and uses them.

As long as it is composed of citizens who will be "plugged into" the needs and attitudes of their communities, an advisory board will help ferry managers and employees refocus their attention on the people they are serving. The board should not be composed of junior-grade bureaucrats who will have a bunch of meaningless public hearings or take it upon themselves to manipulate their positions to benefit other interests besides those of the public. That's how the ferry system got off track in the first place.

The folks who ride the ferries want friendly service, good food, convenient schedules and reasonable rates. They also want to know about their ferry system and how it works. If you gauge the system on these basics, it's obvious there is room for improvement.

A citizens' advisory board may not be the answer to all of these problems, but it would sure go a long way toward finding the answer.

Front Page

JUNEAU COURIER 2/12/87

Duncan proposes ferry advisory board

By CHUCK KLEESCHULTE

THE JUNEAU COURIER

In an effort to guarantee that freight and passenger users get some voice in future schedule reductions facing the Alaska Marine Highway system, Juneau Sen. Jim Duncan this morning introduced legislation setting up a citizens' advisory board.

The Democrat said he believes it is important that a formal citizens' group review budget-induced schedule changes in the ferry system and make recommendations on potential changes that might have less of an effect on the public.

"What I see coming is a reduced

level of service, but it is important that we evaluate plans from a user's perspective so that freight and passengers get a level of service that takes their real needs into consideration," said Duncan this morning.

He said under his plan five public members - at least three from communities served by the ferry system - would be appointed by the governor. While not paid, the advisory board, which would serve five-year terms, would get per diem and be empowered by the governor to hold hearings and make recommendations on changes in the operation of the nine-vessel ferry fleet.

"It's really important given the changes coming that we make sure freight user needs are protected, plus the true needs of passengers. We need to maximize the frequency of service in Southeast and a citizens' board may help to make sure the department does that in coming up with new operating schedules," said Duncan.

On Wednesday, Sen. Lloyd Jones, R-Ketchikan, proposed that Ketchikan be the end of the state's mainline service from Seattle to improve the frequency of runs to the West Coast. Duncan said he's not in a position to support or oppose that

suggestion yet, but he said he wants to see it and other suggestions considered as an alternative to once-a-week mainline and once-a-week non-summer feeder ferry service proposed in Gov. Steve Cowper's budget for next year.

Under Cowper's original budget, ferries would sustain a \$10 million cut in their operating subsidy. About \$2 million of that was added back to pay for higher insurance costs, leaving a cut of over \$8 million in the operating subsidy for the \$65 million system. Last year, about \$30 million of its budget came from the state.

Please turn to Page 8

Ferry...

Continued from Page 1

Duncan said his bill might not pass in time to have the board be functional to help in making suggested changes to the proposed schedule that would go into effect in late September. But he said the advisory board would certainly help to gain public reaction to future schedule shifts.

S B

132

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 132

Publish Date: _____

REQUEST

Revision Date: _____

Title: Opening the entire Dalton Highway to the public without toll.

Sponsor: Coghill

Requestor: Jones

Agency Affected: DOT&PF

BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		<243.0>	<243.0>	<243.0>	<243.0>	<243.0>
TRAVEL						
CONTRACTUAL		<127.0>	<27.0>	<27.0>	<27.0>	<27.0>
SUPPLIES		<20.0>	<20.0>	<20.0>	<20.0>	<20.0>
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
CAPITAL						
REVENUE		<5600.0>	<5500.0>	<5500.0>	<5500.0>	<5500.0>

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (LAF)		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
TOTAL						

POSITIONS:

FULL-TIME		<5>	<5>	<5>	<5>	<5>
PART-TIME		<1>	<1>	<1>	<1>	<1>
TEMPORARY						

ANALYSIS: This bill will remove the authority to charge tolls on the Dalton Highway. These are estimated to produce \$5.6 million in FY88 to support the maintenance and operating costs of this route. These tolls would have been deposited in the General Fund to offset the budgeted costs for operation.

The deletion of the requirement for the checkpoint will not impact the 1988 budget because funding is not included.

The reduced operating expenditures and funding are related to the estimated costs of collection of the tolls.

Prepared by: Ron B. Lind, Director

Phone: 465-4070

Division: Plans, Programs, and Budget

Date: 2/27/87

Approved by Commissioner: [Signature]

Date: 3/3/87

Agency: DOT & PF

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor:

Office of Management and Budget

Impacted Agency(i)

Senate Secretary - DOT Fiscal Note

BILL NO: SB 132

DATE: February 27, 1987

TITLE: "An Act relating to public use of the Dalton Highway."

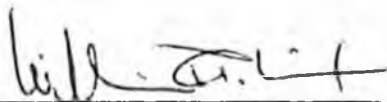
CONTACT: Maj. Walter J. Gilmour
Acting Director
Alaska State Troopers

POSTMORTEM REPORT / DEPARTMENT OF PUBLIC SAFETY

SB 132 will open the Dalton Highway to the public year-around.

The Division of Alaska State Troopers will need to provide a full range of law enforcement services to include accident response and investigation, search and rescue and patrol in order to protect the users of the highway. Winter use of the highway will result in a need to provide these services under difficult conditions and equipment costs reflect this fact.

The Division of Alaska State Troopers is opposed to this legislation.



WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 132

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to public use of the Dalton Highway."

Sponsor: Sen. Coghill

Requestor: Senate Transportation

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		281.4	289.8	298.5	307.5	316.7
TRAVEL		8.0	8.2	8.5	8.7	9.0
CONTRACTUAL		92.9	95.7	98.6	101.5	104.6
SUPPLIES		13.2	13.6	14.4	14.8	15.3
EQUIPMENT		89.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		484.7	407.3	420.0	432.5	445.6
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		484.7	407.3	420.0	432.5	445.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached schedule.

Prepared by: Francis C. Allan

Division: Alaska State Troopers

Phone: 269-5691

Date: 2/27/87

Approved by Commissioner: William R. Nix

Agency: Public Safety

Date: 3/3/87

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 132

In order to keep the Dalton Highway open throughout the entire year, a full range of law enforcement services must be maintained. In order to provide accident response, patrol, investigation and search and rescue services, four additional State Trooper positions will be needed; one at Coldfoot, one at 7-Mile Camp, and two others in Prudhoe Bay. The costs below summarize their Personal Services and related costs. It is anticipated that equipment will be needed in the first year only and that a 3% inflationary cost will be incurred each year after 1988.

	Trooper Coldfoot	Trooper 7-Mile	Trooper Prudhoe Bay	Trooper Prudhoe Bay	Increased Helo Oper. Costs (1)	Total
Personal Services	71.5	66.9	71.5	71.5		281.4
Travel	2.0	2.0	2.0	2.0		8.0
Contractual	8.5	8.5	42.1	32.5	1.3	92.9
Supplies	3.3	3.3	3.3	3.3		13.2
Equipment	22.3	22.3	22.3	22.3		89.2
	<u>107.6</u>	<u>103.0</u>	<u>141.2</u>	<u>131.6</u>	<u>1.3</u>	<u>484.7</u>

(1) - Helicopter costs include one additional trip up and down the highway, fueling at Coldfoot and Prudhoe Bay (contract). This is expected to involve seven hours @ \$187 per hour.

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA																																																												
Time Status PFT	Staff Months 12.0	Location Coldfoot		Election District 22																																																												
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>Amount</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>48,516</td> <td></td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>12,454</td> <td></td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td>4,478</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td>6,097</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td></td> <td></td> <td>71.5</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td></td> <td>2.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td></td> <td>8.5</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td></td> <td>3.3</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td></td> <td>22.3</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td></td> <td>107.6</td> </tr> </tbody> </table>		Type of Expenditure	1	2	Amount	3	Salary		48,516			Benefits		12,454			Premium Pay		4,478			Other		6,097			Total Personal Services				71.5	Travel				2.0	Contractual				8.5	Commodities				3.3	Equipment				22.3	Other					Total Cost				107.6	Justification A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Currently, The FY88 FWP operating plan calls for the elimination of the FWP Trooper stationed in Coldfoot. This state housing unit will be occupied by this new AST Trooper.		
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**Request For
New Position**

Agency Department of Public Safety
BRU Alaska State Troopers
Component Detachments & CIB

Page 1 of 4
Revised Date _____

FY 88

Position Title State Trooper		No. of Positions 1	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0	Location 7-Mile	Election District 22	
Type of Expenditure		Justification		
1	2	3		
Salary	45,060	A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.		
Benefits	11,567			
Premium Pay	4,159			
Other	6,097			
Total Personal Services	66.9			
Travel		2.0	Under the current AST FY88 plan, the 7-Mile housing unit was to be vacated and sub-leased as part of the reduction. This new trooper position however will occupy the unit.	
Contractual		8.5		
Commodities		3.3		
Equipment		22.3		
Other				
Total Cost		103.0		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	103.0		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

FY 88

Page 2 of 4
 Revised Date _____

Position Title State Trooper			No. of Positions	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0		Location Prudhoe Bay		Election District 22
Type of Expenditure			Justification		
		Amount	<p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.</p> <p>Contractual costs include housing and office space at a cost of \$2,800 per month, which is based upon previous AST experience in Prudhoe Bay as assumes space availability.</p>		
1	2	3			
Salary	48,516				
Benefits	12,454				
Premium Pay	4,478				
Other	6,097				
Total Personal Services		71.5			
Travel		2.0			
Contractual		42.1			
Commodities		3.3			
Equipment		22.3			
Other					
Total Cost		141.2			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	141.2			
I-A Receipts	1005				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

Page 3 of 4
 Revised Date

FY 88

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA	
Time Status PFT	Staff Months 12.0	Location Prudhoe Bay		Election District 22	
Type of Expenditure		Justification			
1	2	3			
Salary	48,516	A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.			
Benefits	12,454				
Premium Pay	4,478				
Other	6,097				
Total Personal Services					71.5
Travel		2.0	Contractual costs include a leased housing space of approximately \$24,000 per year, assuming that it is available.		
Contractual		32.5			
Commodities		3.3			
Equipment		22.3			
Other					
Total Cost		131.6			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	131.6			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

FY 88

Page 4 of 4
 Revised Date

Senator John B. (Jack) Coghill
Alaska State Legislature



Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55026
North Pole, Alaska 99705
(907) 488-0862

TO: SENATE TRANSPORTATION COMMITTEE
FROM: SENATOR JACK COGHILL
DATE: MARCH 3, 1987
RE: SB 132 "PUBLIC USE OF THE DALTON HIGHWAY"

Since 1978 the Dalton Highway has been maintained with public dollars, yet the public has not been able to utilize it completely.

By way of background, in 1980 AS 19.40.110 was amended to allow the public to use the highway as far north as Dietrich Camp between the months June 1 and September 1. Prior to this the public was allowed to travel only as far as the Yukon River.

In 1983 year round public use of the highway to Dietrich Camp was allowed.

SB 132 simply requires that the Dalton Highway be open to the public all the way to the Arctic Ocean twelve months out of the year, without a toll, and maintained by the state.

There are several very good reasons for opening the Dalton Highway to the public on a full-time basis:

- 1) the Dalton Highway is maintained with state dollars and is a public road.
- 2) facilities are available at present year round; more will be added by the private sector as demand warrants.
- 3) the tourism potential of this road is enormous, including the majestic Yukon River, the thrill of driving north of the Arctic Circle, the allure of the Brooks Range and the general public interest in the Prudhoe Bay area.

The state should encourage the private sector whenever and wherever possible, and we should encourage tourism. I urge you to vote in favor of SB 132.

- Sponsor's Memorandum



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0287

A RESOLUTION TO OPEN THE DALTON HIGHWAY TO THE GENERAL PUBLIC

WHEREAS, there is no justifiable reason that the general public should not have access to a public highway, and

WHEREAS, public funds are used to maintain this road, and

WHEREAS, the denial of the public to use the Dalton Highway as any other highway in Alaska, as stated in A.S. 19.40.120, is discriminatory, and

WHEREAS, there are existing state and federal regulations which provide for management of public use of land and resources adjoining public highways, and

WHEREAS, the opening of the Dalton Highway has been part of the program of work as stated in the Interior Transportation Needs Study developed by the Greater Fairbanks Chamber of Commerce;

NOW, THEREFORE, be it resolved, that the Greater Fairbanks Chamber of Commerce recommends that the Legislature pass HB 115 without further restrictions.

Be it further resolved that this resolution be sent to the following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
The Commissioner of Transportation

DATED THIS 23rd

DAY OF February, 1987

BY [Signature]
James Dodson, Chairman of the Board

BY [Signature]
Althea St. Martin, Acting President

Fairbanks Co + Commerce

- Resolution



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 1-0287

A RESOLUTION RECOMMENDING THAT A TOLL SHOULD
NOT BE CONSIDERED ON THE DALTON HIGHWAY

WHEREAS, Fairbanks is facing an economic down trend, and

WHEREAS, more effort needs to be placed on trying to assist Fairbanks to recover and continue to offer competitive services in deploying freight through Fairbanks to users along and at the end of the Dalton Highway, and

WHEREAS, a toll could work an economic hardship on any business planning to use the road, and

WHEREAS, the Greater Fairbanks Chamber of Commerce feels that the road should not be used as a single purpose road, and

WHEREAS, this proposed toll would represent a double tax on the oil industry,

NOW, THEREFORE, be it resolved that options other than a toll being placed on a road in Alaska (specifically the Dalton Highway), be considered as a method to generate more state revenue.

BE IT FURTHER RESOLVED that this resolution be sent following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
Commissioner of Transportation

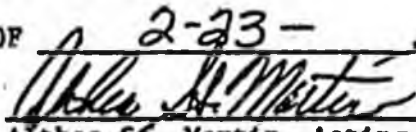
DATED THIS

BY


James Dodson, Chairman of the Board

DAY OF

BY

2-23- 1987

Althea S.C. Martin, Acting President

SB

146



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CSSB 146 (Transportation)
TITLE: An Act Relating to Weight and Measures
and Providing for an Effective Date

APPROVED: *M&H*
Mark S. Hickey
Commissioner

DATE: 4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly




P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: All Members of the Senate

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee 

DATE: May 11, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

Similar legislation has passed the Senate previously and died in the House. I encourage the Senate's immediate action on this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CSSB 146 (Transportation)
TITLE: An Act Relating to Weight and Measures
and Providing for an Effective Date

APPROVED: *M&H*
Mark S. Hickey
Commissioner

DATE: 4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

BILL NO:

CSSB 146(Trsp)

DATE:

4/27/87

TITLE:

"An Act relating to weights and measures; and providing for an effective date."

CONTACT:

James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

The Division of Alaska State Troopers supports this legislation.


Arthur English
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
Revision Date: _____
Title: "An Act relating to weights
and measures."
Sponsor: Transportation Committee
Requestor: Senate Finance

Bill Version: CSSB 146(Trsp)
Publish Date: _____
Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB

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
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

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

Phone: 269-5691

Date: 4/27/87

Approved by Commissioner: [Signature]
Agency: Public Safety

Date: 5/4/87

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

JML
5/1/87

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811
907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Senate Finance Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee *LJ*

DATE: May 7, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage during spring breakup. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

In summary, I encourage the Senate Finance Committee's immediate action on this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative Bette Cato, Chairman
House Transportation Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee

DATE: May 12, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Transportation Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

ALASKA STATE LEGISLATURE



Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly

P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative David Donley, Chairman
House Labor & Commerce Committee

FROM: Senator Lloyd Jones, Chairman *LJ*
Senate Transportation Committee

DATE: May 14, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Labor and Commerce Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)
TO: Senator Lloyd Jones
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr
m11/131



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

April 28, 1987

Joe Swanson
Director
Division of Measure Standards
Department of Commerce and Economic
Development
P. O. Box 111686
Anchorage, Alaska 99511

Dear Mr. Swanson:

Thank you for your letter of April 27, 1987. In response, it is the view of the court system that the appropriate way to resolve the issues you raise is to either (1) obtain an attorney general's opinion stating that AS 28.40.050 is a legally sound basis for enforcing weight violations, or (2) request the legislature to establish a clear basis for enforcement by adding a penalty for the 17AAC 25 regulation to Title 19 of the statutes.

It may be helpful to review the background of this matter from the court system's viewpoint. Prior to recent supreme court action, the statewide traffic bail schedule had not been revised since 1979. Both the bail forfeiture amounts and many of the offenses appeared to be out of date. One such offense was overweight violations, which had been listed on the bail schedule under the authority of 17 AAC 25.060, with a bail amount of five cents a pound. In April 1985 Joseph Balfe, Assistant Attorney General for Law Enforcement, concluded in response to a court system inquiry that regulations in 17 AAC do not fall under any public safety regulation under Title 28. He questioned whether any 17 AAC regulation is enforceable since AS 19.45.002 does not provide a penalty for violation of these regulations. The court system sought confirmation of this position from Commissioner Sundberg in July 1985, indicating that the court system proposed to eliminate all regulations under 17 AAC from the bail schedule, and asking if this approach created a problem or if the department wished to take a different approach to these offenses. Colonel Kolivosky responded for the department on August 7, 1985, and stated that "at this time it is still appropriate to eliminate the Traffic Bail Forfeiture Schedule under 17 AAC from the update."

Joe Swanson
April 28, 1987
Page Two

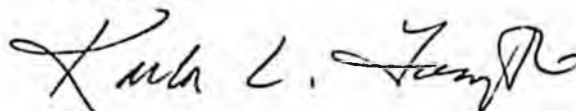
Although it could be argued that AS 28.40.050(e) provides a sufficient basis for enforcement, this particular statute has never appeared on the bail schedule as the authority for an overweight offense. There are strong arguments against viewing this section as authority for overweight penalties, given language in paragraphs (a) - (d) of AS 28.40.050, which refer to regulations adopted under Title 28. However, if the Department of Law takes the position that AS 28.40.050(e) provides adequate authority for enforcing overweight violations, the supreme court will give serious consideration to placing this offense on the bail schedule.

If the Department of Law does not believe that this provision contains adequate authority, the remaining way to resolve this matter is through legislation. As you know, the court system has brought this concern to the attention of the chairs of the Judiciary Committees in both the House and the Senate. With regard to Judge Stewart's administrative determination that the Anchorage court will no longer accept citations, I have spoken with Judge Stewart, and he has agreed that these citations may be filed with the court and money held in escrow until an attorney general's opinion is forthcoming on this issue.

As you point out, a decision that AS 28.40.050(e) does not provide sufficient authority for enforcement may have significant consequences. However, a determination about the legal authority to continue overweight enforcement under the provisions of AS 28 properly comes from the Department of Law or from the Legislature.

I hope this response is helpful. Please let me know if I can answer any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II Administrative Director
Susan Miller, Manager, Special Projects
Presiding Judges
Judge Dave Stewart
Judge Glen C. Anderson
Judge Natalie Finn
Magistrate Skip Slater
Magistrate Roy Williams
Sandy Ganong, Traffic
Robert G. Fisher, Fiscal Officer
Grace B. Schaible, Attorney General
Dean Cuaneli, Assistant Attorney General
William Ni, Acting Public Safety Commissioner

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF MEASUREMENT STANDARDS

STEVE COWPER, GOVERNOR

P.O. BOX 111886
ANCHORAGE, ALASKA 99511
PHONE: (907)345-7750

April 27, 1987

Carla Forsythe, Staff Counsel
Alaska Court System
303 K Street
Anchorage, Alaska 99501

Dear Ms. Forsythe:

CSHB 586(FIN), effective July 1, 1982, transferred the operation of the motor vehicle weighing stations and the issuance of special permits authorizing the operation of overweight and oversize vehicles from the Department of Public Safety to the Department of Commerce and Economic Development.

We assumed that the authority existed for us to write citations for overweight violations (AS 28.40.050 (e)) and size and permit violations under the same general authority. When we began the process to promulgate regulations for our new programs, we were informed that there were no sanctions for size and permit violations and that there was a question whether we in Commerce and Economic Development could use the Public Safety statute as our authority for the issuance of overweight citations.

Based on this information, we discontinued writing citations for size and permit violations and we continued to write citations for overweight, based on the Public Safety statute referring to a five cent per pound penalty.

In 1984, a piece of legislation was introduced into the Senate to correct this problem. The bill was passed out of the Senate late in the session and died in the house in 1985. In 1986, SB82 was introduced into the house to again correct this problem. SB82 was passed out of the Senate late in the session and was taken up by the House in 1986 and subsequently died again. In 1987, SB146 was introduced into the Senate, which should be scheduled for a floor vote very soon. A companion bill HB271 has been introduced in the House and referred to House transportation, where it should be heard soon.

In 1984, we had a discussion with, then Assistant Attorney General, Joe Balfe, who determined that the Alaska State Troopers had no authority to write citations for size or permit violations, due to the lack of sanction authority in Public Safety's statute and in Department of Transportation and Public Facility's statute. Joe Balfe subsequently wrote a memorandum confirming that determination, however, there was no discussion of the potential problem with overweight citations.

Carla Forsythe, Staff Counsel
April 27, 1987
Page 2

Approximately, January 1, 1987, the Alaska Supreme Court, in the process of developing an updated bail schedule, determined that there was no authority for the troopers or ourselves to write citations for overweight and therefore, did not include this item in the bail schedule.

The traffic court then informed us that they would not process our citations, however, they would accept them and hold any money collected in an escrow account until a final decision was made.

We have continued to write overweight citations pending this final decision.

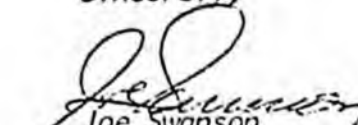
On Wednesday, April 22, 1987, we were informed by telephone that presiding District Judge Stewart had declared that all overweight citations written since January 1, 1987 were illegal and that we were not to file citations nor was the court to accept them and that the money held in escrow was to be deposited in the general fund.

We have a real problem, in that if, in fact, our citations and our enforcement actions are not legal, then we should close our weigh stations, rather than participate in an illegal activity. The closure of our weigh stations would create near chaos in the transportation industry, since there will be no size and weight enforcement. Further, we are advised by the Federal Highway Administration that closure of the weigh stations may very likely result in the loss of nearly \$15 million in Federal Highway Administration funding for our road system.

As mentioned before, there is legislation pending in both the House and the Senate to correct this problem, however, there are no guarantees that the legislation will pass.

We need a decision from the court system now, lest we jeopardize the integrity of our program, the credibility of our actions, \$15 million in highway funds, our own employees and the motoring public.

Sincerely,


Joe Swanson
Director

JS:cs/D.1.

4/28/87

Commentary On Proposed Bill
Providing Penalties For Violation
Of Vehicle Weight, Size And Load Regulations.

Section 1 of the proposed bill adds two new paragraphs to the general penalty statute for Title 19, AS 19.45.002. This penalty statute currently provides a penalty for violation of the statutes in Chapters 5-25 of Title 19, but does not provide a penalty for any of the regulations adopted under the authority of these statutes. The lack of such a penalty makes it questionable whether these regulations are enforceable. The specific regulations currently in question are the 17 AAC 25 regulations establishing limitations on weight, size and load of vehicles. These regulations were adopted under the authority of AS 19.10.060.

New paragraph (b) solves this problem by adding a specific penalty for violations of vehicle weight, size and load regulations. The penalty for a "violation" specified in AS 12.55.035(b)(5) is a fine of no more than \$300. A "violation" is the most minor type of offense in our criminal code. It does not require proof of a culpable mental state. AS 11.81.600. Under AS 11.81.900(b)(56), a "violation" is a non-criminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; and a person charged with a violation is not entitled to a trial by jury or to have a public defender or other counsel appointed at public expense to represent the person.

New paragraph (c) limits the penalty for overweight vehicles to \$.05 per pound of weight over the authorized limit. This paragraph repeats almost verbatim the provisions presently found in AS 28.40.050(e). The reason for moving this paragraph from AS 28.40.050 to AS 19.45.002 is that Title 28 is not an appropriate place for such a penalty limitation since (1) the overweight vehicle regulation is not promulgated under the authority of Title 28 and (2) the Department of Public Safety is no longer involved in the enforcement of these regulations. (See sec. 3, ch 77, SLA 1982.) Presumably the penalty for an overweight vehicle could exceed the \$300 maximum established in paragraph (b) only if the vehicle exceeds a weight limit by more than 6,000 pounds. It should be noted that the \$.05 per pound penalty has been in effect for over ten years. In that time period the penalties for other vehicle and traffic offenses have doubled (as shown by changes in the bail amounts listed on the traffic bail forfeiture schedule which the supreme court is required by AS 28.05.151 to promulgate). The legislature, therefore, may want to consider raising the \$.05 limit.

Section 2 of the proposed bill repeals AS 28.40.050(e) because this sub-paragraph has been moved to AS 19.45.002 as described above.

For an Act entitled: "An Act relating to penalties for vehicle weight, size and load regulations; and providing for an effective date."

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

Section 1. AS 19.45.002 is amended to read:

Sec. 19.45.002. Penalties. (a) A person who violates any provision of chs. 5-25 of this title is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500, or by imprisonment in jail for a period not to exceed one year, or by both.

(b) A person who violates a regulation adopted under this title establishing limitations on weight, size and load of vehicles is guilty of a violation and is subject to the penalty specified in AS 12.55.035(b)(5).

(c) Notwithstanding the maximum fine provided for violations under (b) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle.

Sec. 2. AS 28.40.050(e) is repealed.

Sec. 3. This Act takes effect immediately under AS 01.10.070.

Original sponsor: Transportation Committee

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 146 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; citation
7 authority of employees enforcing weights and measures
8 limitations; and providing for an effective date."

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

10 * Section 1. AS 45.75.050(b) is amended to read:

11 (b) The regulations may include

12 (1) standards of net weight, measure, or count, and reason-
13 able standards of fill, for a [ANY] commodity in package form;

14 (2) rules governing the technical and reporting procedures
15 to be followed, and the report and record forms and marks of approval
16 and rejection to be used by inspectors of weights and measures in the
17 discharge of their official duties;

18 (3) exemptions from the sealing or marking requirements of
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
20 or size that sealing or marking would be inappropriate, impracticable,
21 or damaging to the apparatus in question; [AND]

22 (4) for [WITH RESPECT TO] classes of weights and measures
23 of a character that retesting is unnecessary to continued accuracy,
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
25 testing, and schedules fixing the frequency of required retests for
26 classes of devices exempted; and

27 (5) in the implementation of AS 44.33.020(25), provisions
28 governing the size, weight, and load limitations established under
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner of commerce and economic development
6 to enforce the size, weight, and load limitations adopted by the
7 Department of Transportation and Public Facilities under AS 19.10.060
8 may issue a citation to a person who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

14 (b) A citation issued under this section must be in writing. A
15 person receiving the citation is not required to sign a promise to
16 appear in court.

17 (c) The time specified in the notice to appear on a citation
18 issued under this section must be at least 15 days after the issuance
19 of the citation, unless the person cited requests an earlier hearing.

20 (d) The commissioner of public safety is responsible for the
21 issuance of books containing appropriate citations and shall maintain
22 a record of each book and each citation contained in it. The commis-
23 sioner of public safety shall require and retain a receipt for every
24 book issued to an employee of the Department of Commerce and Economic
25 Development designated by the commissioner of commerce and economic
26 development to provide investigative services to enforce provisions of
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under
29 this section shall deposit the original or a copy of the citation with

1 a court having jurisdiction over the alleged offense. Upon its
2 deposit with the court, the citation may be disposed of only by trial
3 in the court or other official action taken by the magistrate, judge,
4 or prosecutor. The peace officer or employee who issued the citation
5 may not dispose of it or copies of it or of the record of its issuance
6 except as required under this subsection and (f) of this section.

7 (f) The commissioner of public safety shall require the return
8 of a copy of every citation issued under this section and of all
9 copies of every citation that has been spoiled or on which an entry
10 has been made and not issued to an alleged violator. The commissioner
11 of public safety shall also maintain in connection with every citation
12 issued a record of the disposition of the charge by the court in which
13 the original or copy of the citation was deposited.

14 (g) If the form of citation issued under this section includes
15 the essential facts constituting the offense charged and is sworn to
16 as required under the laws of this state for a complaint charging
17 commission of the offense alleged in the citation, the citation when
18 filed with a court having jurisdiction is considered to be a lawful
19 complaint for the purpose of prosecution.

20 (h) Unless the citation has been voided or otherwise dismissed
21 by the magistrate, judge, or prosecutor, or bail has been forfeited
22 under AS 45.75.133, a person who fails to appear in court to answer a
23 citation issued under this section, regardless of the disposition of
24 the charge for which the citation was issued, is guilty of a class B
25 misdemeanor.

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
27 specify by rule or order those violations that are appropriate for
28 disposition without court appearance, and shall establish a schedule
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If
2 the person who has been cited can dispose of the violation without
3 court appearance, the issuing peace officer or employee shall write on
4 the citation the amount of bail forfeiture applicable to the viola-
5 tion.

6 (b) A person cited for a violation for which a bail forfeiture
7 amount has been established under (a) of this section may, within 15
8 days after the date of the citation, mail or personally deliver to the
9 clerk of the court in which the citation is filed by the employee

10 (1) the amount of bail indicated on the citation for that
11 offense; and

12 (2) a copy of the citation indicating that the right to an
13 appearance is waived, a plea of no contest is entered and the bail is
14 forfeited.

15 (c) When the cited person has forfeited bail under (b) of this
16 section, the court shall enter a judgment of conviction. Forfeiture
17 of bail is a complete satisfaction for the violation. The clerk of
18 the court accepting the bail forfeiture shall provide the offender
19 with a receipt stating that fact.

20 (d) A cited person who fails to pay the bail forfeiture amount
21 established under (a) of this section or to appear in court as re-
22 quired, is guilty of a class B misdemeanor.

23 (e) Notwithstanding other provisions of law, if a person cited
24 for a violation for which a bail forfeiture amount has been estab-
25 lished under (a) of this section appears in court and is found guilty,
26 the court may not impose a penalty that exceeds the bail forfeiture
27 amount for that offense established under (a) of this section.

28 * Sec. 3, AS 45.75.380 is amended to read:

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 violation subject to the penalty specified in AS 12.55.035(b)(5) if
2 the person does one or more of the following acts [WHO, PERSONALLY OR
3 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
4 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
5 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
6 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
7 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
8 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
9 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

10 (1) uses or has in possession for the purpose of using for
11 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
12 or exposes for sale, or hire, or has in possession for the purpose of
13 selling or hiring, an incorrect weight or measure or a device or
14 instrument used to or calculated to falsify a weight or measure;

15 (2) uses or has in possession for current use, in buying or
16 selling a commodity or thing, or for hire or award, or in the computa-
17 tion of a basic charge or payment for services rendered on the basis
18 of weight or measurement, or in the determination of weight or mea-
19 surement when a charge is made for determination, a weight or measure
20 that has not been tested and sealed by the appropriate authority
21 within one year, [(A)] unless

22 (A) the person gives written notice [IS GIVEN] to the
23 appropriate authority to the effect that the weight or measure is
24 available for examination, or is due for reexamination [RE-EXAMI-
25 NATION], as the case may be; [,]

26 (B) the person receives [UNLESS] specific written
27 permission to use the weight or measure [IS RECEIVED] from the
28 appropriate authority; [,] or

29 (C) [UNLESS] the weight or measure is exempt from

1 sealing or annual testing requirements by AS 45.75.080 or by a
2 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

3 (3) disposes of a rejected or condemned weight or measure
4 in a manner contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;

8 (5) sells or [,] offers [OR EXPOSES] for sale less than the
9 quantity the person represents of a commodity, thing, or service;

10 (6) takes more than the quantity the person represents of a
11 commodity, thing, or service when, as buyer, the person furnished the
12 weight or measure that the seller used to determine [BY MEANS OF
13 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

14 (7) keeps for the purpose of sale, advertises, or offers
15 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
16 condition or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medical prescriptions, a
19 weight or measure that is not so positioned that a customer may accu-
20 rately read, from a position that may reasonably be assumed by a
21 customer, its indications [MAY BE ACCURATELY READ] and observe the
22 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
23 REASONABLY BE ASSUMED BY A CUSTOMER];

24 (9) hinders or obstructs the director, an inspector, a
25 sealer, or a deputy sealer in the performance of official duties under
26 this chapter;

27 (10) violates a provision of an overweight or oversize
28 vehicle permit issued under AS 44.33.020(25);

29 (11) violates a weight, load, or size limitation established

1 under AS 19.10.060 or a regulation adopted under AS 19.05.020,
2 AS 44.33.020(25), or AS 45.75.050(b)(5);

3 (12) violates a provision of this chapter or [OF] a regula-
4 tion adopted under this chapter for which a specific penalty is not
5 prescribed.

6 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

7 (b) Notwithstanding the maximum fine for a violation provided
8 under (a) of this section, a person who violates a regulation or
9 special permit governing the weight limit of a motor vehicle shall pay
10 a penalty of \$.05 for each pound of weight over the authorized weight
11 limit for the vehicle.

12 * Sec. 5. AS 28.40.050(e) and AS 45.75.360 are repealed.

13 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)
TO: Senator Lloyd Jones
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr
m11/131

SENATE COMMITTEE REPORT

FURTHER: FINANCE

DATE TURNED INTO OFFICE April 23, 1987

Mr. President:

TRANSPORTATION Committee considered SB 146

weights and measures; efd.

and recommended:

replace with CS FOR SB146 Tresp) 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

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

Committee Backup Attached

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY / PERMIT

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutory responsibilities of that agency.

Proposed Amendments:

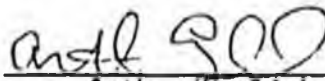
AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.



Arthur English
Commissioner



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SB 146

APPROVED: Mark Hickey *M.H.*
Commissioner

TITLE: An Act Relating to Weight and Measures and
Providing for an Effective Date

DATE: 3/9/87

The proposed legislation provides statutory authority for the Department of Commerce and Economic Development for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations.

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutory responsibilities of that agency.

Proposed Amendments:

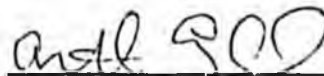
AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.


Arthur English
Commissioner

POSTED BY PAPER /

5-0597L
Ford
4/23/87

Original sponsor: Transportation Committee

IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 146 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

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

* Section 1. AS 45.75.050(b) is amended to read:

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for a [ANY] commodity in package form;

(2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;

(3) exemptions from the sealing or marking requirements of AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; [AND]

(4) for [WITH RESPECT TO] classes of weights and measures of a character that retesting is unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.080 for testing, and schedules fixing the frequency of required retests for classes of devices exempted; and

(5) in the implementation of AS 44.33.020(25), provisions governing the size, weight, and load limitations established under AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner to enforce the size, weight, and
6 load limitations adopted by the Department of Transportation and
7 Public Facilities under AS 19.10.060 may issue a citation to a person
8 who violates

9 (1) a weight, size, or load limitation;

0 (2) the terms of an overweight or oversize vehicle permit
1 issued under AS 44.33.020(25); or

2 (3) a regulation adopted under AS 28.05.011(?) or under
3 AS 44.33.020(25) and AS 45.75.050(b)(5).

4 (b) A citation issued under this section must be in writing. A
5 person receiving the citation is not required to sign a promise to
6 appear in court.

7 (c) The time specified in the notice to appear on a citation
8 issued under this section must be at least 15 days after the issuance
9 of the citation, unless the person cited requests an earlier hearing.

0 (d) The commissioner is responsible for the issuance of books
1 containing appropriate citations and shall maintain a record of each
2 book and each citation contained in it. The commissioner shall re-
3 quire and retain a receipt for every book issued to an employee of the
4 Department of Commerce and Economic Development designated by the
5 commissioner to provide investigative service to enforce provisions of
6 this chapter.

7 (e) A peace officer or an employee who issues a citation under
8 this section shall deposit the original or a copy of the citation with
9 a court having jurisdiction over the alleged offense. Upon its

deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The peace officer or employee who issued the citation may not dispose of it or copies of it or of the record of its issuance except as required under this subsection and (f) of this section.

(f) The commissioner shall require the return of a copy of every citation issued under this section and of all copies of every citation that has been spoiled or on which an entry has been made and not issued to an alleged violator. The commissioner shall also maintain in connection with every citation issued a record of the disposition of the charge by the court in which the original or copy of the citation was deposited.

(g) If the form of citation issued under this section includes the essential facts constituting the offense charged and is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, the citation when filed with a court having jurisdiction, is considered to be a lawful complaint for the purpose of prosecution.

(h) Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, or bail has been forfeited under AS 45.75.133, a person who fails to appear in court to answer a citation issued under this section, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If

1 the person who has been cited can dispose of the violation without
2 court appearance, the issuing peace officer or employee shall write on
3 the citation the amount of bail forfeiture applicable to the viola-
4 tion.

5 (b) A person cited for a violation for which a bail forfeiture
6 amount has been established under (a) of this section may, within 15
7 days after the date of the citation, mail or personally deliver to the
8 clerk of the court in which the citation is filed by the employee

9 (1) the amount of bail indicated on the citation for that
10 offense; and

11 (2) a copy of the citation indicating that the right to an
12 appearance is waived, a plea of no contest is entered and the bail is
13 forfeited.

14 (c) When the cited person has forfeited bail under (b) of this
15 section, the court shall enter a judgment of conviction. Forfeiture
16 of bail is a complete satisfaction for the violation. The clerk of
17 the court accepting the bail forfeiture shall provide the offender
18 with a receipt stating that fact.

19 (d) A cited person who fails to pay the bail forfeiture amount
20 established under (a) of this section or to appear in court as re-
21 quired, is guilty of a class B misdemeanor.

22 (e) Notwithstanding other provisions of law, if a person cited
23 for a violation for which a bail forfeiture amount has been estab-
24 lished under (a) of this section appears in court and is found guilty,
25 the court may not impose a penalty that exceeds the bail forfeiture
26 amount for that offense established under (a) of this section.

27 * Sec. 3. AS 45.75.380 is amended to read:

28 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
29 violation subject to the penalty specified in AS 12.55.035(b)(5) if

1 the person does one or more of the following acts [WHO, PERSONALLY OR
2 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
3 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
4 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
5 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
6 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
7 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
8 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

9 (1) uses or has in possession for the purpose of using for
0 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
1 or exposes for sale, or hire, or has in possession for the purpose of
2 selling or hiring, an incorrect weight or measure or a device or
3 instrument used to or calculated to falsify a weight or measure;

4 (2) uses or has in possession for current use, in buying or
5 selling a commodity or thing, or for hire or award, or in the computa-
6 tion of a basic charge or payment for services rendered on the basis
7 of weight or measurement, or in the determination of weight or mea-
8 surement when a charge is made for determination, a weight or measure
9 that has not been tested and sealed by the appropriate authority
0 within one year, [(A)] unless

1 (A) the person gives written notice [IS GIVEN] to the
2 appropriate authority to the effect that the weight or measure is
3 available for examination, or is due for reexamination [RE-EXAMI-
4 NATION], as the case may be; [,]

5 (B) the person receives [UNLESS] specific written
6 permission to use the weight or measure [IS RECEIVED] from the
7 appropriate authority; [,] or

8 (C) [UNLESS] the weight or measure is exempt from
9 sealing or annual testing requirements by AS 45.75.080 or by a

1 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

2 (3) disposes of a rejected or condemned weight or measure
3 in a manner contrary to law or regulation;

4 (4) removes from a weight or measure, contrary to law or
5 regulation, a tag, seal, or mark placed on it by the appropriate
6 authority;

7 (5) sells or [,] offers [OR EXPOSES] for sale less than the
8 quantity the person represents of a commodity, thing, or service;

9 (6) takes more than the quantity the person represents of a
10 commodity, thing, or service when, as buyer, the person furnished the
11 weight or measure that the seller used to determine [BY MEANS OF
12 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

13 (7) keeps for the purpose of sale, advertises, or offers
14 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
15 condition or manner contrary to law or regulation;

16 (8) uses in retail trade, except in the preparation of
17 packages put up in advance of sale and of medical prescriptions, a
18 weight or measure that is not so positioned that a customer may accu-
19 rately read, from a position that may reasonably be assumed by a
20 customer, its indications [MAY BE ACCURATELY READ] and observe the
21 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
22 REASONABLY BE ASSUMED BY A CUSTOMER];

23 (9) hinders or obstructs the director, an inspector, a
24 sealer, or a deputy sealer in the performance of official duties under
25 this chapter;

26 (10) violates a provision of an overweight or oversize
27 vehicle permit issued under AS 44.33.020(25);

28 (11) violates a weight, load, or size limitation established
29 under AS 19.10.060 or a regulation adopted under AS 19.05.020,

1 AS 44.33.020(25), or AS 45.75.050(b)(5);

2 (12) violates a provision of this chapter or [OF] a regula-
3 tion adopted under this chapter for which a specific penalty is not
4 prescribed.

5 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

6 (b) Notwithstanding the maximum fine for a violation provided
7 under (a) of this section, a person who violates a regulation or
8 special permit governing the weight limit of a motor vehicle shall pay
9 a penalty of \$.05 for each pound of weight over the authorized weight
10 limit for the vehicle.

11 * Sec. 5. AS 45.75.390 is amended by adding a new paragraph to read:

12 (14) "commissioner" means the commissioner of commerce and
13 economic development.

14 * Sec. 6. AS 28.40.050(e) and AS 45.75.360 are repealed.

15 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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S B

155

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811
907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Edward Stahla, General Counsel
City of Wrangell

FROM: Ray Matiashowski, for
Senator Lloyd Jones

DATE: January 29, 1988

SUBJECT: SB 155: Relating to Relocation of Utilities

As mentioned in our telephone conversation, I have enclosed a copy of SB 155. I would appreciate your review and opinion.

If questions arise during the course of your review, please don't hesitate to call us. I have access to the attorney that drafted the legislation and may be able to help clarify something. I would also like to reiterate that Senator Jones is interested in gathering information from the District at this point, and has not taken a position on the bill.

cc: Joyce Rasler, Manager
City of Wrangell

ALASKA STATE LEGISLATURE

Home Address
3813 Denali Street
Ketchikan, AK 99901
907-225-9082



While in Juneau
P.O. Box V
Juneau, AK 99811
907-465-3743

Senator Lloyd Jones

January 29, 1988

Joyce Rasler, Manager
City of Wrangell
Box 531
Wrangell, Alaska 99929

Dear Joyce:

I apologize for the delay in answering your request. Your letter was apparently misfiled.

SB 155 attempts to clarify the financial responsibility involved between a Municipality and utility when the utility's property lies within a public right of way, and the Municipality deems it necessary for the property to be moved. Current law is vague in this area, and this often leads to disputes between a Municipality and utility.

Because Wrangell owns its utility poles and lines, questions of financial liability are limited to the telephone and cablevision equipment attached to these poles. It is only to this extent that SB 155 will impact Wrangell.

At this point I have not taken a position on SB 155. My staff continues to gather public input, and Mr. Stahla's comments will weigh heavily in my opinion of this legislator.

Thank you for your comments on this matter, I look forward to working with you as the issue develops.

Sincerely,

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

Lloyd Jones
Alaska State Senate



ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381

December 14, 1987

Senator Lloyd Jones
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

Several months ago I requested information regarding Senate Bill No. 155. To date, this information has not been received. Please refer to the attached copy of my previous letter.

We would appreciate any assistance you can give regarding this request. We are understandably concerned that enactment of this Bill would place Wrangell under a financial burden.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joyce Rasler".

Joyce Rasler
City Manager

JK:fv

Attachment



ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1905

BOX 531, 99929 (907) 874-2381

June 19, 1987

Senator Lloyd Jones
P.O. Box V
Juneau, AK 99811

Re: CSSB No. 155 (C&RA)

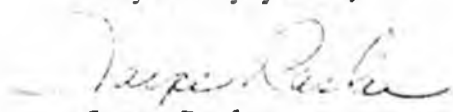
Dear Senator Jones:

The City of Wrangell strongly opposes Senate Bill No. 155 (identical to House Bill No. 155) which would require the City to pay all costs incurred by a utility certificated under AS 42.05 for changing, re-locating or removing their facility located in a municipal right-of-way, incident to construction of a road or other project. This Bill would also add yet another limitation of home rule powers.

Your aide advised me by phone on May 7, 1987, that this Bill would not affect Wrangell because we own and operate the electric distribution system that the telephone and cablevision utilities are now attached to. I am unable to locate any exclusion in the Bill and would like to receive information that provides the exemption.

Thank you for any assistance you can give.

Very truly yours,


Joyce Rasler
City Manager

JR:fv

cc: Representative Sund
Representative Taylor

CITY OF PETERSBURG

P.O. Box 329 • PETERSBURG, ALASKA 99833 • PHONE (907) 772-4203

MUNICIPAL POWER
AND LIGHT DEPT.

April 13, 1987

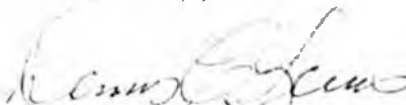
Senator Lloyd Jones
Alaska State Senate
Fouch V
Juneau, Alaska 99811

Attn: Terry Otness

Dear Terry,

I've enclosed a copy of an article that I came across recently in the Utilities Telecommunication Council magazine, involving FCC authority to regulate pole attachment rates. I've sent it to you for your information. It was in the March 1987 issue of the magazine, Vol. 37, No. 2. Their address is Suite 1000, 1500 17th Street, N.W., Washington, D.C. 20036, phone: (202)956-5651.

Sincerely,


Dennis C. Lewis
PMP&L Superintendent

cc: Robin Taylor

SUPREME COURT AFFIRMS FCC AUTHORITY
TO REGULATE POLE ATTACHMENT RATES

The Supreme Court has ruled that the rates set by the FCC for cable TV attachments to utility poles do not constitute an unfair taking of property under the Fifth Amendment.

The FCC and several cable parties had appealed a ruling by the Eleventh Circuit Court of Appeals that the Pole Attachment Act, under which the FCC regulates rates for cable attachments, authorized a permanent physical occupation of property for which compensation must be paid under Loretto v. Teleprompter Manhattan CATV Corp. The lower court struck down the Act because it authorizes the FCC to make the initial determination of the amount of compensation to be paid, the court finding that "Congress has usurped what has long been held an exclusive judicial function."

In overturning the lower court's decision, the Supreme Court noted that while Loretto specifically required landlords to permit permanent occupation of their property by cable companies, "nothing in the Pole Attachments Act . . . gives cable companies any right to occupy space on utility poles, or prohibits utility companies from refusing to enter into attachment agreements with cable operators." Therefore, because the Court found there was no taking, it did not review the Eleventh Circuit's holding that Congress may not establish standards for the determination of just compensation.

The Court's decision will leave intact the FCC authority to regulate the rates charged by investor-owned utilities where state regulation is absent.

1

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections be made prior to permanent publication.

RECEIVED
MAY 7 1987

File
58155

THE SUPREME COURT OF THE STATE OF ALASKA **BALDWIN**

CITY OF KENAI,)

Appellant,)

v.)

STATE OF ALASKA, PUBLIC)
UTILITIES COMMISSION,)

Appellee.)

File No. S-1337

O P I N I O N

[No. 3176 - May 8, 1987]

NOTICE TO COUNSEL: This opinion will be re-
leased to the press and public at 12:30
p.m. (Aest. time) on the date indicated.
This copy is provided to counsel of record
in advance. Prior to the release time,
please do not inform persons other than your
clients in this case of the outcome.

Clerk of the Appellate Courts

Appeal from the Superior Court of the State
of Alaska, Third Judicial District, Kenai
Peter A. Michalski, Judge.

Appearances: Timothy J. Rogers, City
Attorney, Kenai, for Appellant. Mark L.
Figura, Assistant Attorney General,
Anchorage, Harold M. Brown, Attorney General,
Juneau, for Appellee. Andrew E. Hoge, Hoge
and Lekisch, Anchorage, for Intervenor
Matanuska Telephone Association, Inc. ~~ACTRA~~
~~Baldwin~~, Kenai, for Intervenor Homer Electric
Association, Inc.

Before: Rabinowitz, Chief Justice, Burke,
Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.

This is an appeal by the City of Kenai from a decision
of the superior court dismissing Kenai's appeal to that court
from a decision of the Alaska Public Utilities Commission. The
superior court found that Kenai was not a party to the

2

Commission's proceedings, and therefore had no right to appeal. Homer Electric Association and Matanuska Telephone Association were parties to the Commission's proceedings, and both have been granted intervenor status in this appeal. Because Kenai has a legally recognized interest which was adversely affected by the Commission's action, and because Kenai sufficiently participated in the Commission's proceedings, we hold that Kenai has standing to obtain judicial review of the agency's action by means of an appeal. We therefore vacate the dismissal and remand the case to the superior court.

I. FACTS AND PROCEEDINGS

In 1971, Homer Electric Association, by contract with the City of Kenai, assumed control of certain municipal utility facilities located within the City. Subsequent street construction required Homer Electric to relocate those utility facilities, but the City refused to reimburse it for the relocation expense. Homer Electric sought declaratory relief before the Commission to resolve the dispute according to the contract terms. The Commission declined to hear the contract dispute on jurisdictional grounds, but encouraged Homer Electric to file for a special tariff before the Commission to recover the expense either through a surcharge or through general rates.

Homer Electric filed for a tariff revision which provided for a surcharge to recover all costs associated with the

relocation of "electric" facilities at a municipality's request when those costs are not paid by the municipality. The Commission issued a notice of utility tariff filing, and three individuals and the City responded as interested parties with letters opposing the tariff. In "adamantly oppos[ing]" the tariff filing, the City argued that under common law, a utility has the duty to relocate its facilities at its own expense when public convenience or necessity so requires.

The Commission suspended the operation of the proposed tariff and scheduled a public hearing in view of the City's strong opposition to the filing. The Commission also "concluded that the City met the standards for intervention set forth in 3 AAC 48.110," and determined "that full-party intervenor status should be granted to the City." In its order suspending the tariff filing, scheduling a public hearing, and granting intervenor status to the City, the Commission stated that "[the utility] and the City should be prepared to answer [five] questions" relating to Homer Electric's proposed tariff revision.¹ The Commission also stated that if the City did not

1. The Commission directed the City to be prepared to answer the following questions:

- (1) What is the nature of the facilities relocation costs which are the subject of [this order]?

(Footnote Continued)

4

wish to be granted full-party intervenor status, it should notify the Commission.

In a letter to the Commission, the City formally declined the Commission's offer of full-party intervenor status.

The letter stated:

While the City of Kenai declines the Commission's grant of full party intervenor status in this proceeding, it does not wish to convey an impression of disinterest or lack of importance in this matter by the City of Kenai.

The City's initial response . . . consisting of six pages plus attachments set forth at length not only the City's policy position in this matter, but provided citation of statute and case law authorities in support of its position.

(Footnote Continued)

(2) If facilities are relocated at the request of municipalities and the municipalities do not directly pay the costs of the relocations, how should the utility allocate those costs to its ratepayers?

(3) Does the answer to the preceding question vary according to circumstances associated with individual relocations? If so, how should these variations be reflected in a tariff format?

(4) How should the proposed [Municipal Facilities Relocation Cost Adjustment] affect previously uncollected municipal facilities relocation costs?

(5) Are municipalities the only entities to which the proposed surcharge should apply?

The City further observed that the Commission had already apparently decided that a municipality had the discretion to require a utility to pay for relocation expense. The City quoted from the Commission's letter to Homer Electric, in which the Commission declined to decide the contract dispute:

The requirement to pay either a fee or relocation expense at the discretion of the municipality would seem to make a fee and relocation expense interchangeable concepts, so that the authority of a utility in AS 42.05.251 to recover fees from the customers in the municipality receiving the fees would seem to necessarily sanction the recovery of relocation expenses in the same manner.

Thus, in light of the earlier statement by the Commission to the utility, the City asserted that "[i]t would seem that the City's participation as a party in this matter may well be an unnecessary step for the Commission to formally order what has previously been decided."

On November 17, 1983, the Commission conducted a public hearing but the City did not appear or otherwise participate. The Commission issued its decision on January 11, 1985. The decision specifically considered the City's earlier arguments contained in the City's letter opposing the tariff revision.

Although the Commission recognized that the parties sought only an order from the Commission accepting or rejecting the proposed surcharge, the Commission found it necessary to preliminarily determine "the validity under AS 42.05 of the common law rule authorizing municipalities to compel without

reimbursement relocation of utility facilities located within municipal rights-of-way." The Commission held that the practice of municipalities directing unreimbursed relocations of utility facilities was unreasonable, thereby making the City liable for the relocation costs incurred by Homer Electric. The Commission also denied Homer Electric's request for a surcharge.

The City appealed the Commission's decision to the superior court explicitly relying on AS 42.05.551,² AS 44.62.560,³ and Alaska Rule of Appellate Procedure 602.⁴ The Commission moved to dismiss the City's appeal on the grounds that the City was not a party to the administrative proceedings and therefore had no right to appeal. Homer Electric joined in the motion to dismiss, and Matanuska Telephone submitted a statement of position supporting the Commission and Homer Electric.

2. AS 42.05.551, Review and enforcement, provides in part:

(a) All final orders of the commission [APUC] are subject to judicial review in accordance with AS 44.62.560 - 44.62.570 of the Administrative Procedure Act.

3. AS 44.62.560, Judicial review, provides in part:

(a) Judicial review by the superior court of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters.

(Footnote Continued)

The City opposed the motion to dismiss, and requested in the alternative declaratory relief pursuant to the Declaratory Judgment Act, AS 22.10.020(g),⁵ and Ketchikan Retail Liquor Dealers Association v. State, Alcoholic Beverage Control Board, 602 P.2d 434, 440 n.21 (Alaska 1979).

The superior court entered an order dismissing the case on the grounds that the City had no right of appeal because it was not a party. The City's motion for reconsideration was also denied. This appeal followed.

II. KENAI'S STANDING TO APPEAL

Whether a party has standing to seek judicial review of an agency's decision following an evidentiary hearing, either by appeal or in a declaratory judgment action, is a question of law, reviewable de novo.

(Footnote Continued)

4. Alaska Rule of Appellate Procedure 602 provides for time and notice of appeals, and for bonds on appeal.

5. The parties refer to Alaska's Declaratory Judgment Act as AS 22.10.020(b). In 1984, subsection .020(b) was redesignated as subsection .020(g). See AS 22.10.020 (Supp. 1986). AS 22.10.020(g) provides in part:

In case of an actual controversy in the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought.

8

The judicial review provisions of the Administrative Procedure Act, AS 44.62.560(a),⁶ are made applicable to APUC proceedings by AS 42.05.551.⁷ AS 44.62.560(a) does not specify who is qualified to obtain judicial review of administrative adjudications. Since the statute is silent on this point, the answer must be supplied by reference to other sources of law. This has already been accomplished in part in Ketchikan Retail Liquor Dealers Association v. State, Alcoholic Beverage Control Board, 602 P.2d 434 (Alaska 1979). In Ketchikan, we held that parties to an administrative hearing could appeal under AS 44.62.560(a), while expressly leaving open the question as to "whether a non-party may also have a right to appeal" 602 P.2d at 439 n.19. We referred to the statutory definition of party as "the agency, the respondent, and a person, other than an officer or an employee of the agency in his official capacity, who has been allowed to appear in the proceeding." AS 44.62.640(b)(4) (emphasis in text of quoted opinion, 602 P.2d at 440). It is evident that we construed the word "appear" to have the same general meaning as "participate" because we went on to quote with approval the following language from Application of Bank of Rhame, 231 N.W.2d 801, 808 (N.D. 1975):

-
- 6. AS 44.62.560(a) is set out in note 3, supra.
 - 7. AS 42.05.551 is set out in note 2, supra.

[A]ny person who is directly interested in the proceedings before an administrative agency who may be factually aggrieved by the decision of the agency, and who participates in the proceeding before such agency, is a "party" to any proceedings for the purposes of taking an appeal from the decision.

602 P.2d at 440.

The City of Kenai meets the test set out in Bank of Rhame, namely it (1) was directly interested in the proceedings, (2) was factually aggrieved by the decision, and (3) participated in the proceedings.

The City's participation is established by its opposition to the tariff filing of Homer Electric. This opposition fills more than fifty pages of the administrative record and contains citations to legal authorities and extensive arguments. Because of the City's opposition, the tariff was suspended and a public hearing was scheduled. Although the City declined formal party intervenor status and did not present witnesses or additional arguments at the hearing, it was understood, as stated by the Commission's presiding officer, to have "nonetheless stressed its opposition . . . and incorporated earlier written comments," which were in fact considered by the Commission. The issues presented by Kenai in its opposition constituted the focus of the public hearing and of the Commission's order that followed. This is sufficient participation to achieve "party"

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status for the purpose of standing to appeal from an administrative adjudication.⁸

We hold that the City of Kenai has standing to appeal the Commission's decision. We therefore vacate the superior court's dismissal of the City's appeal and remand for further proceedings consistent with this opinion.

VACATED AND REMANDED.

ORDER

Pursuant to Appellate Rules 508(a) and (f) (1), attorney fees of \$750.00 are awarded to Appellants and the Appellants shall serve and file with this court an itemized and verified cost bill by 5-18-87. Entered by direction of Justice Mathews.
 Dated: 5-6-87 Deputy: C. Johnson

8. See also Mahuiki v. Planning Comm'n, 654 P.2d 874, 880 (Ha. 1982) (standing upheld where a person whose legitimate interest is injured by agency action participates as an adversary - appellants had submitted letters against proposed agency action which were received as part of record); Alfred I. duPont School Dist. v. Delaware Alcoholic Beverage Control Commission, 343 A.2d 600, 604 (Del. 1975) (under Delaware statute, when one becomes a party to the record, either by protest received into evidence or formal appearance in person or by representative, that person becomes formal "party to hearing"); compare Model State Administrative Procedure Act § 5-106, 14 U.L.A. (Supp. 1986) (a person to whom agency action is specifically directed, a person who was a party to agency proceeding, or a person otherwise aggrieved or adversely affected has standing to obtain judicial review of agency action).

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5583 STRA SB 108 - SB 155

Original sponsor: Coghill

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 108 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to decisions on right-of-way lease
7 applications."

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

9 * Section 1. AS 38.35.100(b) is amended to read

10 (b) If the commissioner makes the [THESE] determinations de-
11 scribed in (a) of this section favorably to the applicant, then the
12 commissioner may grant all [THE WHOLE] or part of the application.
13 Otherwise, the commissioner may [SHALL] deny the application or grant
14 the application subject to conditions established by the commissioner
15 that will ensure that the applicant is fit, willing, and able within a
16 prescribed period of time to perform the transportation or other acts
17 that will be required by the present or future public interest. In
18 order to grant all [THE WHOLE] or part of the application the commis-
19 sioner shall offer a lease to the applicant for its acceptance through
20 signing of the lease and agreeing to comply with its terms, condi-
21 tions, and obligations. Only upon proper acceptance of offered lease
22 by the applicant within 30 days after its having been presented is the
23 grant of the application consummated.

Introduced: 2/5/87
Referred: Transportation,
Judiciary and Finance

J-0555R

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO. 108

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

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15 that will ensure that the applicant is fit, willing, and able to
16 perform the transportation or other acts that will be required by the
17 present or future public interest. In order to grant all [THE WHOLE]
18 or part of the application the commissioner shall offer a lease to the
19 applicant for its acceptance through signing of the lease and agreeing
20 to comply with its terms, conditions, and obligations. Only upon
21 proper acceptance of offered lease by the applicant within 30 days
22 after its having been presented is the grant of the application con-
23 sumated.

S B

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SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of Feb. 19, 1987 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE Feb 27, 1987

Mr. President:

TRANSPORTATION Committee considered SB 118

access to public buildings and facilities by the physically handicapped, aged, and infirm.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tom Kelly
[Signature]
[Signature]

[Signature]
 Chairman signature and recommendation

Committee Backup Attached

INTRODUCTION OF BILLS (Senate)

SB 118, (cont'd)

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to access to public buildings and facilities by the physically handicapped, aged, and infirm. This bill will give the Department of Transportation and Public Facilities greater flexibility in developing standards for particular facilities for which there currently are no standards.

Federal law and regulations, and the publication entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" are presently used to determine standards for many public buildings and facilities. Section 1 of the bill will provide the department with greater flexibility in this area by allowing it to choose the best and most applicable standards from the several now in existence. For example, the federal government in 49 Federal Register 31528 (August 7, 1984) has published standards which are comparable to and in many ways more comprehensive than those found in the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped."

In addition, there are public facilities for which standards have not been developed. It is the intent of sec. 2 of this bill to direct the Department of Transportation and Public Facilities to develop standards for unique public facilities in the State of Alaska for which there currently are no standards, e.g. for ski lifts, hiking trails, and boat harbors.

In short, this bill will clarify and broaden the authority of the Department of Transportation and Public Facilities to provide access to and use of public buildings and facilities by the physically handicapped, aged, and infirm. I urge your favorable action on this measure.

Public School
Funding
(per pupil
spending)

SENATE BILL NO. 119, by the Rules Committee by Request of the Governor. See HB 126, this report, identical.

Introduced February 10 and referred to Health, Education & Social Services; Finance.

Public Safety
Info Network
(re: minors)

SENATE BILL NO. 120, by Sens. Faiks and Szymanski. Relates to the entry of information regarding minors on the Alaska Public Safety Information Network (APSIN). Amends AS 47.10.090 (Delinquent Minors and Children in Need of Aid. Children's Proceedings. Records) to allow the court to transmit the terms and conditions of probation for entry into APSIN if a minor is released on probation. This would be allowed even though a section of the same law (AS 47.10.090(a)) states that all records pertaining to a minor are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. As soon as practicable after the minor completes the probation, the court would be required to request the Dept. of Public Safety to remove the information from the network. Does not provide for an effective date (bill becomes law 90 days after being signed by governor).

Introduced February 11 and referred to Judiciary.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SB 118

APPROVED: R. J. Knapp
Commissioner

TITLE: An Act Relating to Access to Public Buildings and Facilities by the Physically Handicapped, Aged and Infirm.

DATE: 11-18-86

The Department requests that the proposed language modifications be supported for the following reasons.

1. Modifications to AS 35.10.015(a) would allow the use of the "Uniform Federal Accessibility Standards" (UFAS) on all projects. Currently we administer "state" projects under the "American Standard Specifications" (ANSI) document and "federal" projects under UFAS.
2. Additional language to AS 35.10.015(e) would allow the Department to establish design parameters for specific facilities not identified in either the UFAS or ANSI codes. Presently designers working on these types of facilities have no guidelines other than applying the "inappropriate" requirements presented in the adopted codes.

All parties involved will benefit from the changes in that (1) the Department will only have to administer a single code, (2) designers will consistently know the "code" which is applicable to their project, (3) the handicapped community will receive uniformity in their built environment, and (4) the public at large will benefit from a more effective administration of accessibility requirements. These changes will not increase or diminish the already existing requirements for handicapped access to public buildings or facilities.

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 118
 Title : An Act Relating to Access to Public Buildings and Facilities by the Physically Handicapped, Aged, and Infirm.
 Sponsor : Governor's Office
 Requestor : Dept. of Transportation
 Date of Request : September 5, 1986

FISCAL DETAIL

Agency Affected : DOT&PF
 BRU : _____
 Components : Design, Construction, and Technical Services Units

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						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Requested changes only clarify present language and do not add to or delete from existing statutory requirements.

Prepared by : John J. Simpson, Director Phone : 465-2951
 Division : Engineering & Operations Standards Date : _____

Approved by Commissioner : R. J. Knapp Date : 11/19/86
 Agency : Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

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

SPB

125

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SB 125
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to the Alaska
Marine Transportation Advisory Board."
Sponsor: Duncan et al
Requestor: Duncan et al

Agency Affected: DOT/PE - AMHS
BRU: Marine Administration
Components: Advisory Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL		16.0	15.8	16.6	17.4	18.3
CONTRACTUAL		14.0	10.0	10.5	11.0	11.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		30.0	25.8	27.1	28.4	29.9

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		30.0	25.8	27.1	28.4	29.9
FEDERAL FUNDS						
OTHER						
TOTAL		30.0	25.8	27.1	28.4	29.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: George Davidson
Division: Alaska Marine Highway System

Phone: 465-3950
Date: 02/18/87

Approved by Commissioner: [Signature]
Agency: Dept. of Transportation and P.F.

Date: 2/24/87

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 125

The proposed legislation creates an Advisory Board for the Alaska Marine Highway System, with five members to serve without compensation. Necessary costs, therefore, are limited to those of conducting the Board's meetings. After two familiarization meetings to be held in Juneau during the first three months, regular meetings will be held on a quarterly basis. The effective date is assumed to be July 1, 1987.

FY 88 COSTS

<u>Travel</u>		\$ 16.0
Transportation and per diem for five Board members	\$ 13.5	
Transportation and per diem for AMHS staff to attend Board meetings (locations other than Juneau)	2.5	
<u>Contractual Services</u>		14.0
Room rentals for Board meetings (estimated at \$125/day)	1.5	
Public Notice Advertising	2.5	
Transcription Services	10.0	
Total		\$ 30.0

An annual inflation factor of 5% has been included beginning in FY 89. Costs have been reduced for FY 89 to reflect a total of four quarterly meetings, three to be held in Southeast Alaska and one in Southcentral.



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

DATE: February 24, 1987

TO: Senator Lloyd Jones
Chairman
Senate Transportation Committee

FROM: Senator Tim Duncan

SUBJECT: SB 125, Marine Transportation Advisory Board

The creation of the Marine Transportation Advisory Board will guarantee that passengers who use the Marine Highway System, along with merchants who depend on the system for freight, will have a voice in the systems level of service.

Because the Alaska Marine Highway System is used by so many people, both in South Central Alaska and in Southeast, it is imperative they have a mechanism in which their concerns are considered. As has been the case in many private sector transportation organizations, an advisory board has proven to be an entity the public can focus on that takes into consideration their real needs. It is important that a formal citizens' group review budget-induced schedule changes in the system and make recommendations on potential changes that might have less of an effect on the public. More over, citizen advisory boards tend to bring out many good ideas that will enhance an organization's ability to operate effeciently.

The Marine Transportation Advisory Board will consist of five members from which at least three come from communities served by the Alaska Marine Highway System.

2/16/87

JUNEAU EMPIRE

WILLIAM S. MORRIS III
Publisher

JEFFREY A. WILSON
General Manager

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Production Manager

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Circulation Manager

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Advertising Manager

DONNA GRUNOW
Office Manager

Advisory board a good idea

For years, private companies have been using citizens' advisory boards to great advantage. When they want to test "trial balloons" or when they simply want a reading on how well they are doing, they go to their advisory boards and ask. The answers they get help correct problems, prevent mistakes and improve good ideas. Above all else, the boards prove that the companies *listen* to the people they serve.

Jurau Len. Jim Duncan has proposed incorporating this valuable private-enterprise tool into the state-run Alaska Marine Highway System. Last week he submitted a bill in the Senate that would establish a citizens' advisory board for the ferry system.

ISSUE: Advisory board proposed for state ferries

The idea is long overdue. For years, most decisions regarding the ferry system reflected the interests of either the management or the employees. The public's needs often seemed to be lost in the shuffle, even though the public pays for the ferries and uses them.

As long as it is composed of citizens who will be "plugged into" the needs and attitudes of their communities, an advisory board will help ferry managers and employees refocus their attention on the people they are serving. The board should not be composed of junior-grade bureaucrats who will have a bunch of meaningless public hearings or take it upon themselves to manipulate their positions to benefit other interests besides those of the public. That's how the ferry system got off track in the first place.

The folks who ride the ferries want friendly service, good food, convenient schedules and reasonable rates. They also want to know about their ferry system and how it works. If you gauge the system on these basics, it's obvious there is room for improvement.

A citizens' advisory board may not be the answer to all of these problems, but it would sure go a long way toward finding the answer.

Front Page

JUNEAU COURIER 2/12/87

Duncan proposes ferry advisory board

By CHUCK KLEESCHULTE

OF JUNEAU EDITOR

In an effort to guarantee that freight and passenger users get some voice in future schedule reductions facing the Alaska Marine Highway system, Juneau Sen. Jim Duncan this morning introduced legislation setting up a citizens' advisory board.

The Democrat said he believes it is important that a formal citizens' group review budget-induced schedule changes in the ferry system and make recommendations on potential changes that might have less of an effect on the public.

"What I see coming is a reduced

level of service, but it is important that we evaluate plans from a user's perspective so that freight and passengers get a level of service that takes their real needs into consideration," said Duncan this morning.

He said under his plan five public members - at least three from communities served by the ferry system - would be appointed by the governor. While not paid, the advisory board, which would serve five-year terms, would get per diem and be empowered by the governor to hold hearings and make recommendations on changes in the operation of the nine-vessel ferry fleet.

"It's really important given the changes coming that we make sure freight user needs are protected, plus the true needs of passengers. We need to maximize the frequency of service in Southeast and a citizens' board may help to make sure the department does that in coming up with new operating schedules," said Duncan.

On Wednesday, Sen. Lloyd Jones, R-Ketchikan, proposed that Ketchikan be the end of the state's mainline service from Seattle to improve the frequency of runs to the West Coast. Duncan said he's not in a position to support or oppose that

suggestion yet, but he said he wants to see it and other suggestions considered as an alternative to once-a-week mainline and once-a-week non-summer feeder ferry service proposed in Gov. Steve Cowper's budget for next year.

Under Cowper's original budget, ferries would sustain a \$10 million cut in their operating subsidy. About \$2 million of that was added back to pay for higher insurance costs, leaving a cut of over \$8 million in the operating subsidy for the \$65 million system. Last year, about \$30 million of its budget came from the state.

Please turn to Page 8

Ferry...

Continued from Page 1

Duncan said his bill might not pass in time to have the board be functional to help in making suggested changes to the proposed schedule that would go into effect in late September. But he said the advisory board would certainly help to gain public reaction to future schedule shifts.

S B

132

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 132

Publish Date: _____

REQUEST

Revision Date: _____

Title: Opening the entire Dalton Highway to the public without toll.

Sponsor: Coghill

Requestor: Jones

Agency Affected: DOT&PF

BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		<243.0>	<243.0>	<243.0>	<243.0>	<243.0>
TRAVEL						
CONTRACTUAL		<127.0>	<27.0>	<27.0>	<27.0>	<27.0>
SUPPLIES		<20.0>	<20.0>	<20.0>	<20.0>	<20.0>
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
CAPITAL						
REVENUE		<5600.0>	<5500.0>	<5500.0>	<5500.0>	<5500.0>

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (LAF)		<390.0>	<290.0>	<290.0>	<290.0>	<290.0>
TOTAL						

POSITIONS:

FULL-TIME		<5>	<5>	<5>	<5>	<5>
PART-TIME		<1>	<1>	<1>	<1>	<1>
TEMPORARY						

ANALYSIS: This bill will remove the authority to charge tolls on the Dalton Highway. These are estimated to produce \$5.6 million in FY88 to support the maintenance and operating costs of this route. These tolls would have been deposited in the General Fund to offset the budgeted costs for operation.

The deletion of the requirement for the checkpoint will not impact the 1988 budget because funding is not included.

The reduced operating expenditures and funding are related to the estimated costs of collection of the tolls.

Prepared by: Ron B. Lind, Director

Phone: 465-4070

Division: Plans, Programs, and Budget

Date: 2/27/87

Approved by Commissioner: [Signature]

Date: 3/3/87

Agency: DOT & PF

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor:

Office of Management and Budget

Impacted Agency(i)

Senate Secretary - DOT Fiscal Note

BILL NO: SB 132

DATE: February 27, 1987

TITLE: "An Act relating to public use of the Dalton Highway."

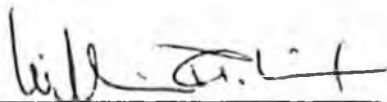
CONTACT: Maj. Walter J. Gilmour
Acting Director
Alaska State Troopers

POSTMORTEM / DEPARTMENT OF PUBLIC SAFETY

SB 132 will open the Dalton Highway to the public year-around.

The Division of Alaska State Troopers will need to provide a full range of law enforcement services to include accident response and investigation, search and rescue and patrol in order to protect the users of the highway. Winter use of the highway will result in a need to provide these services under difficult conditions and equipment costs reflect this fact.

The Division of Alaska State Troopers is opposed to this legislation.



WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 132

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to public use of the Dalton Highway."

Sponsor: Sen. Coghill

Requestor: Senate Transportation

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		281.4	289.8	298.5	307.5	316.7
TRAVEL		8.0	8.2	8.5	8.7	9.0
CONTRACTUAL		92.9	95.7	98.6	101.5	104.6
SUPPLIES		13.2	13.6	14.4	14.8	15.3
EQUIPMENT		89.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		484.7	407.3	420.0	432.5	445.6
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		484.7	407.3	420.0	432.5	445.6
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached schedule.

Prepared by: Francis C. Allan

Division: Alaska State Troopers

Phone: 269-5691

Date: 2/27/87

Approved by Commissioner: William R. Nix

Agency: Public Safety

Date: 3/3/87

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 132

In order to keep the Dalton Highway open throughout the entire year, a full range of law enforcement services must be maintained. In order to provide accident response, patrol, investigation and search and rescue services, four additional State Trooper positions will be needed; one at Coldfoot, one at 7-Mile Camp, and two others in Prudhoe Bay. The costs below summarize their Personal Services and related costs. It is anticipated that equipment will be needed in the first year only and that a 3% inflationary cost will be incurred each year after 1988.

	Trooper Coldfoot	Trooper 7-Mile	Trooper Prudhoe Bay	Trooper Prudhoe Bay	Increased Helo Oper. Costs (1)	Total
Personal Services	71.5	66.9	71.5	71.5		281.4
Travel	2.0	2.0	2.0	2.0		8.0
Contractual	8.5	8.5	42.1	32.5	1.3	92.9
Supplies	3.3	3.3	3.3	3.3		13.2
Equipment	22.3	22.3	22.3	22.3		89.2
	<u>107.6</u>	<u>103.0</u>	<u>141.2</u>	<u>131.6</u>	<u>1.3</u>	<u>484.7</u>

(1) - Helicopter costs include one additional trip up and down the highway, fueling at Coldfoot and Prudhoe Bay (contract). This is expected to involve seven hours @ \$187 per hour.

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA																																																												
Time Status PFT	Staff Months 12.0	Location Coldfoot		Election District 22																																																												
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>Amount</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>48,516</td> <td></td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>12,454</td> <td></td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td>4,478</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td>6,097</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td></td> <td></td> <td>71.5</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td></td> <td>2.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td></td> <td>8.5</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td></td> <td>3.3</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td></td> <td>22.3</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td></td> <td>107.6</td> </tr> </tbody> </table>		Type of Expenditure	1	2	Amount	3	Salary		48,516			Benefits		12,454			Premium Pay		4,478			Other		6,097			Total Personal Services				71.5	Travel				2.0	Contractual				8.5	Commodities				3.3	Equipment				22.3	Other					Total Cost				107.6	Justification A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Currently, The FY88 FWP operating plan calls for the elimination of the FWP Trooper stationed in Coldfoot. This state housing unit will be occupied by this new AST Trooper.		
Type of Expenditure	1	2	Amount	3																																																												
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**Request For
New Position**

Agency Department of Public Safety
BRU Alaska State Troopers
Component Detachments & CIB

Page 1 of 4
Revised Date _____

FY 88

Position Title State Trooper		No. of Positions 1	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0	Location 7-Mile	Election District 22	
Type of Expenditure		Justification		
1	2	3		
Salary	45,060	A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.		
Benefits	11,567			
Premium Pay	4,159			
Other	6,097			
Total Personal Services	66.9			
Travel		2.0	Under the current AST FY88 plan, the 7-Mile housing unit was to be vacated and sub-leased as part of the reduction. This new trooper position however will occupy the unit.	
Contractual		8.5		
Commodities		3.3		
Equipment		22.3		
Other				
Total Cost		103.0		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	103.0		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

FY 88

Page 2 of 4
 Revised Date _____

Position Title State Trooper			No. of Positions	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 12.0		Location Prudhoe Bay		Election District 22
Type of Expenditure			Justification		
		Amount	<p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.</p> <p>Contractual costs include housing and office space at a cost of \$2,800 per month, which is based upon previous AST experience in Prudhoe Bay as assumes space availability.</p>		
1	2	3			
Salary	48,516				
Benefits	12,454				
Premium Pay	4,478				
Other	6,097				
Total Personal Services		71.5			
Travel		2.0			
Contractual		42.1			
Commodities		3.3			
Equipment		22.3			
Other					
Total Cost		141.2			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	141.2			
I-A Receipts	1005				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

Page 3 of 4
 Revised Date

FY 88

Position Title State Trooper		No. of Positions	Range/Step 76/A	Barg. Unit PSEA	
Time Status PFT	Staff Months 12.0	Location Prudhoe Bay		Election District 22	
Type of Expenditure		Justification			
1	2	3			
Salary	48,516	A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation and Search and Rescue along the Dalton Highway. This trooper position must have a 4 X 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience.			
Benefits	12,454				
Premium Pay	4,478				
Other	6,097				
Total Personal Services					71.5
Travel		2.0	Contractual costs include a leased housing space of approximately \$24,000 per year, assuming that it is available.		
Contractual		32.5			
Commodities		3.3			
Equipment		22.3			
Other					
Total Cost		131.6			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	131.6			
I-A Receipts	1006				
CIP Receipts	1061				
Other					

**Request For
New Position**

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments & CIB

FY 88

Page 4 of 4
 Revised Date

Senator John B. (Jack) Coghill
Alaska State Legislature



Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55026
North Pole, Alaska 99705
(907) 466-0662

TO: SENATE TRANSPORTATION COMMITTEE
FROM: SENATOR JACK COGHILL
DATE: MARCH 3, 1987
RE: SB 132 "PUBLIC USE OF THE DALTON HIGHWAY"

Since 1978 the Dalton Highway has been maintained with public dollars, yet the public has not been able to utilize it completely.

By way of background, in 1980 AS 19.40.110 was amended to allow the public to use the highway as far north as Dietrich Camp between the months June 1 and September 1. Prior to this the public was allowed to travel only as far as the Yukon River.

In 1983 year round public use of the highway to Dietrich Camp was allowed.

SB 132 simply requires that the Dalton Highway be open to the public all the way to the Arctic Ocean twelve months out of the year, without a toll, and maintained by the state.

There are several very good reasons for opening the Dalton Highway to the public on a full-time basis:

- 1) the Dalton Highway is maintained with state dollars and is a public road.
- 2) facilities are available at present year round; more will be added by the private sector as demand warrants.
- 3) the tourism potential of this road is enormous, including the majestic Yukon River, the thrill of driving north of the Arctic Circle, the allure of the Brooks Range and the general public interest in the Prudhoe Bay area.

The state should encourage the private sector whenever and wherever possible, and we should encourage tourism. I urge you to vote in favor of SB 132.

- Sponsor's Memorandum



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 3-0287

A RESOLUTION TO OPEN THE DALTON HIGHWAY TO THE GENERAL PUBLIC

WHEREAS, there is no justifiable reason that the general public should not have access to a public highway, and

WHEREAS, public funds are used to maintain this road, and

WHEREAS, the denial of the public to use the Dalton Highway as any other highway in Alaska, as stated in A.S. 19.40.120, is discriminatory, and

WHEREAS, there are existing state and federal regulations which provide for management of public use of land and resources adjoining public highways, and

WHEREAS, the opening of the Dalton Highway has been part of the program of work as stated in the Interior Transportation Needs Study developed by the Greater Fairbanks Chamber of Commerce;

NOW, THEREFORE, be it resolved, that the Greater Fairbanks Chamber of Commerce recommends that the Legislature pass HB 115 without further restrictions.

Be it further resolved that this resolution be sent to the following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
The Commissioner of Transportation

DATED THIS 23rd

DAY OF February, 1987

BY [Signature]
James Dodson, Chairman of the Board

BY [Signature]
Althea St. Martin, Acting President

Fairbanks Co + Commerce

- Resolution



Greater Fairbanks

Chamber

of Commerce

First National Center

P.O. Box 74446

100 Cushman Street

(907) 452-1105

Fairbanks, Alaska 99707

RESOLUTION 1-0287

A RESOLUTION RECOMMENDING THAT A TOLL SHOULD
NOT BE CONSIDERED ON THE DALTON HIGHWAY

WHEREAS, Fairbanks is facing an economic down trend, and

WHEREAS, more effort needs to be placed on trying to assist Fairbanks to recover and continue to offer competitive services in deploying freight through Fairbanks to users along and at the end of the Dalton Highway, and

WHEREAS, a toll could work an economic hardship on any business planning to use the road, and

WHEREAS, the Greater Fairbanks Chamber of Commerce feels that the road should not be used as a single purpose road, and

WHEREAS, this proposed toll would represent a double tax on the oil industry,

NOW, THEREFORE, be it resolved that options other than a toll being placed on a road in Alaska (specifically the Dalton Highway), be considered as a method to generate more state revenue.

BE IT FURTHER RESOLVED that this resolution be sent following:

Governor Cowper
The Interior Delegation
The Congressional Delegation
Commissioner of Transportation

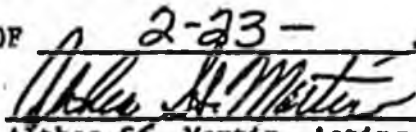
DATED THIS

BY


James Dodson, Chairman of the Board

DAY OF

BY

2-23- 1987

Althea S.C. Martin, Acting President

SB

146



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CSSB 146 (Transportation)
TITLE: An Act Relating to Weight and Measures
and Providing for an Effective Date

APPROVED: Mark S. Hickey
Commissioner

DATE:

4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly




P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: All Members of the Senate

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee 

DATE: May 11, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

Similar legislation has passed the Senate previously and died in the House. I encourage the Senate's immediate action on this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CSSB 146 (Transportation)
TITLE: An Act Relating to Weight and Measures
and Providing for an Effective Date

APPROVED: *M&H*
Mark S. Hickey
Commissioner

DATE: 4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

BILL NO: CSSB 146(Trsp)
TITLE: "An Act relating to weights and measures; and providing for an effective date."

DATE: 4/27/87
CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

The Division of Alaska State Troopers supports this legislation.


Arthur English
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
Revision Date: _____
Title: "An Act relating to weights
and measures."
Sponsor: Transportation Committee
Requestor: Senate Finance

Bill Version: CSSB 146(Trsp)
Publish Date: _____
Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB

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
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Approved by Commissioner: [Signature]
Agency: Public Safety

Phone: 269-5691

Date: 4/27/87

Date: 5/4/87

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

page ____ of ____

JML
5/1/87

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Senate Finance Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee *LJ*

DATE: May 7, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage during spring breakup. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

In summary, I encourage the Senate Finance Committee's immediate action on this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative Bette Cato, Chairman
House Transportation Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee

DATE: May 12, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Transportation Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

ALASKA STATE LEGISLATURE



Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly

P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative David Donley, Chairman
House Labor & Commerce Committee

FROM: Senator Lloyd Jones, Chairman *LJ*
Senate Transportation Committee

DATE: May 14, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Labor and Commerce Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)
TO: Senator Lloyd Jones
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr
m11/131



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

April 28, 1987

Joe Swanson
Director
Division of Measure Standards
Department of Commerce and Economic
Development
P. O. Box 111686
Anchorage, Alaska 99511

Dear Mr. Swanson:

Thank you for your letter of April 27, 1987. In response, it is the view of the court system that the appropriate way to resolve the issues you raise is to either (1) obtain an attorney general's opinion stating that AS 28.40.050 is a legally sound basis for enforcing weight violations, or (2) request the legislature to establish a clear basis for enforcement by adding a penalty for the 17AAC 25 regulation to Title 19 of the statutes.

It may be helpful to review the background of this matter from the court system's viewpoint. Prior to recent supreme court action, the statewide traffic bail schedule had not been revised since 1979. Both the bail forfeiture amounts and many of the offenses appeared to be out of date. One such offense was overweight violations, which had been listed on the bail schedule under the authority of 17 AAC 25.060, with a bail amount of five cents a pound. In April 1985 Joseph Balfe, Assistant Attorney General for Law Enforcement, concluded in response to a court system inquiry that regulations in 17 AAC do not fall under any public safety regulation under Title 28. He questioned whether any 17 AAC regulation is enforceable since AS 19.45.002 does not provide a penalty for violation of these regulations. The court system sought confirmation of this position from Commissioner Sundberg in July 1985, indicating that the court system proposed to eliminate all regulations under 17 AAC from the bail schedule, and asking if this approach created a problem or if the department wished to take a different approach to these offenses. Colonel Kolivosky responded for the department on August 7, 1985, and stated that "at this time it is still appropriate to eliminate the Traffic Bail Forfeiture Schedule under 17 AAC from the update."

Joe Swanson
April 28, 1987
Page Two

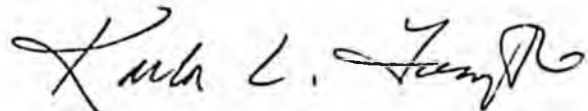
Although it could be argued that AS 28.40.050(e) provides a sufficient basis for enforcement, this particular statute has never appeared on the bail schedule as the authority for an overweight offense. There are strong arguments against viewing this section as authority for overweight penalties, given language in paragraphs (a) - (d) of AS 28.40.050, which refer to regulations adopted under Title 28. However, if the Department of Law takes the position that AS 28.40.050(e) provides adequate authority for enforcing overweight violations, the supreme court will give serious consideration to placing this offense on the bail schedule.

If the Department of Law does not believe that this provision contains adequate authority, the remaining way to resolve this matter is through legislation. As you know, the court system has brought this concern to the attention of the chairs of the Judiciary Committees in both the House and the Senate. With regard to Judge Stewart's administrative determination that the Anchorage court will no longer accept citations, I have spoken with Judge Stewart, and he has agreed that these citations may be filed with the court and money held in escrow until an attorney general's opinion is forthcoming on this issue.

As you point out, a decision that AS 28.40.050(e) does not provide sufficient authority for enforcement may have significant consequences. However, a determination about the legal authority to continue overweight enforcement under the provisions of AS 28 properly comes from the Department of Law or from the Legislature.

I hope this response is helpful. Please let me know if I can answer any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II Administrative Director
Susan Miller, Manager, Special Projects
Presiding Judges
Judge Dave Stewart
Judge Glen C. Anderson
Judge Natalie Finn
Magistrate Skip Slater
Magistrate Roy Williams
Sandy Ganong, Traffic
Robert G. Fisher, Fiscal Officer
Grace B. Schaible, Attorney General
Dean Cuaneli, Assistant Attorney General
William Ni, Acting Public Safety Commissioner

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF MEASUREMENT STANDARDS

STEVE COWPER, GOVERNOR

P.O. BOX 111886
ANCHORAGE, ALASKA 99511
PHONE: (907)345-7750

April 27, 1987

Carla Forsythe, Staff Counsel
Alaska Court System
303 K Street
Anchorage, Alaska 99501

Dear Ms. Forsythe:

CSHB 586(FIN), effective July 1, 1982, transferred the operation of the motor vehicle weighing stations and the issuance of special permits authorizing the operation of overweight and oversize vehicles from the Department of Public Safety to the Department of Commerce and Economic Development.

We assumed that the authority existed for us to write citations for overweight violations (AS 28.40.050 (e) and size and permit violations under the same general authority. When we began the process to promulgate regulations for our new programs, we were informed that there were no sanctions for size and permit violations and that there was a question whether we in Commerce and Economic Development could use the Public Safety statute as our authority for the issuance of overweight citations.

Based on this information, we discontinued writing citations for size and permit violations and we continued to write citations for overweight, based on the Public Safety statute referring to a five cent per pound penalty.

In 1984, a piece of legislation was introduced into the Senate to correct this problem. The bill was passed out of the Senate late in the session and died in the house in 1985. In 1986, SB82 was introduced into the house to again correct this problem. SB82 was passed out of the Senate late in the session and was taken up by the House in 1986 and subsequently died again. In 1987, SB146 was introduced into the Senate, which should be scheduled for a floor vote very soon. A companion bill HB271 has been introduced in the House and referred to House transportation, where it should be heard soon.

In 1984, we had a discussion with, then Assistant Attorney General, Joe Balfe, who determined that the Alaska State Troopers had no authority to write citations for size or permit violations, due to the lack of sanction authority in Public Safety's statute and in Department of Transportation and Public Facility's statute. Joe Balfe subsequently wrote a memorandum confirming that determination, however, there was no discussion of the potential problem with overweight citations.

Carla Forsythe, Staff Counsel
April 27, 1987
Page 2

Approximately, January 1, 1987, the Alaska Supreme Court, in the process of developing an updated bail schedule, determined that there was no authority for the troopers or ourselves to write citations for overweight and therefore, did not include this item in the bail schedule.

The traffic court then informed us that they would not process our citations, however, they would accept them and hold any money collected in an escrow account until a final decision was made.

We have continued to write overweight citations pending this final decision.

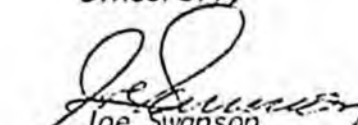
On Wednesday, April 22, 1987, we were informed by telephone that presiding District Judge Stewart had declared that all overweight citations written since January 1, 1987 were illegal and that we were not to file citations nor was the court to accept them and that the money held in escrow was to be deposited in the general fund.

We have a real problem, in that if, in fact, our citations and our enforcement actions are not legal, then we should close our weigh stations, rather than participate in an illegal activity. The closure of our weigh stations would create near chaos in the transportation industry, since there will be no size and weight enforcement. Further, we are advised by the Federal Highway Administration that closure of the weigh stations may very likely result in the loss of nearly \$15 million in Federal Highway Administration funding for our road system.

As mentioned before, there is legislation pending in both the House and the Senate to correct this problem, however, there are no guarantees that the legislation will pass.

We need a decision from the court system now, lest we jeopardize the integrity of our program, the credibility of our actions, \$15 million in highway funds, our own employees and the motoring public.

Sincerely,



Joe Swanson
Director

JS:cs/D.1.

4/28/87

Commentary On Proposed Bill
Providing Penalties For Violation
Of Vehicle Weight, Size And Load Regulations.

Section 1 of the proposed bill adds two new paragraphs to the general penalty statute for Title 19, AS 19.45.002. This penalty statute currently provides a penalty for violation of the statutes in Chapters 5-25 of Title 19, but does not provide a penalty for any of the regulations adopted under the authority of these statutes. The lack of such a penalty makes it questionable whether these regulations are enforceable. The specific regulations currently in question are the 17 AAC 25 regulations establishing limitations on weight, size and load of vehicles. These regulations were adopted under the authority of AS 19.10.060.

New paragraph (b) solves this problem by adding a specific penalty for violations of vehicle weight, size and load regulations. The penalty for a "violation" specified in AS 12.55.035(b)(5) is a fine of no more than \$300. A "violation" is the most minor type of offense in our criminal code. It does not require proof of a culpable mental state. AS 11.81.600. Under AS 11.81.900(b)(56), a "violation" is a non-criminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; and a person charged with a violation is not entitled to a trial by jury or to have a public defender or other counsel appointed at public expense to represent the person.

New paragraph (c) limits the penalty for overweight vehicles to \$.05 per pound of weight over the authorized limit. This paragraph repeats almost verbatim the provisions presently found in AS 28.40.050(e). The reason for moving this paragraph from AS 28.40.050 to AS 19.45.002 is that Title 28 is not an appropriate place for such a penalty limitation since (1) the overweight vehicle regulation is not promulgated under the authority of Title 28 and (2) the Department of Public Safety is no longer involved in the enforcement of these regulations. (See sec. 3, ch 77, SLA 1982.) Presumably the penalty for an overweight vehicle could exceed the \$300 maximum established in paragraph (b) only if the vehicle exceeds a weight limit by more than 6,000 pounds. It should be noted that the \$.05 per pound penalty has been in effect for over ten years. In that time period the penalties for other vehicle and traffic offenses have doubled (as shown by changes in the bail amounts listed on the traffic bail forfeiture schedule which the supreme court is required by AS 28.05.151 to promulgate). The legislature, therefore, may want to consider raising the \$.05 limit.

Section 2 of the proposed bill repeals AS 28.40.050(e) because this sub-paragraph has been moved to AS 19.45.002 as described above.

For an Act entitled: "An Act relating to penalties for vehicle weight, size and load regulations; and providing for an effective date."

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

Section 1. AS 19.45.002 is amended to read:

Sec. 19.45.002. Penalties. (a) A person who violates any provision of chs. 5-25 of this title is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500, or by imprisonment in jail for a period not to exceed one year, or by both.

(b) A person who violates a regulation adopted under this title establishing limitations on weight, size and load of vehicles is guilty of a violation and is subject to the penalty specified in AS 12.55.035(b)(5).

(c) Notwithstanding the maximum fine provided for violations under (b) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle.

Sec. 2. AS 28.40.050(e) is repealed.

Sec. 3. This Act takes effect immediately under AS 01.10.070.

Original sponsor: Transportation Committee

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 146 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; citation
7 authority of employees enforcing weights and measures
8 limitations; and providing for an effective date."

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

10 * Section 1. AS 45.75.050(b) is amended to read:

11 (b) The regulations may include

12 (1) standards of net weight, measure, or count, and reason-
13 able standards of fill, for a [ANY] commodity in package form;

14 (2) rules governing the technical and reporting procedures
15 to be followed, and the report and record forms and marks of approval
16 and rejection to be used by inspectors of weights and measures in the
17 discharge of their official duties;

18 (3) exemptions from the sealing or marking requirements of
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
20 or size that sealing or marking would be inappropriate, impracticable,
21 or damaging to the apparatus in question; [AND]

22 (4) for [WITH RESPECT TO] classes of weights and measures
23 of a character that retesting is unnecessary to continued accuracy,
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
25 testing, and schedules fixing the frequency of required retests for
26 classes of devices exempted; and

27 (5) in the implementation of AS 44.33.020(25), provisions
28 governing the size, weight, and load limitations established under
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner of commerce and economic development
6 to enforce the size, weight, and load limitations adopted by the
7 Department of Transportation and Public Facilities under AS 19.10.060
8 may issue a citation to a person who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

14 (b) A citation issued under this section must be in writing. A
15 person receiving the citation is not required to sign a promise to
16 appear in court.

17 (c) The time specified in the notice to appear on a citation
18 issued under this section must be at least 15 days after the issuance
19 of the citation, unless the person cited requests an earlier hearing.

20 (d) The commissioner of public safety is responsible for the
21 issuance of books containing appropriate citations and shall maintain
22 a record of each book and each citation contained in it. The commis-
23 sioner of public safety shall require and retain a receipt for every
24 book issued to an employee of the Department of Commerce and Economic
25 Development designated by the commissioner of commerce and economic
26 development to provide investigative services to enforce provisions of
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under
29 this section shall deposit the original or a copy of the citation with

1 a court having jurisdiction over the alleged offense. Upon its
2 deposit with the court, the citation may be disposed of only by trial
3 in the court or other official action taken by the magistrate, judge,
4 or prosecutor. The peace officer or employee who issued the citation
5 may not dispose of it or copies of it or of the record of its issuance
6 except as required under this subsection and (f) of this section.

7 (f) The commissioner of public safety shall require the return
8 of a copy of every citation issued under this section and of all
9 copies of every citation that has been spoiled or on which an entry
10 has been made and not issued to an alleged violator. The commissioner
11 of public safety shall also maintain in connection with every citation
12 issued a record of the disposition of the charge by the court in which
13 the original or copy of the citation was deposited.

14 (g) If the form of citation issued under this section includes
15 the essential facts constituting the offense charged and is sworn to
16 as required under the laws of this state for a complaint charging
17 commission of the offense alleged in the citation, the citation when
18 filed with a court having jurisdiction is considered to be a lawful
19 complaint for the purpose of prosecution.

20 (h) Unless the citation has been voided or otherwise dismissed
21 by the magistrate, judge, or prosecutor, or bail has been forfeited
22 under AS 45.75.133, a person who fails to appear in court to answer a
23 citation issued under this section, regardless of the disposition of
24 the charge for which the citation was issued, is guilty of a class B
25 misdemeanor.

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
27 specify by rule or order those violations that are appropriate for
28 disposition without court appearance, and shall establish a schedule
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If
2 the person who has been cited can dispose of the violation without
3 court appearance, the issuing peace officer or employee shall write on
4 the citation the amount of bail forfeiture applicable to the viola-
5 tion.

6 (b) A person cited for a violation for which a bail forfeiture
7 amount has been established under (a) of this section may, within 15
8 days after the date of the citation, mail or personally deliver to the
9 clerk of the court in which the citation is filed by the employee

10 (1) the amount of bail indicated on the citation for that
11 offense; and

12 (2) a copy of the citation indicating that the right to an
13 appearance is waived, a plea of no contest is entered and the bail is
14 forfeited.

15 (c) When the cited person has forfeited bail under (b) of this
16 section, the court shall enter a judgment of conviction. Forfeiture
17 of bail is a complete satisfaction for the violation. The clerk of
18 the court accepting the bail forfeiture shall provide the offender
19 with a receipt stating that fact.

20 (d) A cited person who fails to pay the bail forfeiture amount
21 established under (a) of this section or to appear in court as re-
22 quired, is guilty of a class B misdemeanor.

23 (e) Notwithstanding other provisions of law, if a person cited
24 for a violation for which a bail forfeiture amount has been estab-
25 lished under (a) of this section appears in court and is found guilty,
26 the court may not impose a penalty that exceeds the bail forfeiture
27 amount for that offense established under (a) of this section.

28 * Sec. 3, AS 45.75.380 is amended to read:

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 violation subject to the penalty specified in AS 12.55.035(b)(5) if
2 the person does one or more of the following acts [WHO, PERSONALLY OR
3 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
4 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
5 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
6 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
7 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
8 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
9 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

10 (1) uses or has in possession for the purpose of using for
11 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
12 or exposes for sale, or hire, or has in possession for the purpose of
13 selling or hiring, an incorrect weight or measure or a device or
14 instrument used to or calculated to falsify a weight or measure;

15 (2) uses or has in possession for current use, in buying or
16 selling a commodity or thing, or for hire or award, or in the computa-
17 tion of a basic charge or payment for services rendered on the basis
18 of weight or measurement, or in the determination of weight or mea-
19 surement when a charge is made for determination, a weight or measure
20 that has not been tested and sealed by the appropriate authority
21 within one year, [(A)] unless

22 (A) the person gives written notice [IS GIVEN] to the
23 appropriate authority to the effect that the weight or measure is
24 available for examination, or is due for reexamination [RE-EXAMI-
25 NATION], as the case may be; [,]

26 (B) the person receives [UNLESS] specific written
27 permission to use the weight or measure [IS RECEIVED] from the
28 appropriate authority; [,] or

29 (C) [UNLESS] the weight or measure is exempt from

1 sealing or annual testing requirements by AS 45.75.080 or by a
2 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

3 (3) disposes of a rejected or condemned weight or measure
4 in a manner contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;

8 (5) sells or [,] offers [OR EXPOSES] for sale less than the
9 quantity the person represents of a commodity, thing, or service;

10 (6) takes more than the quantity the person represents of a
11 commodity, thing, or service when, as buyer, the person furnished the
12 weight or measure that the seller used to determine [BY MEANS OF
13 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

14 (7) keeps for the purpose of sale, advertises, or offers
15 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
16 condition or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medical prescriptions, a
19 weight or measure that is not so positioned that a customer may accu-
20 rately read, from a position that may reasonably be assumed by a
21 customer, its indications [MAY BE ACCURATELY READ] and observe the
22 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
23 REASONABLY BE ASSUMED BY A CUSTOMER];

24 (9) hinders or obstructs the director, an inspector, a
25 sealer, or a deputy sealer in the performance of official duties under
26 this chapter;

27 (10) violates a provision of an overweight or oversize
28 vehicle permit issued under AS 44.33.020(25);

29 (11) violates a weight, load, or size limitation established

1 under AS 19.10.060 or a regulation adopted under AS 19.05.020,
2 AS 44.33.020(25), or AS 45.75.050(b)(5);

3 (12) violates a provision of this chapter or [OF] a regula-
4 tion adopted under this chapter for which a specific penalty is not
5 prescribed.

6 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

7 (b) Notwithstanding the maximum fine for a violation provided
8 under (a) of this section, a person who violates a regulation or
9 special permit governing the weight limit of a motor vehicle shall pay
10 a penalty of \$.05 for each pound of weight over the authorized weight
11 limit for the vehicle.

12 * Sec. 5. AS 28.40.050(e) and AS 45.75.360 are repealed.

13 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)
TO: Senator Lloyd Jones
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr
m11/131

SENATE COMMITTEE REPORT

FURTHER: FINANCE

DATE TURNED INTO OFFICE April 23, 1987

Mr. President:

TRANSPORTATION Committee considered SB 146

weights and measures; efd.

and recommended:

replace with CS FOR SB146 Tresp) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

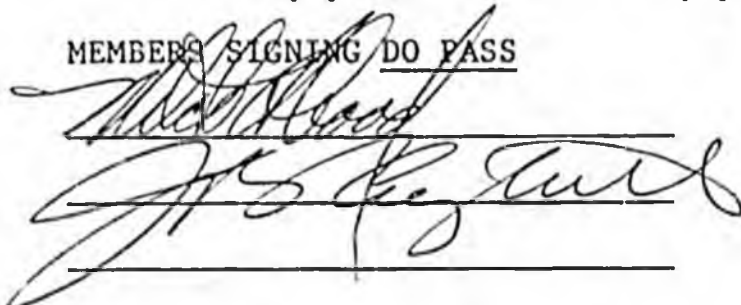
letter of intent adopted _____

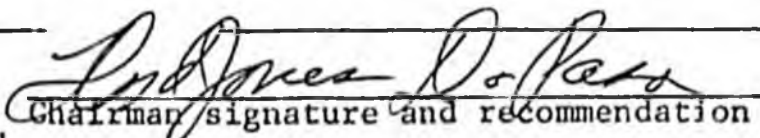
Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS




Chairman signature and recommendation

Committee Backup Attached

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY / PERMIT

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutory responsibilities of that agency.

Proposed Amendments:

AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.

Arthur English
Arthur English
Commissioner



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SB 146

APPROVED: Mark Hickey *M.H.*
Commissioner

TITLE: An Act Relating to Weight and Measures and
Providing for an Effective Date

DATE: 3/9/87

The proposed legislation provides statutory authority for the Department of Commerce and Economic Development for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations.

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY
POSTING PAPER

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutorial responsibilities of that agency.

Proposed Amendments:

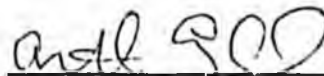
AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.


Arthur English
Commissioner

5-0597L
Ford
4/23/87

Original sponsor: Transportation Committee

IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 146 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

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

* Section 1. AS 45.75.050(b) is amended to read:

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for a [ANY] commodity in package form;

(2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;

(3) exemptions from the sealing or marking requirements of AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character or size that sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; [AND]

(4) for [WITH RESPECT TO] classes of weights and measures of a character that retesting is unnecessary to continued accuracy, exemptions from the requirements of AS 45.75.070 and 45.75.080 for testing, and schedules fixing the frequency of required retests for classes of devices exempted; and

(5) in the implementation of AS 44.33.020(25), provisions governing the size, weight, and load limitations established under AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner to enforce the size, weight, and
6 load limitations adopted by the Department of Transportation and
7 Public Facilities under AS 19.10.060 may issue a citation to a person
8 who violates

9 (1) a weight, size, or load limitation;

0 (2) the terms of an overweight or oversize vehicle permit
1 issued under AS 44.33.020(25); or

2 (3) a regulation adopted under AS 28.05.011(?) or under
3 AS 44.33.020(25) and AS 45.75.050(b)(5).

4 (b) A citation issued under this section must be in writing. A
5 person receiving the citation is not required to sign a promise to
6 appear in court.

7 (c) The time specified in the notice to appear on a citation
8 issued under this section must be at least 15 days after the issuance
9 of the citation, unless the person cited requests an earlier hearing.

0 (d) The commissioner is responsible for the issuance of books
1 containing appropriate citations and shall maintain a record of each
2 book and each citation contained in it. The commissioner shall re-
3 quire and retain a receipt for every book issued to an employee of the
4 Department of Commerce and Economic Development designated by the
5 commissioner to provide investigative service to enforce provisions of
6 this chapter.

7 (e) A peace officer or an employee who issues a citation under
8 this section shall deposit the original or a copy of the citation with
9 a court having jurisdiction over the alleged offense. Upon its

deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The peace officer or employee who issued the citation may not dispose of it or copies of it or of the record of its issuance except as required under this subsection and (f) of this section.

(f) The commissioner shall require the return of a copy of every citation issued under this section and of all copies of every citation that has been spoiled or on which an entry has been made and not issued to an alleged violator. The commissioner shall also maintain in connection with every citation issued a record of the disposition of the charge by the court in which the original or copy of the citation was deposited.

(g) If the form of citation issued under this section includes the essential facts constituting the offense charged and is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, the citation when filed with a court having jurisdiction, is considered to be a lawful complaint for the purpose of prosecution.

(h) Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, or bail has been forfeited under AS 45.75.133, a person who fails to appear in court to answer a citation issued under this section, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense may not exceed the maximum fine specified by law for that offense. If

1 the person who has been cited can dispose of the violation without
2 court appearance, the issuing peace officer or employee shall write on
3 the citation the amount of bail forfeiture applicable to the viola-
4 tion.

5 (b) A person cited for a violation for which a bail forfeiture
6 amount has been established under (a) of this section may, within 15
7 days after the date of the citation, mail or personally deliver to the
8 clerk of the court in which the citation is filed by the employee

9 (1) the amount of bail indicated on the citation for that
10 offense; and

11 (2) a copy of the citation indicating that the right to an
12 appearance is waived, a plea of no contest is entered and the bail is
13 forfeited.

14 (c) When the cited person has forfeited bail under (b) of this
15 section, the court shall enter a judgment of conviction. Forfeiture
16 of bail is a complete satisfaction for the violation. The clerk of
17 the court accepting the bail forfeiture shall provide the offender
18 with a receipt stating that fact.

19 (d) A cited person who fails to pay the bail forfeiture amount
20 established under (a) of this section or to appear in court as re-
21 quired, is guilty of a class B misdemeanor.

22 (e) Notwithstanding other provisions of law, if a person cited
23 for a violation for which a bail forfeiture amount has been estab-
24 lished under (a) of this section appears in court and is found guilty,
25 the court may not impose a penalty that exceeds the bail forfeiture
26 amount for that offense established under (a) of this section.

27 * Sec. 3. AS 45.75.380 is amended to read:

28 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
29 violation subject to the penalty specified in AS 12.55.035(b)(5) if

1 the person does one or more of the following acts [WHO, PERSONALLY OR
2 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
3 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
4 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
5 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
6 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
7 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
8 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

9 (1) uses or has in possession for the purpose of using for
0 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
1 or exposes for sale, or hire, or has in possession for the purpose of
2 selling or hiring, an incorrect weight or measure or a device or
3 instrument used to or calculated to falsify a weight or measure;

4 (2) uses or has in possession for current use, in buying or
5 selling a commodity or thing, or for hire or award, or in the computa-
6 tion of a basic charge or payment for services rendered on the basis
7 of weight or measurement, or in the determination of weight or mea-
8 surement when a charge is made for determination, a weight or measure
9 that has not been tested and sealed by the appropriate authority
0 within one year, [(A)] unless

1 (A) the person gives written notice [IS GIVEN] to the
2 appropriate authority to the effect that the weight or measure is
3 available for examination, or is due for reexamination [RE-EXAMI-
4 NATION], as the case may be; [,]

5 (B) the person receives [UNLESS] specific written
6 permission to use the weight or measure [IS RECEIVED] from the
7 appropriate authority; [,] or

8 (C) [UNLESS] the weight or measure is exempt from
9 sealing or annual testing requirements by AS 45.75.080 or by a

1 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

2 (3) disposes of a rejected or condemned weight or measure
3 in a manner contrary to law or regulation;

4 (4) removes from a weight or measure, contrary to law or
5 regulation, a tag, seal, or mark placed on it by the appropriate
6 authority;

7 (5) sells or [,] offers [OR EXPOSES] for sale less than the
8 quantity the person represents of a commodity, thing, or service;

9 (6) takes more than the quantity the person represents of a
10 commodity, thing, or service when, as buyer, the person furnished the
11 weight or measure that the seller used to determine [BY MEANS OF
12 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

13 (7) keeps for the purpose of sale, advertises, or offers
14 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
15 condition or manner contrary to law or regulation;

16 (8) uses in retail trade, except in the preparation of
17 packages put up in advance of sale and of medical prescriptions, a
18 weight or measure that is not so positioned that a customer may accu-
19 rately read, from a position that may reasonably be assumed by a
20 customer, its indications [MAY BE ACCURATELY READ] and observe the
21 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
22 REASONABLY BE ASSUMED BY A CUSTOMER];

23 (9) hinders or obstructs the director, an inspector, a
24 sealer, or a deputy sealer in the performance of official duties under
25 this chapter;

26 (10) violates a provision of an overweight or oversize
27 vehicle permit issued under AS 44.33.020(25);

28 (11) violates a weight, load, or size limitation established
29 under AS 19.10.060 or a regulation adopted under AS 19.05.020,

1 AS 44.33.020(25), or AS 45.75.050(b)(5);

2 (12) violates a provision of this chapter or [OF] a regula-
3 tion adopted under this chapter for which a specific penalty is not
4 prescribed.

5 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

6 (b) Notwithstanding the maximum fine for a violation provided
7 under (a) of this section, a person who violates a regulation or
8 special permit governing the weight limit of a motor vehicle shall pay
9 a penalty of \$.05 for each pound of weight over the authorized weight
10 limit for the vehicle.

11 * Sec. 5. AS 45.75.390 is amended by adding a new paragraph to read:

12 (14) "commissioner" means the commissioner of commerce and
13 economic development.

14 * Sec. 6. AS 28.40.050(e) and AS 45.75.360 are repealed.

15 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).
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155

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811
907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Edward Stahla, General Counsel
City of Wrangell

FROM: Ray Matiashowski, for
Senator Lloyd Jones

DATE: January 29, 1988

SUBJECT: SB 155: Relating to Relocation of Utilities

As mentioned in our telephone conversation, I have enclosed a copy of SB 155. I would appreciate your review and opinion.

If questions arise during the course of your review, please don't hesitate to call us. I have access to the attorney that drafted the legislation and may be able to help clarify something. I would also like to reiterate that Senator Jones is interested in gathering information from the District at this point, and has not taken a position on the bill.

cc: Joyce Rasler, Manager
City of Wrangell

ALASKA STATE LEGISLATURE

Home Address
3813 Denali Street
Ketchikan, AK 99901
907-225-9082



While in Juneau
P.O. Box V
Juneau, AK 99811
907-465-3743

Senator Lloyd Jones

January 29, 1988

Joyce Rasler, Manager
City of Wrangell
Box 531
Wrangell, Alaska 99929

Dear Joyce:

I apologize for the delay in answering your request. Your letter was apparently misfiled.

SB 155 attempts to clarify the financial responsibility involved between a Municipality and utility when the utility's property lies within a public right of way, and the Municipality deems it necessary for the property to be moved. Current law is vague in this area, and this often leads to disputes between a Municipality and utility.

Because Wrangell owns its utility poles and lines, questions of financial liability are limited to the telephone and cablevision equipment attached to these poles. It is only to this extent that SB 155 will impact Wrangell.

At this point I have not taken a position on SB 155. My staff continues to gather public input, and Mr. Stahla's comments will weigh heavily in my opinion of this legislator.

Thank you for your comments on this matter, I look forward to working with you as the issue develops.

Sincerely,

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

Lloyd Jones
Alaska State Senate



ADOPTED AUGUST 1972

CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381

December 14, 1987

Senator Lloyd Jones
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

Several months ago I requested information regarding Senate Bill No. 155. To date, this information has not been received. Please refer to the attached copy of my previous letter.

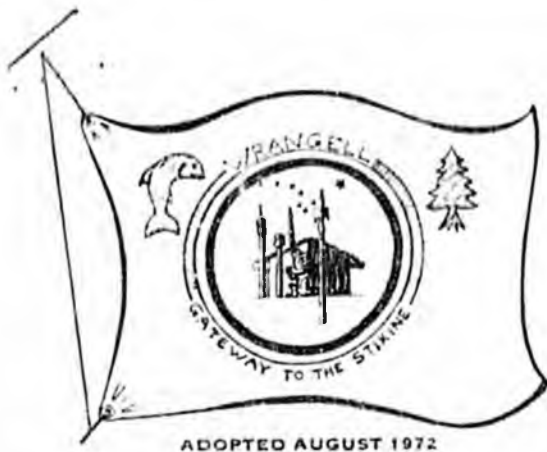
We would appreciate any assistance you can give regarding this request. We are understandably concerned that enactment of this Bill would place Wrangell under a financial burden.

Very truly yours,

Joyce Rasler
City Manager

JK:fv

Attachment



CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1905

BOX 531, 99929 (907) 874-2381

June 19, 1987

Senator Lloyd Jones
P.O. Box V
Juneau, AK 99811

Re: CSSB No. 155 (C&RA)

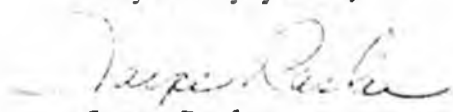
Dear Senator Jones:

The City of Wrangell strongly opposes Senate Bill No. 155 (identical to House Bill No. 155) which would require the City to pay all costs incurred by a utility certificated under AS 42.05 for changing, re-locating or removing their facility located in a municipal right-of-way, incident to construction of a road or other project. This Bill would also add yet another limitation of home rule powers.

Your aide advised me by phone on May 7, 1987, that this Bill would not affect Wrangell because we own and operate the electric distribution system that the telephone and cablevision utilities are now attached to. I am unable to locate any exclusion in the Bill and would like to receive information that provides the exemption.

Thank you for any assistance you can give.

Very truly yours,


Joyce Rasler
City Manager

JR:fv

cc: Representative Sund
Representative Taylor

CITY OF PETERSBURG

P.O. Box 329 • PETERSBURG, ALASKA 99833 • PHONE (907) 772-4203

MUNICIPAL POWER
AND LIGHT DEPT.

April 13, 1987

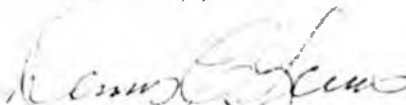
Senator Lloyd Jones
Alaska State Senate
Fouch V
Juneau, Alaska 99811

Attn: Terry Otness

Dear Terry,

I've enclosed a copy of an article that I came across recently in the Utilities Telecommunication Council magazine, involving FCC authority to regulate pole attachment rates. I've sent it to you for your information. It was in the March 1987 issue of the magazine, Vol. 37, No. 2. Their address is Suite 1000, 1500 17th Street, N.W., Washington, D.C. 20036, phone: (202)956-5651.

Sincerely,


Dennis C. Lewis
PMP&L Superintendent

cc: Robin Taylor

SUPREME COURT AFFIRMS FCC AUTHORITY
TO REGULATE POLE ATTACHMENT RATES

The Supreme Court has ruled that the rates set by the FCC for cable TV attachments to utility poles do not constitute an unfair taking of property under the Fifth Amendment.

The FCC and several cable parties had appealed a ruling by the Eleventh Circuit Court of Appeals that the Pole Attachment Act, under which the FCC regulates rates for cable attachments, authorized a permanent physical occupation of property for which compensation must be paid under Loretto v. Teleprompter Manhattan CATV Corp. The lower court struck down the Act because it authorizes the FCC to make the initial determination of the amount of compensation to be paid, the court finding that "Congress has usurped what has long been held an exclusive judicial function."

In overturning the lower court's decision, the Supreme Court noted that while Loretto specifically required landlords to permit permanent occupation of their property by cable companies, "nothing in the Pole Attachments Act . . . gives cable companies any right to occupy space on utility poles, or prohibits utility companies from refusing to enter into attachment agreements with cable operators." Therefore, because the Court found there was no taking, it did not review the Eleventh Circuit's holding that Congress may not establish standards for the determination of just compensation.

The Court's decision will leave intact the FCC authority to regulate the rates charged by investor-owned utilities where state regulation is absent.

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NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections be made prior to permanent publication.

RECEIVED
MAY 7 1987

File
58155

THE SUPREME COURT OF THE STATE OF ALASKA **BALDWIN**

CITY OF KENAI,)

Appellant,)

v.)

STATE OF ALASKA, PUBLIC)
UTILITIES COMMISSION,)

Appellee.)

File No. S-1337

O P I N I O N

[No. 3176 - May 8, 1987]

NOTICE TO COUNSEL: This opinion will be re-
leased to the press and public at 12:30
p.m. (Aest. time) on the date indicated.
This copy is provided to counsel of record
in advance. Prior to the release time,
please do not inform persons other than your
clients in this case of the outcome.

Clerk of the Appellate Courts

Appeal from the Superior Court of the State
of Alaska, Third Judicial District, Kenai
Peter A. Michalski, Judge.

Appearances: Timothy J. Rogers, City
Attorney, Kenai, for Appellant. Mark L.
Figura, Assistant Attorney General,
Anchorage, Harold M. Brown, Attorney General,
Juneau, for Appellee. Andrew E. Hoge, Hoge
and Lekisch, Anchorage, for Intervenor
Matanuska Telephone Association, Inc. ~~ACTRA~~
~~Baldwin~~, Kenai, for Intervenor Homer Electric
Association, Inc.

Before: Rabinowitz, Chief Justice, Burke,
Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.

This is an appeal by the City of Kenai from a decision
of the superior court dismissing Kenai's appeal to that court
from a decision of the Alaska Public Utilities Commission. The
superior court found that Kenai was not a party to the

2

Commission's proceedings, and therefore had no right to appeal. Homer Electric Association and Matanuska Telephone Association were parties to the Commission's proceedings, and both have been granted intervenor status in this appeal. Because Kenai has a legally recognized interest which was adversely affected by the Commission's action, and because Kenai sufficiently participated in the Commission's proceedings, we hold that Kenai has standing to obtain judicial review of the agency's action by means of an appeal. We therefore vacate the dismissal and remand the case to the superior court.

I. FACTS AND PROCEEDINGS

In 1971, Homer Electric Association, by contract with the City of Kenai, assumed control of certain municipal utility facilities located within the City. Subsequent street construction required Homer Electric to relocate those utility facilities, but the City refused to reimburse it for the relocation expense. Homer Electric sought declaratory relief before the Commission to resolve the dispute according to the contract terms. The Commission declined to hear the contract dispute on jurisdictional grounds, but encouraged Homer Electric to file for a special tariff before the Commission to recover the expense either through a surcharge or through general rates.

Homer Electric filed for a tariff revision which provided for a surcharge to recover all costs associated with the

relocation of "electric" facilities at a municipality's request when those costs are not paid by the municipality. The Commission issued a notice of utility tariff filing, and three individuals and the City responded as interested parties with letters opposing the tariff. In "adamantly oppos[ing]" the tariff filing, the City argued that under common law, a utility has the duty to relocate its facilities at its own expense when public convenience or necessity so requires.

The Commission suspended the operation of the proposed tariff and scheduled a public hearing in view of the City's strong opposition to the filing. The Commission also "concluded that the City met the standards for intervention set forth in 3 AAC 48.110," and determined "that full-party intervenor status should be granted to the City." In its order suspending the tariff filing, scheduling a public hearing, and granting intervenor status to the City, the Commission stated that "[the utility] and the City should be prepared to answer [five] questions" relating to Homer Electric's proposed tariff revision.¹ The Commission also stated that if the City did not

1. The Commission directed the City to be prepared to answer the following questions:

- (1) What is the nature of the facilities relocation costs which are the subject of [this order]?

(Footnote Continued)

wish to be granted full-party intervenor status, it should notify the Commission.

In a letter to the Commission, the City formally declined the Commission's offer of full-party intervenor status. The letter stated:

While the City of Kenai declines the Commission's grant of full party intervenor status in this proceeding, it does not wish to convey an impression of disinterest or lack of importance in this matter by the City of Kenai.

The City's initial response . . . consisting of six pages plus attachments set forth at length not only the City's policy position in this matter, but provided citation of statute and case law authorities in support of its position.

(Footnote Continued)

(2) If facilities are relocated at the request of municipalities and the municipalities do not directly pay the costs of the relocations, how should the utility allocate those costs to its ratepayers?

(3) Does the answer to the preceding question vary according to circumstances associated with individual relocations? If so, how should these variations be reflected in a tariff format?

(4) How should the proposed [Municipal Facilities Relocation Cost Adjustment] affect previously uncollected municipal facilities relocation costs?

(5) Are municipalities the only entities to which the proposed surcharge should apply?

The City further observed that the Commission had already apparently decided that a municipality had the discretion to require a utility to pay for relocation expense. The City quoted from the Commission's letter to Homer Electric, in which the Commission declined to decide the contract dispute:

The requirement to pay either a fee or relocation expense at the discretion of the municipality would seem to make a fee and relocation expense interchangeable concepts, so that the authority of a utility in AS 42.05.251 to recover fees from the customers in the municipality receiving the fees would seem to necessarily sanction the recovery of relocation expenses in the same manner.

Thus, in light of the earlier statement by the Commission to the utility, the City asserted that "[i]t would seem that the City's participation as a party in this matter may well be an unnecessary step for the Commission to formally order what has previously been decided."

On November 17, 1983, the Commission conducted a public hearing but the City did not appear or otherwise participate. The Commission issued its decision on January 11, 1985. The decision specifically considered the City's earlier arguments contained in the City's letter opposing the tariff revision.

Although the Commission recognized that the parties sought only an order from the Commission accepting or rejecting the proposed surcharge, the Commission found it necessary to preliminarily determine "the validity under AS 42.05 of the common law rule authorizing municipalities to compel without

6

reimbursement relocation of utility facilities located within municipal rights-of-way." The Commission held that the practice of municipalities directing unreimbursed relocations of utility facilities was unreasonable, thereby making the City liable for the relocation costs incurred by Homer Electric. The Commission also denied Homer Electric's request for a surcharge.

The City appealed the Commission's decision to the superior court explicitly relying on AS 42.05.551,² AS 44.62.560,³ and Alaska Rule of Appellate Procedure 602.⁴ The Commission moved to dismiss the City's appeal on the grounds that the City was not a party to the administrative proceedings and therefore had no right to appeal. Homer Electric joined in the motion to dismiss, and Matanuska Telephone submitted a statement of position supporting the Commission and Homer Electric.

2. AS 42.05.551, Review and enforcement, provides in part:

(a) All final orders of the commission [APUC] are subject to judicial review in accordance with AS 44.62.560 - 44.62.570 of the Administrative Procedure Act.

3. AS 44.62.560, Judicial review, provides in part:

(a) Judicial review by the superior court of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters.

(Footnote Continued)

The City opposed the motion to dismiss, and requested in the alternative declaratory relief pursuant to the Declaratory Judgment Act, AS 22.10.020(g),⁵ and Ketchikan Retail Liquor Dealers Association v. State, Alcoholic Beverage Control Board, 602 P.2d 434, 440 n.21 (Alaska 1979).

The superior court entered an order dismissing the case on the grounds that the City had no right of appeal because it was not a party. The City's motion for reconsideration was also denied. This appeal followed.

II. KENAI'S STANDING TO APPEAL

Whether a party has standing to seek judicial review of an agency's decision following an evidentiary hearing, either by appeal or in a declaratory judgment action, is a question of law, reviewable de novo.

(Footnote Continued)

4. Alaska Rule of Appellate Procedure 602 provides for time and notice of appeals, and for bonds on appeal.

5. The parties refer to Alaska's Declaratory Judgment Act as AS 22.10.020(b). In 1984, subsection .020(b) was redesignated as subsection .020(g). See AS 22.10.020 (Supp. 1986). AS 22.10.020(g) provides in part:

In case of an actual controversy in the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought.

8

The judicial review provisions of the Administrative Procedure Act, AS 44.62.560(a),⁶ are made applicable to APUC proceedings by AS 42.05.551.⁷ AS 44.62.560(a) does not specify who is qualified to obtain judicial review of administrative adjudications. Since the statute is silent on this point, the answer must be supplied by reference to other sources of law. This has already been accomplished in part in Ketchikan Retail Liquor Dealers Association v. State, Alcoholic Beverage Control Board, 602 P.2d 434 (Alaska 1979). In Ketchikan, we held that parties to an administrative hearing could appeal under AS 44.62.560(a), while expressly leaving open the question as to "whether a non-party may also have a right to appeal" 602 P.2d at 439 n.19. We referred to the statutory definition of party as "the agency, the respondent, and a person, other than an officer or an employee of the agency in his official capacity, who has been allowed to appear in the proceeding." AS 44.62.640(b)(4) (emphasis in text of quoted opinion, 602 P.2d at 440). It is evident that we construed the word "appear" to have the same general meaning as "participate" because we went on to quote with approval the following language from Application of Bank of Rhame, 231 N.W.2d 801, 808 (N.D. 1975):

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- 6. AS 44.62.560(a) is set out in note 3, supra.
 - 7. AS 42.05.551 is set out in note 2, supra.

[A]ny person who is directly interested in the proceedings before an administrative agency who may be factually aggrieved by the decision of the agency, and who participates in the proceeding before such agency, is a "party" to any proceedings for the purposes of taking an appeal from the decision.

602 P.2d at 440.

The City of Kenai meets the test set out in Bank of Rhame, namely it (1) was directly interested in the proceedings, (2) was factually aggrieved by the decision, and (3) participated in the proceedings.

The City's participation is established by its opposition to the tariff filing of Homer Electric. This opposition fills more than fifty pages of the administrative record and contains citations to legal authorities and extensive arguments. Because of the City's opposition, the tariff was suspended and a public hearing was scheduled. Although the City declined formal party intervenor status and did not present witnesses or additional arguments at the hearing, it was understood, as stated by the Commission's presiding officer, to have "nonetheless stressed its opposition . . . and incorporated earlier written comments," which were in fact considered by the Commission. The issues presented by Kenai in its opposition constituted the focus of the public hearing and of the Commission's order that followed. This is sufficient participation to achieve "party"

10

status for the purpose of standing to appeal from an administrative adjudication.⁸

We hold that the City of Kenai has standing to appeal the Commission's decision. We therefore vacate the superior court's dismissal of the City's appeal and remand for further proceedings consistent with this opinion.

VACATED AND REMANDED.

ORDER

Pursuant to Appellate Rules 508(a) and (f) (1), attorney fees of \$750.00 are awarded to Appellants and the Appellants shall serve and file with this court an itemized and verified cost bill by 5-18-87. Entered by direction of Justice Mathews.
 Dated: 5-6-87 Deputy: C. Johnson

8. See also Mahuiki v. Planning Comm'n, 654 P.2d 874, 880 (Ha. 1982) (standing upheld where a person whose legitimate interest is injured by agency action participates as an adversary - appellants had submitted letters against proposed agency action which were received as part of record); Alfred I. duPont School Dist. v. Delaware Alcoholic Beverage Control Commission, 343 A.2d 600, 604 (Del. 1975) (under Delaware statute, when one becomes a party to the record, either by protest received into evidence or formal appearance in person or by representative, that person becomes formal "party to hearing"); compare Model State Administrative Procedure Act § 5-106, 14 U.L.A. (Supp. 1986) (a person to whom agency action is specifically directed, a person who was a party to agency proceeding, or a person otherwise aggrieved or adversely affected has standing to obtain judicial review of agency action).