

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6127 HOUSE STATE AFFAIRS

531

Sections 13 and 14 increase the number of public members on the ethics committee and the two subcommittees from three to five, and provide that for a quorum of either the full committee or the house and senate subcommittee three public members must be present.

Section 15 provides that the Open Meetings Act, the legislative procurement rules and the legislature's Uniform Rules do not apply to the ethics committee to the limited extent that those statutes and rules would conflict with the confidentiality requirements of the ethics law.

Section 16 extends the time requirements for the ethics committee to issue advisory opinions in response to advisory opinion requests.

Section 17 overhauls the process by which the ethics committee handles complaints. It streamlines existing procedures, and makes one major change: proceedings of the ethics committee, and opinions issued by the committee, would become public after the committee as a result of its investigation into a complaint finds probable cause to believe that the subject of a complaint has violated the ethics law. (If the committee dismisses a complaint after investigation, without finding probable cause to go to a hearing, the committee would issue a public opinion explaining the dismissal.) The section also allows the committee to consider alleged violations occurring within five years before the filing of a complaint, instead of the current two years. It further requires the committee to dismiss a complaint against a legislative employee who leaves legislative service, and gives the committee discretion to dismiss a complaint against a former legislator.

Section 18 amends AS 39.50 (the conflict-of-interest initiative applicable to legislators, judges, and top executive branch officials) to clarify that the general prohibition against representation found in AS 39.50.090(c) is superseded by the representation provision of AS 24.60.100.

Section 19 repeals three sections of existing law that have been recodified elsewhere.

Item 8

STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1990

SUBJECT: Sectional analysis of CSHB 451 (State Affairs)

TO: Representative Mike Davis
Chair, Select Committee on Legislative Ethics

FROM: John B. Gaguine *JBG*
Legislative Counsel

At your request, here is a section-by-section analysis of CSHB 451 (State Affairs). This committee substitute differs considerably from HB 451.

Section 1 provides that the spouses of legislators may not lobby the legislature and that former legislators may not lobby the legislature for one year after they leave office.

Section 2 makes the ethics code applicable to all legislative employees at Range 15 and above, instead of the current Range 18 and above.

Section 3 gathers in one place the conflicts of interest prohibited by current law and spread throughout AS 24.60. It adds one new prohibition, found in paragraph (a)(6), that would bar the knowing use of a person's office or staff to affect a candidate or a campaign for elective office. The section retains, in subsection (b), the current provision that an act is not a conflict of interest if a person's actions affected only insignificant interests or if the person's authority is far removed from any official action that could reasonably be affected by the potential conflict.

Section 4 broadens the current restriction on legislators' holding fundraisers in Juneau during the session. Such fundraisers are now permitted when the legislator is running for non-legislative office (governor, Congress, mayor); Section 4 would bar them.

Sections 5, 6, 7 and 8 modify the gift section of the ethics code. Section 5 allows gifts of up to \$100 to be accepted,

rather than the current ceiling of \$50, and specifies that a person covered by the code cannot accept a series of gifts worth less than \$100 from the same person in a calendar year when the aggregate value of those gifts would exceed \$100. Section 6 permits acceptance of gifts of over \$100 when the gift has no connection with the recipient's legislative status. Under Section 7, gifts of this nature would have to be disclosed, just as gifts of travel and hospitality currently must be. Finally, Section 8 would allow acceptance of gifts worth over \$100 from a foreign government or from an official of a foreign government, but only if those gifts were accepted on behalf of the legislature and turned over to the legislative council for appropriate disposition.

Section 9 adds a ban on honoraria (but not on the receipt of travel and hospitality expenses) to give a speech or make an appearance. The section makes an exception where the speech or appearance is not related to the person's legislative status (for instance, where a doctor-legislator received a fee to discuss a medical subject before a medical association). An advisory opinion of the ethics committee in 1987 found that a legislator could not accept an honorarium; Section 9 codifies this opinion.

Section 10 provides that no person covered by the ethics code may represent a client for compensation before a state agency, board, or commission, or before an employee or officer of an agency, board, or commission, when the client is seeking certain objectives or the agency, board or commission is dealing with certain matters. The section provides an exception to this prohibition when the agency, board or commission is acting in a quasi-judicial capacity and the state is not a real party in interest to the proceeding. When representation is allowed, Section 10 retains the provision of current law that the representation must be disclosed.

Section 11 adds a new provision to the ethics code requiring that when legislative travel, other than to attend a committee meeting, will result in legislative business taking up less than four hours, the person travelling must obtain written approval for the trip in advance from the speaker of the house, the president of the senate, or the head of a legislative agency.

Section 12 formally establishes the ethics committee as a permanent interim committee.

Sections 13 and 14 increase the number of public members on the ethics committee and the two subcommittees from three to five, and provide that for a quorum of either the full committee or the house and senate subcommittee three public members must be present.

Section 15 provides that the Open Meetings Act, the legislative procurement rules and the legislature's Uniform Rules do not apply to the ethics committee to the limited extent that those statutes and rules would conflict with the confidentiality requirements of the ethics law.

Section 16 extends the time requirements for the ethics committee to issue advisory opinions in response to advisory opinion requests.

Section 17 overhauls the process by which the ethics committee handles complaints. It streamlines existing procedures, and makes one major change: proceedings of the ethics committee, and opinions issued by the committee, would become public after the committee as a result of its investigation into a complaint finds probable cause to believe that the subject of a complaint has violated the ethics law. (If the committee dismisses a complaint after investigation, without finding probable cause to go to a hearing, the committee would issue a public opinion explaining the dismissal.) The section also allows the committee to consider alleged violations occurring within five years before the filing of a complaint, instead of the current two years. It further requires the committee to dismiss a complaint against a legislative employee who leaves legislative service, and gives the committee discretion to dismiss a complaint against a former legislator.

Section 18 provides that an employee or former employee of a legislator, a committee or a legislative agency may bring an employment discrimination grievance to the ethics committee. The section instructs the committee to adopt procedures for the filing, investigation, mediation and hearing of such grievances. It empowers the committee, after a hearing, to make recommendations about the grievance to the appropriate official. The section does not require an employee or former employee to go to the ethics committee before filing a complaint with the Human Rights Commission or filing a lawsuit. Finally, the section provides that when the ethics committee is acting on an employment discrimination grievance, only the legislative members take part.

Representative Mike Davis
Page 4
March 1, 1990

Section 19 amends AS 39.50 (the conflict-of-interest initiative applicable to legislators, judges, and top executive branch officials) to clarify that the general prohibition against representation found in AS 39.50.090(c) is superseded by the representation provision of AS 24.60.100.

Section 20 repeals three sections of existing law that have been recodified elsewhere.

JBG:pi
WKP2/117

ALTERNATE VERSIONS: AS 24.60.100

Under current law, AS 39.50.090(c) prohibits public officials from representing clients before state agencies for a fee. AS 24.60.100, however, requires a legislator who represents a client before a state agency for a fee to disclose the matter to the legislature. The statutes have been construed as allowing a legislator to represent clients before a state agency for a fee so long as the representation is disclosed.

Section 8 of HB 451 amends AS 24.60.100, part of the Legislative Ethics Act, to expressly bar representation by legislators or staff of another person for compensation before a state agency. Representation before a court is allowed. This change brings the Legislative Ethics Act into conformity with the general conflict of interest statutes in Title 39.

The Select Committee on Legislative Ethics was given four alternative provisions to deal with the conflict between AS 24.60.100 and AS 39.50.090(c). The alternatives are:

- A) Bar representation in all proceedings by legislators and employees of legislative agencies (which would include all legislative staff);
- B) Bar representation in all proceedings before state agencies by legislators and a handful of specifically identified senior public officials as listed in the general conflict of interest statutes (AS 39.50.200[8]);
- C) Bar representation except for adjudicative ("quasi-judicial") proceedings where the state is not a party;
- D) Bar representation except for adjudicative proceedings, without regard to whether the state is a party. (Massachusetts does this.)

Other alternatives include:

- E) Bar representation which falls within the scope of the Lobbying Act (*i.e.*, appearances before public hearings and other public proceedings would be exempted, per AS 24.45.161(a)(1)(B));
- F) Bar representation for purposes of obtaining a state grant, license, loan or other benefit other than entitlements. (New York does this.);

- G) Bar representation in rule making proceedings. (This is essentially the converse of allowing representation in adjudicative proceedings.);
- H) Bar representation except before named agencies, such as the Workers Compensation Board or the Human Rights Commission. (New Jersey and Connecticut do this.)

The various alternatives contain two variables: who is covered, and what kinds of proceedings are covered. As to "who", the choice is between all persons covered by the Legislative Ethics Act (all legislators and employees of legislative agencies, which would include all staff), and all persons covered under the general conflict of interest statutes (all "public officials", which includes legislators and a specified list of senior government officials). As to "what", there is a much broader array of options, as can be seen from a review of the list above.

b. Example / Checklist Contact Sheet

resched for wed, Feb 14

LEGISLATIVE SPONSOR: House State Affairs

TC DATE/DAY: Files, Feb 12

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30 AM - 10 AM

LEGISLATIVE REFERENCE: HB 451

JUNEAU ROOM: Cap 102

SUBJECT: Revised Ethics

BRIDGE: _____

(leg) Law

OF PORTS: _____

CONTACT: Ann PH: 4963

DATE TAKEN/BY: 2/12 Jeanine

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage
- Barrow *
- Bethel
- Delta Junction *
- Dillingham *
- Fairbanks
- Glennallen *
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg *
- Sitka
- Soldotna
- Valdez *

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

OFFNETS: Irene Peyton
479-2864

2/14 - won't be dialing in per Katherine

CHAIRING SITE: Juneau

CHAIRPERSON: Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

bridge - 562-2882 for 2/14
~~562-2867~~ - to call 7:15 AM
collect

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 29, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 451

HOUSE BILL NO. 451

REVISE LEGISLATIVE ETHICS LAW

"An Act relating to conduct of legislators, legislative employees, former legislators and legislative employees, and to the Select Committee on Legislative Ethics."

RECOMMENDATIONS:

- be replaced with CSHB 451(SA) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note LAA
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

| | Do Not Pass | No Rec | Amend |
|------------------------|----------------|--------|-------|
| <i>Raye Stanley</i> | ✓ | | |
| <i>Russ & Ruby</i> | ✓ | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

D.A. Barber

 Chairman's Signature

A M E N D M E N T

TO: CSHB 451()

Page 13, following line 26:

Insert a new bill section to read:

"* Sec. 18. AS 24.60 is amended by adding a new section to read:

Sec. 24.60.175. EMPLOYMENT DISCRIMINATION GRIEVANCES. (a) A person employed or formerly employed by the legislative branch of government may file a grievance with the committee alleging a violation of AS 18.80.220 by the person's employer or former employer. The committee shall adopt procedures concerning the filing, the investigation, the mediation, and the hearing of grievances under this subsection. In adopting procedures, the committee shall consider regulations of the office of equal employment opportunity adopted under AS 44.19.443 and shall protect the confidentiality of grievances.

(b) In accordance with the procedures established under (a) of this section the committee may

- (1) provide for mediation of a grievance;
- (2) dismiss a grievance without prejudice; or
- (3) after a hearing, make appropriate recommendations

concerning a grievance to the president of the senate, the speaker of the house, or the head of the legislative agency where the grievant is or was employed.

(c) This section does not diminish existing rights under state

or federal law relating to employment discrimination."

Renumber the following bill sections accordingly.

HB

452

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 452

Office of the Ombudsman

Received January 29, 1990
by the Rules Committee by Request of the
Legislative Council

Heard February 15, 1990

Adopted CSHB 452 (SA) February 15, 1990

Passed Out of Committee February 15, 1990
5 Do Pass

TABLE OF CONTENTS

HB 452: Office of the Ombudsman

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CSHB 452 (SA)
- Item 2:** Fiscal Note
- Item 3:** Letter and Sectional Analysis from the Ombudsman, February 6, 1990
- Item 4:** Regulations
- Item 5:** Letters and Proposed Amendment from Alaska Court System, February 12, 1990

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to the Office of the Ombudsman
Sponsor: _____
Requestor: Office of the Ombudsman

Agency Affected: Legislative
BRU: Office of the Ombudsman
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill has no fiscal impact on the State Operating budgets

Prepared by: Duncan C. Fowler Phone: 465-4970
Division: Ombudsman Date: 2-7-90
Approved by Commissioner: [Signature] Date: 2-7-90
Agency: Ombudsman

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

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

1 IN THE HOUSE

2

HOUSE BILL NO. 452

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the office of the ombudsman and
7 to the powers and duties of the ombudsman."

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

9 * Section 1. AS 24.55.040(b) is amended to read:

10 (b) If the term of an ombudsman expires without the appointment
11 of a successor under this chapter, the incumbent ombudsman may con-
12 tinue in office until a successor is appointed. If the ombudsman
13 dies, resigns, becomes ineligible to serve, or is removed or suspended
14 from office, the person appointed as [DEPUTY OMBUDSMAN BECOMES] acting
15 ombudsman under AS 24.55.070(a) serves until a new ombudsman is ap-
16 pointed for a full term.

17 * Sec. 2. AS 24.55.070(a) is amended to read:

18 (a) The ombudsman shall [MAY] appoint a person to serve as
19 acting [DEPUTY] ombudsman in the absence of the ombudsman. The om-
20 budsman shall also appoint assistants and clerical personnel necessary
21 to carry out the provisions of this chapter.

22 * Sec. 3. AS 24.55.070(b) is amended to read:

23 (b) The ombudsman may delegate to the [DEPUTY OR] assistants any
24 of the ombudsman's duties except those specified in AS 24.55.190 and
25 24.55.200, however, during the ombudsman's absence from the principal
26 business offices, the ombudsman may delegate the duties specified in
27 AS 24.55.190 and 24.55.200 to the acting ombudsman [DEPUTY] for the
28 duration of the absence. The duties specified in AS 24.55.190 and
29 24.55.200 shall be performed by the acting [DEPUTY] ombudsman when

1 serving [AS ACTING OMBUDSMAN] under AS 24.55.040(b).

2 * Sec. 4. AS 24.55.080(a) is repealed and reenacted to read:

3 (a) Subject to restrictions and limitations imposed by the
4 executive director of the Legislative Affairs Agency, the administra-
5 tive facilities and services of the Legislative Affairs Agency, in-
6 cluding computer, data processing, and teleconference facilities, may
7 be made available to the ombudsman to be used in the management of the
8 office of the ombudsman and to carry out the purposes of this chapter.

9 * Sec. 5. AS 24.55.090 is amended to read:

10 Sec. 24.55.090. PROCEDURE. (a) The ombudsman shall, by regula-
11 tions adopted under the Administrative Procedure Act (AS 44.62),
12 establish procedures for receiving and processing complaints, conduct-
13 ing investigations, [AND] reporting findings, and ensuring that confi-
14 dential information obtained by the ombudsman in the course of an
15 investigation will not be improperly disclosed.

16 (b) The [HOWEVER, THE] ombudsman may not charge fees for the
17 submission or investigation of complaints.

18 * Sec. 6. AS 24.55.130 is amended by adding a new subsection to read:

19 (c) Notice given under this section may be oral but the om-
20 budsman shall state in writing the reasons for not investigating a
21 complaint if requested by the complainant.

22 * Sec. 7. AS 24.55.140 is amended to read:

23 Sec. 24.55.140. NOTICE TO THE AGENCY. If the ombudsman decides
24 to investigate a complaint, the ombudsman shall notify the agency of
25 the intention to investigate unless the ombudsman believes that ad-
26 vance notice will unduly hinder the investigation or make it ineffec-
27 tual. Notice given under this section may be oral or written, at the
28 discretion of the ombudsman.

29 * Sec. 8. AS 24.55.160(a) is amended to read:

DEFINITION OF AGENCY =

APPL TO COURTS

DOING BUSINESS WITH

NOT RELATING TO

CONFIDENTIALITY OK -

EXCLUDE COURT SYSTEM -

OUT OF JURISDICTION -

HOW WOULD YOU WITH COURT SYSTEM

- 1 (a) In an investigation, the ombudsman may
- 2 (1) make inquiries and obtain information considered neces-
- 3 sary;
- 4 (2) enter without notice to inspect the premises of an
- 5 agency, but only when agency personnel are present; [AND]
- 6 (3) hold private hearings; and
- 7 (4) notwithstanding other provisions of law, have access at
- 8 all times to records of every state agency, including confidential
- 9 records.

* Sec. 9. AS 24.55.170(a) is amended to read:

(a) Subject to the privileges that [WHICH] witnesses have in the courts of this state, the ombudsman may compel by subpoena, at a specified time and place, the

(1) [COMPEL BY SUBPOENA, AT A SPECIFIED TIME AND PLACE, THE] appearance and sworn testimony of a person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and

(2) production by [COMPEL] a person of a record that [, BY SUBPOENA, TO PRODUCE DOCUMENTS, PAPERS, OR OBJECTS WHICH] the ombudsman reasonably believes may relate to the matter under investigation.

* Sec. 10. AS 24.55.180 is amended to read:

Sec. 24.55.180. CONSULTATION [WITH AGENCY]. Before giving an opinion or recommendation that [WHICH] is critical of an agency or person, the ombudsman shall consult with that agency or person. The ombudsman may make a preliminary opinion or recommendation available to the agency or person for review, but the preliminary opinion or recommendation is confidential and may not be disclosed to the public by the agency or person.

* Sec. 11. AS 24.55.190 is amended by adding a new subsection to read:

1 (c) The report provided under (a) of this section is confiden-
2 tial and may not be disclosed to the public by the agency. The om-
3 budsman may disclose the report under AS 24.55.200 only after provid-
4 ing notice that the investigation has been concluded

5 (1) to the agency; and

6 (2) if the investigation was conducted in response to a
7 complaint, to the complainant under AS 24.55.210.

8 * Sec. 12. AS 24.55.310 is amended to read:

9 Sec. 24.55.310. CONFLICT OF INTEREST. The ombudsman, the acting
10 [DEPUTY] ombudsman and their professional staff are subject to AS 39.-
11 50 (conflict of interest).

12 * Sec. 13. AS 24.55.320 is amended to read:

13 Sec. 24.55.320. MUNICIPALITIES AND SCHOOL DISTRICTS. A munic-
14 ipality or school district may [BY ORDINANCE] elect to become subject
15 to the jurisdiction of the ombudsman appointed under this chapter. If
16 a municipality or school district so elects, it shall notify the
17 ombudsman of that election and shall thereafter be considered an
18 agency for the purposes of this chapter. If a municipality or school
19 district subjects itself to the jurisdiction of the ombudsman, the
20 municipality or school district shall pay its pro rata share of the
21 cost of the operation of the office of the ombudsman based on the
22 number of complaints or the case load emanating from that municipality
23 or school district, as prescribed by the ombudsman. If a municipality
24 or school district elects to remove itself from the jurisdiction of
25 the ombudsman, it [SHALL DO SO BY ORDINANCE,] shall notify the ombuds-
26 man of that election and shall not thereafter be considered an agency
27 for the purposes of this chapter. A municipality that elects to
28 become subject to the jurisdiction of the ombudsman or to remove
29 itself from that jurisdiction must do so by ordinance. A school

1 district that elects to become subject to the jurisdiction of the
2 ombudsman or to remove itself from that jurisdiction must do so by
3 resolution.

4 * Sec. 14. AS 24.55.330 is amended by adding a new paragraph to read:

5 (4) "record" means a document, paper, memorandum, book,
6 letter, file, drawing, map, plat, photo, photographic file, motion
7 picture, film, microfilm, microphotograph, exhibit, magnetic or paper
8 tape, punched card, or other item developed or received under law or
9 in connection with the transaction of official business, but does not
10 include an attorney's work product.

Item 3



State of Alaska
ombudsman

Duncan C. Fowler

- Reply to:
- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 563-3673
(800) 478-2624
 - P.O. Box W0
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
 - P.O. Box 74358
Fairbanks, AK 99707
(907) 452-4001
(800) 478-3257

February 6, 1990

Representative Red Boucher, Chairman
House State Affairs Committee
Post Office Box V
Juneau, Alaska 99811-3100

RE: HB 452, Proposed ombudsman legislation

Dear Representative *Red* Boucher:

The Legislative Council introduced this bill at my request January 29, 1990. It serves to rectify weaknesses identified in the original Alaska Ombudsman Act over the past 15 years.

You might be interested to know that I asked the council to introduce the bill. I was seeking the support of a non-partisan body legislative group for the bill. This bill is a product of review and modification by the council. If passed, it would significantly improve and strengthen my office's ability to function as an independent investigative agency within the legislative branch of government. There is a zero fiscal note with this proposal. A similar bill, SB 416, has been introduced in the Senate.

Despite the fact the Alaska Ombudsman Act is considered model legislation, weaknesses have been identified over the past 15 years. The proposed bill offers solutions to those weaknesses.

The improvements include: a provision to keep reports to agencies confidential while the agencies prepare responses to preliminary ombudsman reports; a provision to ensure the ombudsman's access to confidential records; and general administrative changes such as requiring the appointment of a designee should the ombudsman become incapacitated, formalizing the office's relationship with the Legislative Affairs Agency (LAA) and clarifying how school districts could opt for ombudsman services.

The following is a discussion of each section of the proposed legislation.

Sec 1-3, 12) Appointment of an acting ombudsman

These sections require the ombudsman to designate a person to act in his/her place to ensure the orderly continuation of the Office of the Ombudsman should the ombudsman become incapacitated. Current law makes such an appointment permissive. All but one of the previous ombudsmen have chosen to make such an appointment. Not having a designated successor creates the potential of a crisis within the office. In that

case, no person would have the statutory authority necessary to issue findings or recommendations as required by the Ombudsman Act should the ombudsman become incapacitated.

Sec 4) Administrative support - Legislative Affairs Agency

This section formalizes the relationship the ombudsman has enjoyed with the Legislative Affairs Agency (LAA) for the past 14 years. Current law was really intended to help open the doors of the Office of the Ombudsman in 1975, its first year of operation. It required the Legislative Council to provide the ombudsman "suitable space and equipment." Currently the LAA provides data processing support both with our main frame applications and some of our equipment. The Legal Division provides occasional advice and opinions.

Sec 5, 8, 9, & 13) Access to Confidential Information

These sections clarify the ombudsman's access to confidential records in the possession of state agencies. Currently we rely on regulations to provide agencies with the assurance that their confidential records and information will be properly handled. It would be more appropriate to clarify our access in statute.

Clear access to confidential records is critical for the ombudsman to do a credible job investigating several types of citizen complaints. This issue has also been the source of the majority of Attorney General Opinions involving the ombudsman's office in the past 15 years.

In most cases we are able to receive releases for access to confidential medical, financial or case record data from those citizens who complain about their treatment. Many times while we investigate those complaints we find what appears to be system-wide problems but are prevented from verifying our suspicions. We are unable to access the names or files of other Alaskans in similar situations to test our concerns. I believe that in several of those cases we could have prevented problems for many more citizens other than just our complainants.

It should be noted that just because the ombudsman has greater access to confidential information, it does not allow the ombudsman to release that information to the public or other government agencies. The ombudsman would have no additional privilege to release that information than the agency that is the original custodian of the data. It should be noted also that ombudsman investigative files are confidential and staff are prevented by statute from testifying in court about matters brought before them.

The terminology used in Sec. 8 is similar in concept to Legislative Audit's statute. Section 5 makes it clear the ombudsman may implement regulations to provide the mechanisms to protect the confidentiality of the records we access. Sections 9 and 13 help define what a "record" is for the purposes of these sections.

I have enclosed copies of our existing regulations for handling confidential records and information. These regulations describe in detail how this office handles confidential information. Please note a process exists to mediate

disagreements with agencies about the confidentiality of records. A provision allows for the courts to determine whether or not a record is in fact confidential.

Sec 6 & 7) Oral Notification

Each year the Office of the Ombudsman receives thousands of complaints and inquiries. We will exceed 10,000 this year. Most are received by telephone and a large number of these complaints are handled as "assists" or are "decline/explain" as premature complaints. We either "fix" the citizen's complaint with the state agency or provide the necessary guidance during that phone call. Citizens often know the disposition of their complaint by the time they hang up the phone. Current law requires written notification of the complaint's disposition to all complainants. Current staffing does not make this practicable. Further, even if given extra staff, I do not believe maintaining such a requirement would provide a better service to Alaskans.

These amendments allow oral or telephonic notification of either the intent to investigate or to decline a complaint. This has been the practice for the past 14 years and would bring our historical practice into compliance with the statute.

Sec 10 & 11) Preliminary Report Confidential

The Ombudsman Act makes it clear that records of the ombudsman are confidential and can only be released "insofar as disclosures may be necessary to carry out [the ombudsman's] duties." The problem comes when a preliminary report which is critical of an agency is sent to the agency for review and comment. It is important to understand that there are many parallels between our preliminary investigative report and a preliminary audit report issued by Legislative Audit. That process should allow an orderly process for an agency to dispute "facts" found in an ombudsman preliminary report and offer alternative methods of correcting our proposed recommendations.

Currently the preliminary report, once in the agency's hands, becomes subject to access through the public information regulations (6 AAC 95). In the past, some agencies have felt compelled to release our preliminary report even though it contained areas of potential factual disagreement.

This legislation prohibits the release of the preliminary report to the public by any of the participants. It offers protection to the agencies during the period of comment and review. This is similar to the handling of Legislative Audit reports.

Sec. 13) Municipalities and School Districts

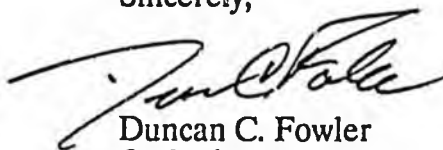
This section provides a mechanism for a school board to choose ombudsman services *independently* from the local governments' assembly or city council. Recently, the City and Borough of Juneau School Board became the first school board to consider ombudsman services. When we considered the procedures necessary to implement such jurisdiction, it became apparent that no simple or independent method was provided to allow school boards the ability to make that decision. This is despite the fact the Alaska Ombudsman

February 6, 1990

Act seems to envision such services for schools. This amendment to the Ombudsman Act allows school boards to choose or terminate jurisdiction by the Office of the Ombudsman by resolution independently from decisions made by another elected body. Neither the Alaska Council of School Administrators nor the Association of Alaska School Boards found objection to this provision.

Please let me know if you have any questions regarding the Office of the Ombudsman or this proposed legislation. You may be interested to know the Attorney General's office has reviewed the bill. They did not object to its approach. I am anxious to work with your committee to assist the passage of this bill. I would appreciate your support of what I believe to be important improvements to Alaska's Ombudsman Act.

Sincerely,



Duncan C. Fowler
Ombudsman

DCF:pjc
Enclosure
cc: Members, House State Affairs Committee

agency, the agency has initiated corrective action or commits itself to take corrective action substantially as recommended.

(b) If an agency does not initiate corrective action or does not commit itself to take corrective action substantially as presented in the ombudsman's recommendation or modified recommendation, the ombudsman will, in his or her discretion, after considering any response received from the agency, submit a report of the matter to the chief executive officer of the agency or to the governor, and then make a report to the legislature, the press, or to the public, as the ombudsman considers appropriate.

(c) The provisions of (b) of this section do not limit the ombudsman from making a report on any investigation to the legislature, the press, or the public, as the ombudsman considers appropriate. (Eff. 9/16/84, Reg. 91; am 3/28/86, Reg. 97)

Authority: AS 24.55.090
AS 24.55.200

21 AAC 20.250. COMPLAINANT TO BE INFORMED. Within 15 days after receipt of an agency's acceptance or rejection of an ombudsman's recommendation or modified recommendation, the ombudsman will notify the complainant of the result of the investigation and of the action taken or proposed to be taken by the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

**ARTICLE 4.
CONFIDENTIAL INFORMATION**

Section

- 300. Disclosure of confidential information
- 310. Disclosure with written consent
- 320. Disclosure of information from public sources
- 330. Disclosure as statistical information
- 340. Disclosure to agency
- 350. Assertion of privacy interest by agency
- 360. Disclosure to the complainant
- 370. Disclosure to governor, legislature, or grand jury
- 380. Public disclosure
- 390. Definitions

21 AAC 20.300. DISCLOSURE OF CONFIDENTIAL INFORMATION. A confidential record provided by an agency or a person to the office of the ombudsman during the course of an ombudsman's investigation may not be disclosed by the office of the ombudsman except as provided in 21 AAC 20.310 - 21 AAC 20.390. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.310. DISCLOSURE WITH WRITTEN CONSENT. The ombudsman will, in his discretion, disclose a confidential record if the ombudsman first obtains the written consent of the person about whom information in the confidential record relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.320. DISCLOSURE OF INFORMATION FROM PUBLIC SOURCES. The ombudsman will, in his discretion, disclose a confidential record if the information contained in the record is reasonably obtainable from other public sources without the consent of the person about whom the information relates. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.330. DISCLOSURE AS STATISTICAL INFORMATION. The ombudsman will, in his discretion, disclose information contained in a confidential record as a statistical report if the person about whom the information relates is not identifiable in the statistical report. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.340. DISCLOSURE TO AGENCY. Except as provided in 21 AAC 20.350, the ombudsman will, in his discretion, disclose to an agency a confidential record produced by the agency or a confidential record used by the agency in the conduct of its business in order to enable the ombudsman to present a finding,

opinion, or recommendation made to the agency. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.350. ASSERTION OF PRIVACY INTEREST BY AGENCY. If the ombudsman receives written notice from an agency which has provided a confidential record that it asserts a privacy interest in the record, the ombudsman

(1) will, in his discretion, disclose the record only to the person or persons with the agency having custody of the record; and

(2) will, in his discretion, make any other disclosure of the record only in accordance with 21 AAC 20.380. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.360. DISCLOSURE TO THE COMPLAINANT. The ombudsman may not disclose information in a record to the complainant if federal or state law or regulation prohibits disclosure of the record to the complainant. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.370. DISCLOSURE TO GOVERNOR, LEGISLATURE, OR GRAND JURY. If the ombudsman determines that a confidential record produced by an agency should be disclosed under AS 24.55.200 to the governor, the legislature, or a grand jury in order for the ombudsman to seek review of a finding, opinion or recommendation, the ombudsman will, in his discretion, return the record to the agency that produced it and recommend its disclosure by the agency to the governor, the legislature, or the grand jury, as applicable. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.380. PUBLIC DISCLOSURE. (a) The provisions of this section apply to

(1) disclosure of a confidential record to a person within an agency other than the person having custody of a confidential record if that record has been provided to the ombudsman by the agency and the agency has asserted a privacy interest under 21 AAC 20.350; and

(2) public disclosure under AS 24.55.200 of a confidential record produced by an agency.

(b) Before disclosing a confidential record, the ombudsman will give written notice to the agency having custody of the record and to the person about whom information in the record

relates that the ombudsman intends to disclose the record at the expiration of a 15-day period. The period during which the agency or a person may object can be extended by the ombudsman at the request of the agency or person. In providing notice, the ombudsman will indicate the basis of the decision to disclose the record.

(c) The agency or person to whom notice is given under (b) of this section may object to disclosure of the record by filing with the ombudsman a written objection to the disclosure. The objection filed by the agency or person must identify the portion of the record that the agency or person believes should remain confidential and must state the reasons for the objections to disclosure.

(d) If objection to disclosure has not been filed with the ombudsman in accordance with (c) of this section at the end of 15 days from the date of notice, or of any extension of that period approved by the ombudsman, the ombudsman will, in his discretion, disclose the confidential record.

(e) If objection to disclosure is filed with the ombudsman in accordance with (c) of this section and if, despite the objection, the ombudsman believes that disclosure of the record is essential to obtain agency acceptance of a finding and implementation of a recommendation in order to correct an action, decision or omission of the agency that was detrimental to the complainant, the ombudsman will give written notice to the agency or to the person or persons making objection under (c) of this section that he intends to disclose the record. In his notice, the ombudsman will

(1) briefly state the reason or reasons for his decision to disclose;

(2) indicate the date on which the ombudsman expects to make public disclosure of the record, not sooner than 15 days from the date of his notice; and

(3) state that the date may be extended only by mutual agreement between the agency or person and the ombudsman.

(f) At any time before expiration of the date on which the ombudsman indicates that he will dis-

close the document to the public, an agency or a person to whom notice is required to be sent under (e) of this section may apply to the superior court for an order preventing the ombudsman from disclosing the record. In making a determination as to whether the ombudsman may disclose the record

(1) if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record may be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may determine that the confidential information identified under the authority cited by the agency or person objecting to disclosure of the information or record must be deleted and thereafter may allow the ombudsman to release the disclosable information;

(2) if the record is wholly confidential, or if the record contains both disclosable and confidential information and the confidential information cited by the agency or person objecting to disclosure of the record cannot be reasonably separated from confidential portions in a manner that will allow meaningful information to be disclosed, the court may allow the ombudsman to disclose the record if the court determines that the need for disclosure outweighs the nature and weight of the privacy interest asserted by the agency or person. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090
AS 24.55.160

Art. I, sec. 22, Alaska Constitution

21 AAC 20.390. DEFINITIONS. In 21 AAC 20.300 — 21 AAC 20.390

(1) "confidential" means a record or information in a record that is nondisclosable under a valid federal or Alaska statute or regulation, or by a privilege, exemption, or principle recognized by the courts, or by an agency protective order authorized by law;

(2) "person" has the same meaning as in AS 01.10.060(7);

(3) "record" means a document, paper, memorandum, book, letter, drawing, map, plat, photo, photographic file, motion picture, film,

microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other item of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business by an agency or person, and preserved as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the agency or person or because of the informational value in them; the term also includes staff manuals and instructions to staff that directly or indirectly affect the public. (Eff. 9/16/84, Reg. 91)

Authority: AS 24.55.090

AS 24.55.160

Art. I, sec. 22, Alaska Constitution



Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

February 12, 1990

Representative H. A. "Red" Boucher
Chairman, House State Affairs Committee
Room 102
Capitol

Re: HB 452

Dear Representative Boucher:

The Alaska Court System would like to comment on paragraph (4) of sec. 7 of HB 452 which provides that the office of the ombudsman would have access at all times to records of every state agency, including confidential records. The court system has many confidential records that are available only on court order for good cause. Examples of these documents range from sealed search warrants to in-camera proceedings about an informant. These documents should not be opened by any state agency, including the ombudsman's office, without a showing of need.

I would be glad to discuss with the committee a proposed amendment to [redacted] to alleviate our concerns.

Thank you for the opportunity to comment on this bill.

Sincerely,

Jan Strandberg
Jan Strandberg
Staff Counsel



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

(HAND DELIVERED)

February 12, 1990

Representative H. A. "Red" Boucher
Chairman, House State Affairs Committee
Room 102
Capital

Re: HB 452

Dear Representative Boucher:

After discussing with Mr. Fowler the Alaska Court System's concerns about the Ombudsman's access to court records, we have agreed that the need to maintain the confidentiality of sealed court documents can be met by amending Sec. 8, paragraph (a)(4) as follows:

(4) notwithstanding other provisions of law, have access at all times to records of every state agency, including confidential records. Sealed court records must be subpoenaed.

Thank you for your consideration of this amendment.

Sincerely,

Jan Strandberg
Jan Strandberg
Staff Counsel

c: Duncan Fowler

ART SNOWDEN - SET 10000 + 6 59057 50120A -
CLEAR (EARLY 10000).

HB

467

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 467**

Exemption of PF Dividend

Received February 2, 1990
by the Labor and Commerce Committee

Heard February 27, 1990

Passed Out of Committee February 27, 1990
5 Do Pass

TABLE OF CONTENTS

HB 467: Exemption of PF Dividend

- Item 1: HB 467 by the Labor & Commerce Committee
- Item 2: Fiscal Note by Department of Revenue
- Item 3: Memorandum from Rep. Donley, Chair of House Labor & Commerce Committee, January 23, 1990

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 2, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 467

HOUSE BILL NO. 467

EXEMPTION OF PF DIVIDEND

"An Act relating to the partial exemption of permanent fund dividends from remedies for the collection of debt; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note Rev
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not
Pass No Rec Amend

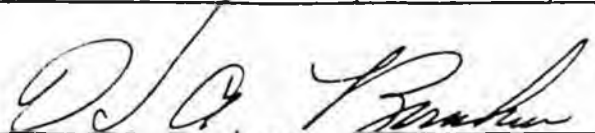
_____ *David Duley*

_____ *John H. ...*

_____ *David ...*

_____ *Jim ...*

_____ *John ...*



 Chairman's Signature

BY THE LABOR AND COMMERCE COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 467

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the partial exemption of perma-

7

nent fund dividends from remedies for the collection

8

of debt; and providing for an effective date."

9

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

10

* Section 1. AS 43.23.065(a) is amended to read:

11

(a) Except as provided in (b) of this section, \$100 [50 PERCENT]

12

of the annual permanent fund dividend payable to an individual is

13

exempt from levy, execution, garnishment, attachment, or any other

14

remedy for the collection of debt. This exemption applies to an

15

eligible individual's permanent fund dividend both before and after

16

payment is made to the individual.

17

* Sec. 2. This Act takes effect January 1, 1991.

FZLOUS TOO?

ENCOURAGE OKC

FISCAL NOTE

REQUEST

Revision Date: _____
Title: Partial exemption of permanent fund dividends from collection
Sponsor: Labor and Commerce Committee
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|--------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | -0- | -0- | -0- | -0- | -0- | -0- |
| TRAVEL | -0- | -0- | -0- | -0- | -0- | -0- |
| CONTRACTUAL | -0- | -0- | -0- | -0- | -0- | -0- |
| SUPPLIES | -0- | -0- | -0- | -0- | -0- | -0- |
| EQUIPMENT | -0- | -0- | -0- | -0- | -0- | -0- |
| LANDS & STRUCTURES | -0- | -0- | -0- | -0- | -0- | -0- |
| GRANTS, CLAIMS | -0- | -0- | -0- | -0- | -0- | -0- |
| MISCELLANEOUS | -0- | -0- | -0- | -0- | -0- | -0- |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: None required.

Prepared By: Ervin Jones Phone: 465-2323
Division: Permanent Fund Dividend Division Date: February 23, 1990
Approved by Commissioner: Hugh Malone Date: 2/23/90
Agency: Revenue

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

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



January 23, 1990

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair *DB*
House Labor and Commerce Committee

Re: Proposed Committee Legislation/Permanent Fund Dividends

Attached is proposed committee legislation reducing the amount of a permanent fund dividend check that is protected from debt collection.

Current law protects fifty percent of the annual permanent fund dividend from levy, execution, garnishment, attachment, or any other court ordered remedy for the collection of debts incurred by the individual except for child support, court ordered restitution to victims and loans owed to the state (i.e., student loans). Under the proposed bill only the first \$100 of each check will be protected, making the rest available for debt satisfaction, with the three exceptions listed above having first priority in any action to garnish or attach the checks.

The purpose of the bill is to increase the amount of money available to satisfy court ordered debts while leaving enough to the dividend recipient to act as an incentive for them to file for the annual check.

dd/gbs90
b/pfd

HB

468

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 468**

Marmot Day: Official State Marmot

Received February 2, 1990
by Reps. Menard, Foster

Heard February 22, 1990

Passed Out of Committee February 22, 1990
4 Do Pass
2 No Recommendation

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 2, 1990

FURTHER REFERRALS:

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 468

HOUSE BILL NO. 468

MARMOT DAY; OFFICIAL STATE MARMOT

"An Act establishing Marmot Day and designating the official state marmot."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have attached amendment(s) [] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
[X] zero fiscal note HSA
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

David Douley
Samuel [unclear]
[unclear]
Eileen P. Meehan

SIGNING: (Check approp. column)

| | Do Not Pass | No Rec | Amend |
|----------------------|-------------|-------------------------------------|-------|
| <u>David Douley</u> | | <input checked="" type="checkbox"/> | |
| <u>Jim [unclear]</u> | | <input checked="" type="checkbox"/> | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Eileen P. Meehan
Vice-Chairman's Signature

Item 2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : _____
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Marmot Day; Official
State Marmot
Sponsor: Menard
Requestor: _____

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs
Division: _____
Approved by Commissioner: H. A. "Red" Boucher
Agency: _____

Phone: 465-4963
Date: Feb 20, 1990
Date: Feb 20, 1990

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

HB

481

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF HB 481

Procurement Preference/Recycled Products

Received February 7, 1990

by Reps. Finkelstein, Menard, Navarre, Ulmer,
Brown, Boyer, Koponen, Boucher, Ellis, M. Davis,
Swackhammer, Kubina, Goll

Heard February 22, 1990

Adopted CSHB 481 (SA) February 22, 1990

Passed Out of Committee February 22, 1990
6 Do Pass

TABLE OF CONTENTS

HB 481: Procurement Preference/ Recycled Products

- Item 1:** HB 481 by Reps. Finkelstein, Menard, Navarre, Ulmer, Brown, Boyer, Koponen, Boucher, Ellis, M. Davis, Swackhammer, Kubina, Goll
CSHB 418 (SA)
- Item 2:** Fiscal Notes and Analyses by Dept. of Administration and Office of the Governor
- Item 3:** Memorandum from Rep. Finkelstein, February 18, 1990
- Item 4:** Backup Information from Rep. Finkelstein, February 22, 1990

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 7, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 481

HOUSE BILL NO. 481

PROCUREMENT PREFERENCE/RECYCLED PRODUCTS

"An Act relating to state procurement of recycled paper and other products and to the state's use of paper; establishing a waste reduction and recycling task force; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 481 (SA) the same title
 a new title
 have attached amendment(s)
 do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact DOA & Gov Office fiscal note(s) _____
 zero fiscal note _____ zero fiscal note(s) _____
 zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
PASS
No Rec
Amend

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

| | Do Not PASS | No Rec | Amend |
|-------|----------------|--------|-------|
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |

[Signature]
Vice-Chairman's Signature

BY REP. FINKELSTEIN, Menard, Navarre, Ulmer, Brown, Boyer, Koponen,
Boucher, Ellis, M.Davis, Swackhammer, Kubina, Goll

HOUSE AMENDMENT

1 IN THE HOUSE

2

HOUSE BILL NO. 481

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state procurement of recycled
7 paper and other products and to the state's use of
8 paper; establishing a waste reduction and recycling
9 task force; and providing for an effective date."

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

11 * Section 1. AS 36.30 is amended by adding a new section to article 1
12 to read:

[1994 -> effective]

13

Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise

14

required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state

15

agency purchases paper, at least 15 percent of the quantity purchased

16

must be recycled paper unless the commissioner of the department in

17

which the agency is located makes a written finding that recycled

18

paper is not available for the purchase or that, after application of

19

the procurement preference under AS 36.30.339, the recycled paper is

20

more expensive than the nonrecycled paper. If the agency is not

21

located in a department, the procurement officer for the agency shall

22

make the written finding. If the agency is located in the Office of

23

the Governor, the governor shall make the written finding.

24

* Sec. 2. AS 36.30.095 is repealed and reenacted to read:

25

Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise

26

required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state

27

agency purchases paper, at least 25 percent of the quantity purchased

28

must be recycled paper unless the commissioner of the department in

29

which the agency is located makes a written finding that recycled

1 paper is not available for the purchase or that, after application of
2 the procurement preference under AS 36.30.339, the recycled paper is
3 more expensive than the nonrecycled paper. If the agency is not
4 located in a department, the procurement officer for the agency shall
5 make the written finding. If the agency is located in the Office of
6 the Governor, the governor shall make the written finding.

7 * Sec. 3. AS 36.30.170(b) is amended to read:

8 (b) The procurement officer shall award a contract based on
9 solicited bids to the lowest responsive and responsible bidder after
10 an Alaska bidder preference of five percent, [AND] an Alaska products
11 preference as described in AS 36.30.322 - 36.30.338, and a recycled
12 products preference under AS 36.30.339 have been applied. In this
13 subsection, "Alaska bidder" means a person who

14 (1) holds a current Alaska business license;

15 (2) submits a bid for goods, services, or construction
16 under the name as appearing on the person's current Alaska business
17 license;

18 (3) has maintained a place of business within the state
19 staffed by the bidder or an employee of the bidder for a period of six
20 months immediately preceding the date of the bid;

21 (4) is incorporated or qualified to do business under the
22 laws of the state, is a sole proprietorship [,] and the proprietor is
23 a resident of the state, or is a partnership [,] and all partners are
24 residents of the state; and

25 (5) if a joint venture, is composed entirely of ventures
26 that qualify under (1) - (4) of this subsection.

27 * Sec. 4. AS 36.30 is amended by adding a new section to read:

28 ARTICLE 5A. PREFERENCE FOR RECYCLED PRODUCTS.

29 Sec. 36.30.339. PROCUREMENT PREFERENCE FOR RECYCLED PRODUCTS.

1 (a) In the evaluation of a bid or proposal for an agency procurement
2 of products, the agency shall decrease the bid or proposal by 10
3 percent if the bid or proposal indicates that the products being
4 purchased will be recycled products.

5 (b) A decrease made under (a) of this section is in addition to
6 other preferences allowed for the procurement. *no by party*

7 (c) The department shall establish [by regulation] the minimum
8 percentage of recycled content that will qualify a product as a re-
9 cycled product under (a) of this section.

10 (d) The department shall compile and maintain a list of products
11 that qualify as recycled products under (c) of this section. The
12 department shall make this list available to the public.

13 (e) If a successful bidder or offeror receives a decrease under
14 (a) of this section but fails to use the designated recycled product
15 for the contract for a reason within the control of the bidder or
16 offeror, each payment under the contract shall be reduced by 10 per-
17 cent.

18 * Sec. 5. AS 36.30.900 is amended to read:

19 Sec. 36.30.900. PRODUCT PREFERENCES [PREFERENCE FOR ALASKA
20 PRODUCTS]. This chapter does not modify AS 36.15.010 and 36.15.020
21 regarding preference for Alaska forest products, or AS 36.15.050 and
22 36.15.060 regarding preference for Alaska agricultural and fisheries
23 products, except as provided in AS 36.30.170(b) and (c) and 36.30.339.

24 * Sec. 6. AS 44.99 is amended by adding a new section to read:

25 Sec. 44.99.020. USE OF PAPER. A state agency shall use both
26 sides of paper when feasible. In this section, "state agency" means a
27 department, institution, board, commission, division, authority,
28 public corporation, or other administrative unit of the executive,
29 legislative, or judicial branch of state government, including the

1 University of Alaska, the Alaska State Housing Authority, the Alaska
2 Railroad Corporation, and legislative committees.

3 * Sec. 7. WASTE REDUCTION AND RECYCLING TASK FORCE. (a) There is
4 established in the Office of the Governor the Waste Reduction and Recycling
5 Task Force.

6 (b) The task force consists of the governor, the commissioner of
7 administration, the commissioner of community and regional affairs, the
8 commissioner of environmental conservation, the commissioner of natural
9 resources, the commissioner of transportation and public facilities, one
10 person from the judicial branch appointed by the administrative director of
11 the judicial branch, one person from the legislative branch appointed by
12 the executive director of the legislative affairs agency, two persons from
13 the legislative branch appointed by the president of the senate, and two
14 persons from the legislative branch appointed by the speaker of the house
15 of representatives. If a task force member who is appointed by a presiding
16 officer of a house of the legislature is a legislator in the Sixteenth
17 Alaska State Legislature, but is not a legislator in the same house in the
18 Seventeenth Alaska State Legislature, the appointing authority for the task
19 force member may replace the task force member with another person. A
20 member of the task force may designate another person to represent the
21 member on the task force.

22 (c) The task force shall

23 (1) identify opportunities in state government to reduce waste,
24 increase the reuse and recycling of materials, and promote the purchase of
25 materials that are made of materials that have been recycled after consumer
26 use; and

27 (2) design plans to implement the opportunities identified in
28 (1) of this subsection.

29 (d) The task force shall submit to the legislature on or before

1 April 15 of 1991 and 1992, a report containing the opportunities identified
2 under (c)(1) of this section and the plans designed under (c)(2) of this
3 section.

4 (e) The task force shall terminate April 16, 1992.

5 * Sec. 8. Sections 1 and 3 - 5 of this Act apply to procurements that
6 begin on or after the effective date of secs. 1 and 3 - 5 of this Act.

7 * Sec. 9. Section 2 of this Act applies to procurements that begin on
8 or after July 1, 1994.

9 * Sec. 10. Section 2 of this Act takes effect July 1, 1994.

10 * Sec. 11. Section 7 of this Act takes effect immediately under AS 01.-
11 10.070(c).

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to State procurement of recycled paper and other products . . . BRU: General Services and Supply
 Sponsor: Finkelstein Components: Purchasing, Central Duplication
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 2.5 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 28.5 | 28.5 | 28.5 | 28.5 | 47.5 | 47.5 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 31.0 | 28.5 | 28.5 | 28.5 | 47.5 | 47.5 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|------|------|------|------|------|------|
| GENERAL FUND | 31.0 | 28.5 | 28.5 | 28.5 | 47.5 | 47.5 |
| FEDERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 31.0 | 28.5 | 28.5 | 28.5 | 47.5 | 47.5 |

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This bill has a minimal impact on the purchasing activities of the Division of General Services and Supply, but is estimated to increase the contract cost paid for paper by Central Duplication and used by the executive branch. No impact is expected during FY 90. (See Attached Analysis)

Prepared by: Robert J. Link *Robert J. Link* Phone: 465-2250
 Division: General Services and Supply Date: 2/21/90
 Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 2/21/90
 Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

For HB 481

We have no way to be certain how much paper is purchased by all agencies this bill would cover. Based on annual consumption records for various writing and printing paper master contracts, we estimate approximately \$1.3 million is purchased per year by the executive branch through bid contracts. In general, we believe that copy paper, bond paper, and ruled tablet type paper accounts for about \$650,000. Laser and computer paper constitutes another \$650,000.

Other types of paper products such as envelopes and janitorial total approximately .5 million.

For FY 91, 92, 93, and 94, Section 1 of this bill would require that 15 percent of all paper purchased to have recycled content, if available, and if the paper would not be more expensive than nonrecycled paper after application of a 10 percent preference. Section 2 of the bill will increase the quantity of paper requiring recycled content to 25 percent in FY 95 and thereafter.

Assumptions:

* Estimated annual cost of paper \$1,900,000

* FY 91-94 \$1,900,000 x 15% = \$285,000

If recycled paper is available and within 10 percent of nonrecycled, the cost impact of the product preference is estimated to be \$285,000 x 10% = \$28,500.

* FY 95 and beyond \$1,900,000 x 25% = \$475,000

If recycled paper is available and within 10 percent of nonrecycled, the cost impact of the product preference is estimated to be \$475,000 x 10% = \$47,500.

The increased cost to the State for purchase of paper with recycled content during the first four years of the preference at 15 percent recycled content is estimated to be \$28,500. Costs will increase to approximately \$47,500 per year beginning in FY 95. This preference could apply to other products beyond paper.

Section 4 of the bill will require the Department to develop the required amount of recycled content and to compile and maintain a list of products that meet the minimum recycled content established by the regulation. This will involve periodic advertising, solicitation of products, evaluation of products offered, development of a data base, and publishing a list with periodic updates. The Department of General Services and Supply would enter into a consortium with other states through the National Association of State Purchasing Officials (NASPO) to commission ASTM to develop recycled paper specifications for states. Alaska's share of the one time cost would be \$2,500.

Section 6 of the bill will require State agencies to use both sides of paper when feasible. This should result in savings of paper, but there is no way to accurately predict the cost savings from the use of both sides of paper.

A S S U M P T I O N S

ANNUAL PAPER PRODUCT COSTS

| | PRIOR YEAR COSTS | ESTIMATED ANNUAL COSTS |
|--------------------|------------------|------------------------|
| Xerox and Bond | \$425,000 | \$600,000 |
| Legal Pads | 35,000 | 50,000 |
| Pleading Paper | 20,000 | 20,000 |
| Computer Paper | 204,000 | 300,000 |
| Laser Paper | 305,000 | 350,000 |
| Card Stock | 43,000 | 43,000 |
| Envelopes | 82,000 | 85,000 |
| Janitorial | 240,000 | 240,000 |
| Food Service Paper | 150,000 | 150,000 |
| Boxes | 20,000 | 25,000 |
| | \$1,569,000 | \$1,863,000 |

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
 Title: "An Act relating...: establishing BRU: Executive Operations
a waste reduction and recycling task force..."
 Sponsor: Rep. Finkelstein, et al Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|------------|------------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 5.0 | 5.0 | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 5.0 | 5.0 | | | | |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|------------|------------|--|--|--|--|
| GENERAL FUND | 5.0 | 5.0 | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 5.0 | 5.0 | | | | |

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael A. Nizich, Director *Maw* Phone: 465-3616
 Division: Administrative Services Date: 2/21/90
 Approved by Commissioner: Garrey Peska, Chief of Staff Date: 2/21/90
 Agency: Office of the Governor

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

HB 481 Analysis

Analysis assumes travel and per diem costs and staff needs for task force meetings will be provided by the participating agencies. Fiscal note provides for contractual costs for required legislative reports in 1991 and 1992 only.

CONTRACTUAL 5.0

| | |
|--|-------|
| Professional services for report writing | 3,000 |
| Advertising, Printing & Binding: | |
| Report printing | 2,000 |

Item 3

Alaska State Legislature

3111 C STREET
ANCHORAGE, ALASKA 99503
561-7626

WHILE IN SESSION:
P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
465-2435



Representative David Finkelstein

CHAIR
SPECIAL COMMITTEE ON TOURISM

STATE AFFAIRS COMMITTEE
LABOR AND COMMERCE COMMITTEE

MILITARY & VETERANS' AFFAIRS
HEALTH AND SOCIAL SERVICES
BUDGET SUBCOMMITTEES

February 8, 1990

To: Representative Red Boucher
Chair, State Affairs Committee

From: David Finkelstein

Re: House Bill 481 relating to the state procurement of
recycled products

I would like to request that HB 481 be scheduled for hearing
in your committee.

This bill requires that recycled products receive a ten percent price break. In addition, it sets a goal of getting the state to purchase 15 percent recycled paper by 1991 and 25 percent by 1994. A task force is created to identify areas in state government where waste can be reduced and reuse of materials can be increased. Finally, state agencies will be required to use both sides of a sheet of paper, when feasible.

Please call me if you have any questions. Thank you.

DISTRICT THIRTEEN

CREEPSIDE • ELMENDORF AIR FORCE BASE • ELMRICH • MOUNTAIN VIEW • NUNAKA VALLEY • PIARMIGAN • RUSSIAN JACK • WONDER PARK



Item 4



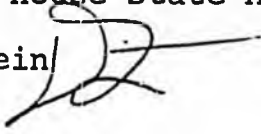
Alaska State Legislature

House

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

Official Business

February 22, 1990

To: Members of the House State Affairs
From: David Finkelstein 
Re: House Bill 481

The basic provisions of the bill are:

- establish a ten percent price preference for recycled products in state procurement;
- require fifteen percent of all paper purchased by the state be recycled paper unless the agency finds that recycled paper is not available or is not within the recycled product price preference. In 1994, this percentage would rise to twenty-five percent;
- create a Waste Reduction and Recycling Task Force of twelve members from all three branches of government to identify areas in state government where waste can be reduced and reuse of materials can be increased; and
- set a policy for state agencies of using both sides of a sheet of paper, where feasible.

BY REP. FINKELSTEIN, Menard, Navarre, Ulmer, Brown, Boyer, Koponen,
Boucher, Ellis, M.Davis, Swackhammer, Kubina, Goll

1 IN THE HOUSE

2

HOUSE BILL NO. 481

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state procurement of recycled
paper and other products and to the state's use of
paper; establishing a waste reduction and recycling
task force; and providing for an effective date."

7

8

9

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

11

* Section 1. AS 36.30 is amended by adding a new section to article 1

12

to read:

13

Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise

14

required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state

15

agency purchases paper, at least 15 percent of the quantity purchased

16

must be recycled paper unless the commissioner of the department in

17

which the agency is located makes a written finding that recycled

18

paper is not available for the purchase or that, after application of

19

the procurement preference under AS 36.30.339, the recycled paper is

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more expensive than the nonrecycled paper. If the agency is not

21

located in a department, the procurement officer for the agency shall

22

make the written finding. If the agency is located in the Office of

23

the Governor, the governor shall make the written finding.

24

* Sec. 2. AS 36.30.095 is repealed and reenacted to read:

25

Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise

26

required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state

27

agency purchases paper, at least 25 percent of the quantity purchased

28

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29

which the agency is located makes a written finding that recycled

1 paper is not available for the purchase or that, after application of
2 the procurement preference under AS 36.30.339, the recycled paper is
3 more expensive than the nonrecycled paper. If the agency is not
4 located in a department, the procurement officer for the agency shall
5 make the written finding. If the agency is located in the Office of
6 the Governor, the governor shall make the written finding.

7 * Sec. 3. AS 36.30.170(b) is amended to read:

8 (b) The procurement officer shall award a contract based on
9 solicited bids to the lowest responsive and responsible bidder after
10 an Alaska bidder preference of five percent, [AND] an Alaska products
11 preference as described in AS 36.30.322 - 36.30.338, and a recycled
12 products preference under AS 36.30.339 have been applied. In this
13 subsection, "Alaska bidder" means a person who

14 (1) holds a current Alaska business license;

15 (2) submits a bid for goods, services, or construction
16 under the name as appearing on the person's current Alaska business
17 license;

18 (3) has maintained a place of business within the state
19 staffed by the bidder or an employee of the bidder for a period of six
20 months immediately preceding the date of the bid;

21 (4) is incorporated or qualified to do business under the
22 laws of the state, is a sole proprietorship [,] and the proprietor is
23 a resident of the state, or is a partnership [,] and all partners are
24 residents of the state; and

25 (5) if a joint venture, is composed entirely of ventures
26 that qualify under (1) - (4) of this subsection.

27 * Sec. 4. AS 36.30 is amended by adding a new section to read:

28 ARTICLE 5A. PREFERENCE FOR RECYCLED PRODUCTS.

29 Sec. 36.30.339. PROCUREMENT PREFERENCE FOR RECYCLED PRODUCTS.

1 (a) In the evaluation of a bid or proposal for an agency procurement
2 of products, the agency shall decrease the bid or proposal by 10
3 percent if the bid or proposal indicates that the products being
4 purchased will be recycled products.

5 (b) A decrease made under (a) of this section is in addition to
6 other preferences allowed for the procurement.

7 (c) The department shall establish by regulation the minimum
8 percentage of recycled content that will qualify a product as a re-
9 cycled product under (a) of this section.

10 (d) The department shall compile and maintain a list of products
11 that qualify as recycled products under (c) of this section. The
12 department shall make this list available to the public.

13 (e) If a successful bidder or offeror receives a decrease under
14 (a) of this section but fails to use the designated recycled product
15 for the contract for a reason within the control of the bidder or
16 offeror, each payment under the contract shall be reduced by 10 per-
17 cent.

18 * Sec. 5. AS 36.30.900 is amended to read:

19 Sec. 36.30.900. PRODUCT PREFERENCES [PREFERENCE FOR ALASKA
20 PRODUCTS]. This chapter does not modify AS 36.15.010 and 36.15.020
21 regarding preference for Alaska forest products, or AS 36.15.050 and
22 36.15.060 regarding preference for Alaska agricultural and fisheries
23 products, except as provided in AS 36.30.170(b) and (c) and 36.30.339.

24 * Sec. 6. AS 44.99 is amended by adding a new section to read:

25 Sec. 44.99.020. USE OF PAPER. A state agency shall use both
26 sides of paper when feasible. In this section, "state agency" means a
27 department, institution, board, commission, division, authority,
28 public corporation, or other administrative unit of the executive,
29 legislative, or judicial branch of state government, including the

1 University of Alaska, the Alaska State Housing Authority, the Alaska
2 Railroad Corporation, and legislative committees.

3 * Sec. 7. WASTE REDUCTION AND RECYCLING TASK FORCE. (a) There is
4 established in the Office of the Governor the Waste Reduction and Recycling
5 Task Force.

6 (b) The task force consists of the governor, the commissioner of
7 administration, the commissioner of community and regional affairs, the
8 commissioner of environmental conservation, the commissioner of natural
9 resources, the commissioner of transportation and public facilities, one
10 person from the judicial branch appointed by the administrative director of
11 the judicial branch, one person from the legislative branch appointed by
12 the executive director of the legislative affairs agency, two persons from
13 the legislative branch appointed by the president of the senate, and two
14 persons from the legislative branch appointed by the speaker of the house
15 of representatives. If a task force member who is appointed by a presiding
16 officer of a house of the legislature is a legislator in the Sixteenth
17 Alaska State Legislature, but is not a legislator in the same house in the
18 Seventeenth Alaska State Legislature, the appointing authority for the task
19 force member may replace the task force member with another person. A
20 member of the task force may designate another person to represent the
21 member on the task force.

22 (c) The task force shall

23 (1) identify opportunities in state government to reduce waste,
24 increase the reuse and recycling of materials, and promote the purchase of
25 materials that are made of materials that have been recycled after consumer
26 use; and

27 (2) design plans to implement the opportunities identified in
28 (1) of this subsection.

29 (d) The task force shall submit to the legislature on or before

1 April 15 of 1991 and 1992, a report containing the opportunities identified
2 under (c)(1) of this section and the plans designed under (c)(2) of this
3 section.

4 (e) The task force shall terminate April 16, 1992.

5 * Sec. 8. Sections 1 and 3 - 5 of this Act apply to procurements that
6 begin on or after the effective date of secs. 1 and 3 - 5 of this Act.

7 * Sec. 9. Section 2 of this Act applies to procurements that begin on
8 or after July 1, 1994.

9 * Sec. 10. Section 2 of this Act takes effect July 1, 1994.

10 * Sec. 11. Section 7 of this Act takes effect immediately under AS 01.-
11 10.070(c).

HOUSE AMENDMENT

TO: HB 481

BY: Rep. Finkelstein

Page _____ Line _____

Page 3, line 7

Delete "by regulation"

Page 3, lines 10 - 17

Delete "(d) The department shall compile and maintain a list of products that qualify as recycled products under (c) of this section. The department shall make this list available to the public.

(e) If a successful bidder or offeror receives a decrease under (a) of this section but fails to use the designated recycled product for the contract for a reason within the control of the bidder or offeror, each payment under the contract shall be reduced by 10 percent."

Submit original amendment to the Chief Clerk.
It will then be numbered and duplicated.

Alaska State Legislature



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

Legislative Research Agency

February 21, 1990

MEMORANDUM

TO: Representative David Finkelstein

FROM: Linda J. Snow *L. Snow*
Legislative Analyst

RE: Availability of Recycled Paper
Research Request 90.237

You asked this agency to obtain information about the availability, comparative price, and quality of recycled paper.

Summary

Recycled paper products are currently less available and higher priced than virgin paper products. Demand for these products is growing however, and the industry is changing to meet this demand. Industry representatives anticipate a time lag of one to three years as new plants and facilities are built. Availability is expected to improve and price discrepancies to disappear as the industry responds to demand. The quality of recycled paper products has increased dramatically in the past few years, and nearly equals that of virgin paper products.

Availability

Recycled paper products are available to meet demand in most cases. The exception is bond and copy paper (office paper) made from recycled products. The reason for the shortage in office paper is threefold: first, not enough office paper is being recycled to use as raw material; second, very few paper mills have the ability to manufacture recycled paper; and third, very few plants have the ability to de-ink recycled paper. As the demand for recycled paper grows, these obstacles should diminish.

The federal government recently changed its procurement policy and now purchases recycled paper products (Sec. 5002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act). Many state governments have adopted this policy also.¹ A large supply of "waste paper"²

¹Personal communication with Ann Mattheis, Manager of Governmental Relations, American Paper Institute, Inc., February, 1990. Ms. Mattheis stated that 35 states have passed legislation requiring the use of recycled paper.

Representative Finkelstein
February 21, 1990
Page 2

is readily available for use as raw material, but the supply of office paper "post-consumer waste"³ does not meet demand. As demand for post-consumer waste grows, recycling projects gain support. All major cities now participate, and curb-side collection projects are increasing in number.

Paper manufacturers are increasing their capacity to produce recycled paper products of all types. As a result of the demand, new mills able to produce recycled paper are being built or converted. (On April 1, 1990, Georgia Pacific will open a new recycled paper plant which will produce 1,200 new, 50 percent recycled products.)

Consumers of recycled office paper demand a bright white color, which is reproduced only through thorough de-inking. Plants are increasing their capacity to de-ink the recycled pulp.

Price Comparison

Currently, the price of high quality recycled office paper is higher than virgin office paper by about 8 to 13 percent.⁴ The premium exists because mills which produce recycled paper are smaller than virgin paper mills. Costs are incrementally lower in larger mills due to greater efficiency. As demand grows, recycled paper mills will become larger, and the premium should disappear or be substantially reduced. Ultimately, recycled paper should be less expensive to produce. In other forms (e.g., newsprint, paper towels) recycled paper products are currently less expensive than virgin paper products

Quality Comparison

The quality of recycled paper has increased dramatically in recent years. Reports indicate that the quality of *most* recycled paper currently being produced is at least 95 percent as high as that of virgin paper. Minor complaints about lack of stiffness (body) and residual dust or lint have been reported, but there has also been praise for the opacity and registration (clearness of image) from recycled paper. Most manufacturers at least meet quality and content specifications laid out by the federal government in 40 CFR part 250 (Attachment A). The National Association of State Procurement Officers is currently developing standard specifications for state legislation,

²Paper scraps left over from the process of manufacturing paper products.

³Paper discarded after the consumer has used it.

⁴Personal communication, Susan Kinsella, Conservatree Paper Company, a major wholesale distributor of recycled paper products, February, 1990.

Representative Finkelstein
February 21, 1990
Page 3

which will likely resemble federal government specifications.⁵ These standard specification should be completed by year's end.

Other States' Experiences

According to Lee Cooper with the State of California, in that state, 18 to 25 percent of the state budget for paper products is used to buy recycled paper (with a cap of \$50,000). California regulations allow payment of a five percent premium to vendors for recycled paper, although a premium is not always paid. New York and New Jersey both allow a 10 percent bidder's preference for recycled paper products. Fifty percent of the paper products used by New York state are made from recycled materials.⁶

The State of Oregon has been purchasing recycled paper since 1977, according to Byron Thompson with their Department of General Services. At present, 78 percent of their copy and bond paper is recycled paper. They use recycled paper in their institutions also, such as paper towels, napkins, toilet paper, etc. Byron Thompson, a purchasing analyst for Oregon says there is no problem supplying their needs for copy paper, and course paper (paper towels, etc.), but a sufficient quantity of fine printing paper is sometimes difficult to obtain. Oregon offers a 5 percent preference to bidders with recycled products. If a vendor's price is higher than five percent, two contracts will be let, one for the less expensive virgin paper, and one for the recycled paper. Each state agency can then decide if they wish to pay the higher price for the recycled paper. Although a five percent premium may be paid for recycled paper, the actual premium is lower, because the state receives a payment equaling about three percent for the paper they themselves recycle.⁷ Attachment B discusses Oregon's recycling laws.

I hope this information has been helpful. If you need additional information, please feel free to contact this office.

Attachments

⁵Personal communication, Byron Thompson, Purchasing Analyst, Purchasing Division, Department of General Services, State of Oregon, February, 1990.

⁶Personal communication, Lee Cooper, Procurement Director, Office of Procurement, Department of General Services, State of California, February, 1990.

⁷Personal communication, Byron Thompson, Purchasing Analyst, Purchasing Division, Department of General Services, State of Oregon, February, 1990.



Laurie Ferguson Craig

20 February 1990

TESTIMONY OFFERED FOR WRRAP ACT

Thank you for the opportunity to testify in support of this package of bills. The WRRAP Act offers positive, forward steps in protecting our environment from unnecessary waste while saving our natural resources through their careful reuse.

Many of us who grew up in a time when we were persuaded by advertisers that everything was manufactured for our "convenience" and that "no deposit - no return" thinking was our birthright, have come to see the consequences of our actions: Landfills are bulging, skies are bruised by polluted air from automobiles and incinerators, and surface water is concentrating chemicals and organisms that negatively affect drinking water sources.

In the next two months we will see the commemoration of two significant events: the oil spill and Earth Day. The wreck of the Exxon Valdez - in addition to shocking the world into the reality of the cost of our demand for resources - inspired the creation of the Valdez Principles, a set of ten

Etchings • Serigraphs • Drawings

P.O. Box 33306 • Juneau, Alaska 99803-3306 • (907) 789-2763



guidelines to encourage corporate operations to function in an environmentally ethical manner. One of the provisions specifically addresses waste reduction, careful disposal and recycling. Corporations are discovering that they can no longer ignore consumer demand for ecologically responsible actions. Profits and good will both result from attention to environmentalism at corporate levels, according to the cover story of the current issue of FORTUNE magazine.

Preparations for the celebration of Earth Day 1990 on Sunday, April 22 are underway internationally as well as locally. It was the first Earth Day twenty years ago which provided the impetus for the establishment of the U.S. Environmental Protection Agency, which is now being upgraded to a cabinet level position by President Bush. Therefore, ~~for~~ your introduction of this group of bills is indeed timely.

In closing, I would like to briefly mention some statistics from Earth Care Papers' catalog of recycled paper products:

"Producing one ton of paper from discarded waste paper uses half the energy, half the water, results in 74% less air pollution, and 35% less water pollution, saves 17 pulp trees, reduces solid waste going to landfills, and creates five times more jobs than producing a ton of paper from virgin wood pulp."

I commend you for producing this package of bills and encourage you to provide adequate funding to the agencies designated to fulfill its mandate.

Jamie Ferguson Craig

My name is Theresa Scott. I am an early childhood administrator in the Juneau School District. Two years ago I started a recycling program at our school to promote recycling newspaper. Seeing these bills makes me very happy and hopeful. I encourage their prompt passage.

I would like to submit the following quotes taken from the "Earth Care Paper, Inc." recycled paper products catalog - a catalog that I use when ordering products for my program.

"The U.S. Forest Service is subsidizing use of virgin wood pulp by selling timber in our national forests below cost. The Forest Service, manager of 22% of the nation's timberlands, lost more than \$2 billion on its sales during the last 10 years. Taxpayers cover the cost of these subsidized timber sales and are effectively paying to shrink the market for recyclable waste paper.

"The Forest Service significantly lowers the price of virgin pulp by leasing large areas of national forest each year regardless of market demand. Limiting sales would make virgin pulp more expensive compared to waste paper pulp and would encourage paper companies to manufacture recycled paper instead of virgin paper.

"While the Forest Service encourages excessive timber harvesting, the world's forests are being cut faster than they grow. Tropical forests continue to be decimated partially due to pulpwood demand. Paper products use about 35 % of the world's annual commercial wood harvest and are projected to use 50% by the year 2000.

"The practice of selling timber below cost depletes wildlife habitat and forces continued reliance on virgin materials. Instead of doubling the timber harvest from national forests by the year 2030, as is currently planned, sales should be reduced as long as waste paper is underutilized. Setting aside publicly owned forests for wilderness and park land would assure forest protection and encourage paper manufacturers to buy waste paper.

"Further, recycled paper, because it requires up to 74% less energy than virgin paper production, is an effective way to scale back the pollutants that contribute to acid rain. Acid rain results from fossil fuel combustion, and the paper industry is the single largest industrial user of fuel oil.

"As citizens of the most consumptive nation in the world, we are easily caught up in the materialistic frame of mind where we take wastefulness for granted. Half of the paper consumed in the U.S. is used solely to wrap and decorate consumer products; most of it ends up in the

landfill where packaging constitutes one third of the volume. Considering the fact that packaging costs account for roughly 10% of the price of a bag of groceries, we could be saving money as well as resources by recuding excess packaging.

"To create a sustainable society, we need to implement the 3-R's: Reduce Waste, Reuse, and Recycle."

I look forward to seeing other bills coming out on recycling plastics and glass. Personally, I rarely buy products that are overpackaged or in packages that we can't recycle. I would love to see a bottle bill passed in Alaska!

Thank you for these bills.

Ten Key Components For A Successful Recycled Paper Purchasing Program

- ① **Standard Definition of Recycled Paper**

At a minimum, recycled paper should consist of 40% secondary fiber by weight of the paper, with no mill-generated waste counted as recycled content. Preferably it should also include 10% post-consumer content by weight.
- ② **Mandatory Procurement Price Preference of Not Less Than 10%**
- ③ **Extension of Preferential Procurement Regulations to All Printing Contracts as well as Paper Contracts**
- ④ **Extension of Preferential Procurement Regulations to All Local Governments and State-Funded Institutions**
- ⑤ **Establishment of Minimum 25% Target Procurement Goal, with Record-Keeping to Track Success of Program and Adjust Procurement Policies as Necessary**
- ⑥ **Mill or Vendor Certification of Recycled Content**
- ⑦ **Market Recycled Paper Availability to Users and Publicize Usage**
- ⑧ **Allow Recycled Paper to Bid for the Primary Contract, Not a Supplementary Contract, and Insure that Specifications Do Not Preclude Recycled Paper**
- ⑨ **Award Recycled Procurement Price Preference Item By Item**
- ⑩ **Clarify and Improve General Bid Process: Simplify bids, clarify instructions, allow adequate delivery times, have experts available to answer questions, make results of bidding available next day**

 **Conservatree Paper Company**

Since 1976 . . . The Leader in Quality Recycled Paper

Alaskans for Juneau
P.O. Box 22428
Juneau, AK 99801
463-5065

PETITION ON RECYCLING

We the undersigned believe that the U.S. government and, more specifically, the government of the State of Alaska should develop policies that would encourage, and provide initiatives for the development of the recycling industry within our state and our nation. Also, all communities and cities, because of the diversity throughout our state and nation, should be encouraged to research and establish specific recycling programs for their particular areas.

A viable and efficient recycling program would provide new jobs, add to our economic stability and diversity, encourage new technologies, and begin to establish that we, as Alaskans and U.S. citizens, are serious about our commitment toward ~~the~~ economic ~~development~~ that is compatible with a healthy global environment.

| DATE | NAME (please print) | ADDRESS |
|---------|---------------------------|---|
| 2/14/90 | John Howe | 6087 Thane Rd. 99801 |
| 2/14/90 | David Ford | 3181 Nowell Ave Juneau AK 99801 |
| 2/14/90 | BETHANA F MITCHELL | 3181 NOWELL AV JUNEAU 99801 |
| 2/14/90 | David Sause | 126 W. 7th Juneau AK 99801 |
| 2-14-90 | CRAIG SANE | Box 33271 Juneau AK 99803 |
| 2-14-90 | Carol Youngquist | 995 Mendenhall Penn Rd Juneau 99801 |
| 2-14-90 | CRAIG YOUNGQUIST | 995 Mendenhall Pen Rd Juneau 99801 |
| 2-14-90 | LAURIE FERGUSON CRAIG | 10825 Glacier Hwy / PO Box 33306 / WU 99803 |
| 2/14/90 | Tanis Pohl | PO Box 22314 Juneau AK 99802 |
| 2/14/90 | BILL LEIGHTY | Box 020993 Juneau, AK 99802 |
| | Cliff McArthur | 600 No Douglas Juneau AK |
| 2/14/90 | Danielle McCarthy | 6749 Sherri St. Juneau 99802 |
| 2-14-90 | Shar La Chapelle | 638 Gold St. Juneau 99801 |
| 2-14-90 | Martha Moore | 412 Fastineau Ave Apt 2 Juneau 99801 |
| 2-14-90 | Ellen Z. Ferguson | 7925 N. Douglas Hwy. Juneau 99801 |

Please return to Peregrine School, 4505 Wood Duck Avenue, Juneau AK 99801

HB

482

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 482

Extend Alaska State Fire Commission

Received February 7, 1990

by Rep. Ulmer, Navarre, Ulmer, Grussendorf,
Gruenberg

Heard February 27, 1990

Passed Out of Committee February 27, 1990
5 Do Pass

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- Item 3: Sponsor Statement
- Item 4: Fire Commission Report Excerpts

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 7, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 482

HOUSE BILL NO. 482

EXTEND ALASKA STATE FIRE COMMISSION

"An Act relating to the Alaska State Fire Commission; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [X] fiscal impact HSA
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

David Duley
Wesley ...
...
...
...

| | Do Not Pass | No Rec | Amend |
|-------|-------------|--------|-------|
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |
| _____ | | | |

Wesley ...
Chairman's Signature

Item 2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: _____
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Extend Alaska State Fire
Commission
Sponsor: Koponen
Requestor: Koponen

Agency Affected: Public Safety
BRU: Commissioner's Office
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 37.0 | 37.0 | 37.0 | 37.0 | 0 | 0 |
| TRAVEL | 12.0 | 12.0 | 12.0 | 12.0 | 0 | 0 |
| CONTRACTUAL | 8.4 | 8.4 | 8.4 | 8.4 | 0 | 0 |
| SUPPLIES | 1.1 | 1.1 | 1.1 | 1.1 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 58.5 | 58.5 | 58.5 | 58.5 | 0 | 0 |

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|------|------|------|------|-----|-----|
| GENERAL FUND | 58.5 | 58.5 | 58.5 | 58.5 | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 58.5 | 58.5 | 58.5 | 58.5 | -0- | -0- |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 1 | 1 | 1 | 1 | 0 | 0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

Personnel - Admin Asst 1; Travel & Per diem for 1 meeting, 1 conference, 1 hearing for staff, 9 members and 5 ex officios; Contractual- communications (4.0), printing & advertising (4.0), subscriptions (.4); supplies (1.1).

Prepared by: House State Affairs Phone: 465-4963
Division: _____ Date: Feb 27, 1990

Approved by Commissioner: [Signature] Boucher, Chair Date: Feb 27, 1990
Agency: _____

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

Item 3

Alaska State Legislature Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

S P O N S O R S T A T E M E N T

H B 4 3 2

HB 482 would extend the Alaska State Fire Commission until 1994, rather than allowing it to sunset this year. It does, however, amend AS 44.44.120 to decrease the cost and increase coordination with fire services in Alaska.

Chapter 157, SLA 1980 established a Task Force on Fire Prevention and Control to: 1) identify fire loss problems in Alaska; 2) identify agencies involved in fire protection activities; 3) recommend modifications to improve the state's fire protection system; and 4) provide documentation to assist agencies in meeting their responsibilities. The Task Force was to submit their final report to the governor and legislature by January 1, 1983. This Task Force was not funded for their third year and terminated June 30, 1983.

A second Task Force was established in 1984 with the same objectives and given 120 days to finish their work. The second Task Force issued a report in December, 1984 detailing eight major areas of concern: 1) fire education and public awareness; 2) fire service training; 3) capital projects; 4) arson; 5) code enforcement; 6) emergency medical services; 7) wildlands fire protection; and 8) interagency planning, coordination and consolidation. Within the last category the Task Force recommended creating a State Fire Commission as a broad based policy setting group to provide direction and coordination of all the fire-related programs.

In 1986 the Alaska State Fire Commission was established (AS 44.41.100-.130) to: 1) develop a state master plan for fire prevention and provide coordination for fire-related programs; 2) establish policy guidelines for agencies with fire protection programs; 3) adopt regulations as necessary; 4) make recommendations for fire-related programs; and 5) report to the governor and legislature when requested. There was a fiscal note of \$180,000.00 funded with the bill establishing the Commission. Due to the revenue shortfall during FY 87, Governor Sheffield recommended that the funding for the Commission be eliminated, and the Commission did not begin its activities.

✓ The Fifteenth Legislature attempted to fund the legislation through a separate account into which a tax on fire insurance premiums would be deposited. Although this device is used in most other states, it was not acceptable to the Alaska Legislature, and the responsibility for providing direction and coordination of fire-related programs was not addressed.] X



✓ PB 482 cuts the number of required meetings to one a year (although others may be called in emergency). That meeting is to be coordinated with the annual meeting of the Alaska Fire Chiefs Association. Typically, the Alaska Fire Fighters Association, Fire Insurers, the Insurance Services Organization, municipal officials responsible for fire services and building codes, and etc. all meet at the same time and place or attend one or another of the above mentioned meetings. All members of the proposed Fire Commission should therefore be at the joint conference. Testimony on policy guidelines for fire protection programs, proposed regulations, the state fire protection master plan and all matters falling within the purview of the Commission can be taken up at that time. The Commission can have a short meeting at the close of the conference to make needed policy decisions.

From those proceedings, the single staff member of the commission can, under the direction of the State Fire Marshall, prepare the needed reports to the governor and the legislature. That same staff assistant, will, during the year, maintain contact with the fire and rescue services statewide. Interim meetings of the board for the purpose of discussing regulations, budget and other matters, can be held by teleconference and/or computer network, alleviating the expense and time of travel.

NK.dm

H. INTERAGENCY PLANNING, COORDINATION, AND CONSOLIDATION

~~Interagency use of fire statistics and data can be improved by reducing the delay in processing such data, better data regarding alcohol abuse as the causal factor in fires, combining wildlands and structural fire data, and determining whether the creation of new Fire Service Districts can be done in a manner that prevents islands wherein no fire protection is provided.~~

~~Finally, the Task Force considers one of its most important recommendations among the many made in their report to be the creation of the State Fire Commission which would be a relatively autonomous, broadly based policy setting group to provide overall direction and coordination of the many diverse state fire-related programs, as well as to provide recommendations for local, federal and private fire-related programs.~~

The Commission is needed because no single agency of state government represents all elements of the Fire Service which includes code compliance, plans review, fire training, public fire education, insurance, wildlands fires, aviation and marine firefighting, local fire departments, industrial fire brigades and more. The state agency with the greatest responsibility for fire protection -- the Division of Fire Prevention (the State Fire Marshal) -- has never had funding or staff adequate to meet their responsibilities since statehood, and remains a small agency within the predominantly law enforcement oriented Department of Public Safety. Although additional staff and funding would materially assist the Fire Marshal, the fact remains that a significant number of elements of the Fire Service are outside the purview of any state agency. Those elements of the Fire Service represented by state local programs are administered through decisions made in the context of individual programs and departmental goals rather than with regard to the entire fire service, resulting in little coordination among state fire-related programs, and even less coordination between state programs and federal

agencies, local governments, and private industry. Needed is a policy level body representing all the elements of the fire service at all levels of government and private industry to assure total coordination among all fire-related programs, provide for their direction, provide policies for state level programs and recommendations for better fire protection to federal and local agencies and private industry.

~~The proposed Commission would serve without compensation, have its members chosen by the Governor, with staggered terms, and meet monthly during the formative period and less frequently thereafter. An Executive Director and two or three person staff would be hired to implement Commission decisions, in a manner similar to the existing State Emergency Medical Services Council, and the Police Standards Council, although the proposed State Fire Commission would have a far wider scope of responsibilities, since it would represent all facets of the Fire Service.~~

Providing for the implementation of the State Fire Commission is viewed as the priority recommendation of the many recommendations made by the Task Force, since it is the best mechanism for assuring a greater return from existing dollars spent by state-level fire protection programs, and as a means to assure change in the future resulting in decreased fire losses for Alaska.

* * * *

~~The Task Force has completed its legislatively prescribed responsibility of inquiring into the fire problem in Alaska - which it finds to be the worst in the western world - and has proposed numerous recommendations to improve fire safety in the state, as more completely described in the full report. The 120 days allotted for its job have elapsed. The Task Force can do no more. The responsibility now shifts~~

BY REP. KOPONEN, Navarre, Ulmer, Grussendorf, Gruenberg

1 IN THE HOUSE

2

HOUSE BILL NO. 482

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska State Fire Commission;

7

and providing for an effective date."

8

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

9

* Section 1. AS 44.41.120(c) is amended to read:

10

(c) The commission shall meet annually and shall try to coordi-

11

nate its annual meeting with a meeting of the Alaska Fire Chiefs'

12

Association. The chair, the governor, or three members of the com-

13

mission may call a special meeting.

14

* Sec. 2. AS 44.66.010(a)(13) is amended to read:

15

(13) Alaska State Fire Commission -- June 30, 1994 [1990];

16

* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

*I meeting, coordinated with annual
fire chiefs meeting.*

I state period

subax → future term