

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6676 SENATE STATE AFFAIRS

1080

The square peg in the round hole—the worker whose abilities are not matched to the job. This is the typical employer's nightmare, a situation leading to absenteeism, a low level of production and costly turnover.

Today increased attention is devoted to eliminating this problem. Counseling and testing of students and job applicants help them find the occupations best suited to their individual talents and abilities. It is recognized that every person has certain limitations or relative areas of weakness, but the focus of job placement is on aptitudes or areas of strength. When abilities are matched to the right job, efficiency and performance are the natural result.

Unfortunately there still are many individuals for whom the focus remains directed, not on ability, but on disability. These are the one out of 11 American adults classified by the U.S. Census as "disabled."

Workers Worth Their Hire

Because their limitations or disabilities are highly visible, many may never be given the opportunity to compete on the basis of their abilities. This inequity is a loss, not only to the prospective employee, but to the employer as well. Because of an erroneous first impression, he may be passing up a valuable human resource—someone who could make real contribution to his business.

Most handicapped individuals are well aware that on the job their handicaps cause no problems or only minor difficulty. The real problem for the handicapped is not in holding a job, but in getting the job in the first place.

The otherwise qualified jobseeker who has a visible handicap is working against a number of disadvantages—mostly unfounded myths and misunderstandings which make employers reluctant to hire the handicapped. Among the unfounded marks against the handicapped are these:

- Insurance rates will skyrocket.
- Considerable expense will be involved in making necessary adjustments in the work area.

- Safety records will be jeopardized.
- Other employees will not accept the handicapped.

All these myths have been found to be false assumptions. Assessments of actual on-the-job experience with handicapped workers reveal a picture of average-or-better ratings in those areas which count most with employers: job performance, safety and attendance.

One of the most recent and most extensive surveys of handicapped worker performance was conducted by E. I. Du Pont de Nemours and Company, America's 16th largest employer. This was a fact-finding project for Du Pont, a company of 110,000 employees, which finds hiring mistakes to be extremely costly, just as they are for any employer.

Du Pont's eight-month study gathered data on 1,452 employees with physical handicaps. These included persons with orthopedic problems, blindness, heart disease, vision impairment, amputations, paralysis, epilepsy, hearing impairments and total deafness.

How did the handicapped stack up? Very well. The results were tabulated in seven critical areas and the findings should encourage any employer to review hiring practices concerning the handicapped.

The key findings of the Du Pont study:

1. Insurance: No increase in compensation costs nor lost-time injuries.
2. Physical Adjustments: most handicapped require no special work arrangement.
3. Safety: 96% of handicapped workers rated average-or-better both on and off the job; more than one-half were above average.
4. Special Privileges: A handicapped worker wants to be treated as a regular employee.
5. Job Performance: 91% rated average-or-better.
6. Attendance: 79% rated average-or-better.

The Du Pont study also shows there is very little difference between handicapped and non-handicapped workers as to their ability to work in harmony with supervisors and fellow employees.

In another survey, based on reports from more than 100 large corporations to the U.S. Office of Vocational Rehabilitation, the physically handicapped seem to have the slight edge in job performance, as compared with their able-bodied counterparts.

In assessing productivity, 66% of these employers reported no difference between the handicapped and the able-bodied, while 24% rated the handicapped higher in productivity. Only 10% reported productivity was lower for the handicapped.

Accident rates were reported lower for the handicapped by 57% of the employers, with 41% reporting the same accident rate for both handicapped and able-bodied. Two percent of the employers reported accident rates were higher for the handicapped.

Absenteeism also was lower for the handicapped according to 55% of the corporate reports, while 40% of these employers found no difference in absence rates between the handicapped and the able-bodied. Five percent reported absenteeism higher for the handicapped.

Turnover rates were reported lower for the handicapped in 83% of the cases, with 16% of the employers reporting turnover for both handicapped and able-bodied the same. Only one percent reported turnover higher for the handicapped workers.

Good health and possession of all limbs and faculties will always be an advantage. But it is no longer essential that a worker possess all of these in order to handle a great variety of the jobs available today. The number of jobs requiring an able-bodied person with unimpaired faculties are fast disappearing. The trends toward automation and specialization in industry are to the advantage of the handicapped worker. A highly-trained computer engineer, for example, can show superb performance on the job even though almost totally paralyzed for many years.

Blind workers, their sense of touch often keenly developed to compensate for lack of sight, make superior assemblers, inspectors and sorters.

Cerebral palsy victims have been trained to use precision hand tools. Paraplegics are working very productively on assembly lines, in technical fields and in the professions.

Prosthetic devices often are so skillfully used that amputees now can accomplish virtually any job they performed before their loss.

Of course, not every handicapped worker is a paragon. People with impairments have their share of other human frailties common to all people. But survey after survey shows that handicapped workers have unusually good morale and work attitudes.

Knowledgeable employers who are experienced in hiring the handicapped suggest a five-point personnel approach.

1. Stop thinking of impaired people as "disabled." This description was adopted to soften the word "crippled," but the connotations of "disabled" are even more misleading. They imply across-the-board inability to perform. This is simply not true.

DISABILITY IS NO HANDICAP FOR DU PONT

*** UPDATE ***

*** UPDATE ***

*New study of 2,745 disabled employees
reconfirms that a high majority of disabled achieve
average or better ratings for job performance, safety, and attendance.*

INTRODUCTION

A 1981 study conducted by E. I. duPont and Company reconfirmed its 1973 survey results that the performance of employees with disabilities is equivalent to that of nondisabled co-workers. The title of the survey is "Equal to the Task." The current survey of employees with disabilities was undertaken to update duPont's earlier findings and to provide direction for future hiring and placement. The survey bears out the conclusion that, given the opportunity, disabled employees are indeed equal to the task.

WHY WAS A SURVEY DONE?

E. I. duPont de Nemours and Company is the United States' seventh largest employer. More than 135,000 people wake up each morning--or evening--and report for work at the corporation's installations throughout the country.

For duPont, making a hiring mistake is costly, just as it is for any employer, large or small. At the company's headquarters in Wilmington, Delaware, a small corps of highly trained statistical specialists aid the firm in establishing sensible policies in what is quickly becoming known as "The Great American Manpower Search."

According to James H. Sears, coordinator of industry education activities during duPont's 1973 study, research into the performance of disabled employees has convinced the country's largest chemical firm that disabled persons are both a safe and a good bet for any employer. Sears offers statistical proof of the conclusion in an effort to help dispel long-standing myths which are often held in the business world.

MYTHS IN THE MARKETPLACE

The best way to examine this survey is to first examine the current business market-place myths which surround the hiring of disabled persons. Many employers still believe the following to be true:

1. Insurance rates will skyrocket when you hire the disabled;

2. Considerable expense will be involved in making the necessary adjustments at the place of work;
3. Safety reports will be jeopardized;
4. Special privileges will have to be granted to the disabled;
5. Other employees will not accept the disabled.

According to a duPont executive, "Every one of these reasons for not considering the disabled person is not only a myth--but has been proven through experience to hold no semblance of fact whatsoever."

Regarding insurance, duPont claims it has had no increase in compensation costs as a result of hiring the disabled, and no lost-time injuries of the disabled have been experienced. Studies have been cited by the U.S. Chamber of Commerce and the National Association of Manufacturers showing that 90 percent of 279 companies surveyed reported no effect on insurance costs as a result of hiring disabled employees.

Regarding physical adjustments in the work place, most companies report minimum adjustment, such as a lowered work bench or an entrance ramp. Most disabled employees require no special work arrangements whatsoever.

Regarding the question of safety, duPont pointed out that in 1973 it received the National Safety Council's Award of Honor for the 27th time. The company study showed that 96 percent of its disabled employees rated average or better in the area of safety both on and off the job.

Regarding the myth that special privileges create antagonism among other employees was also easily dispelled by the duPont survey. "The disabled person wants to be treated as a normal employee," said Mr. Sears. Persons in wheelchairs often cannot push their chairs long distances and need wider parking spaces to transfer from their cars. Fellow employees do not consider a parking spot near the plant entrance to be a misuse of executive privilege. Under the circumstances, they would expect the same treatment.

HOW WAS THE SURVEY DONE?

Regarding the value of hiring the disabled, duPont's initial conclusions were based upon their 1973 study which examined the job performance, safety records, and attendance of 1,452 company employees whose physical conditions may have prevented them from doing what nonimpaired workers could do.

Since the 1973 survey, duPont's disabled population increased 89 percent, from 1,452 to 2,745 employees. By comparison, in the same period, the total number of duPont employees in the United States increased 13 percent, from 111,000 to 135,000. All disabled employees who worked for duPont were not selected to be tracked by this newest study. They were not involved in the study if they chose not to participate or if they had not identified themselves to management as being disabled.

For the 1981 study, supervisors were asked to rate disabled employees in safety, performance of job duties, and attendance. Disabled employees maintained their high standard of safety and improved their already good records in performance of job duties and attendance.

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For this newest survey, duPont adopted the definition of "handicapped" described in the Federal Rehabilitation Act of 1973. According to this law, a "handicapped" person is anyone who has a physical or mental impairment which substantially limits one or more of his major life activities, including employment. duPont worked within the boundaries of this definition, with the assumption that the degree of each specific disability was severe enough to create a substantial handicap in securing, retaining, or advancing in employment. The survey uses 11 disability categories to specify the types of impairment of each employee participating in the study.

At duPont, disabled employees are engaged in a wide range of occupations. Craftsmen comprise the largest segment, followed by professionals, technical and managerial, operators, and office and clerical workers. The remaining employees are divided between service workers and laborers.

WHAT WERE THE FINAL RESULTS?

The 1981 survey confirms what duPont supervisors already knew: like their nonimpaired co-workers, disabled employees are safe, productive, and dependable.

Regarding safety, disabled employees maintained the high standard recorded in 1973, with 96 percent rated average or above average, compared with 92 percent for nonimpaired employees.

Regarding the performance of job duties, the disabled improved their rating slightly, from 91 to 92 percent average or above, compared with 91 percent for nonimpaired employees. Furthermore, the duPont study revealed that there seems to be a direct correlation between the job performance of the disabled and the severity of their impairment. Amputees, blind persons, paraplegics, and epileptics, said Sears, were at the top of the job performance list.

Regarding attendance, insignificant improvement was noted in this area. Those rated average or above went up from 79 percent in 1973 to 85 percent in 1981, compared to 91 percent for nonimpaired employees.

Regarding job stability or turnover, 93 percent of the disabled workers rated average or better than the group at large, based upon findings of an earlier survey.

Regarding other information, about one-third of those studied were physically disabled when hired. The remaining two-thirds became disabled after they had been employed. (Ninety-one percent were injured during off-duty hours, with 9 percent injured on the job.) Sears noted that those hired with disabilities (including all of the disabled Vietnam veterans) showed a higher degree of motivation toward good safety, attendance, and job performance than did those who became handicapped subsequent to hiring. The study also revealed that the nature of the specific handicap had no bearing on the level of safety, attendance, or performance.

CONCLUSION

In summarizing this survey, Edward G. Jefferson, Chairman of duPont, stated: "I'm pleased with the findings of the 1981 survey. The results confirm what we already knew from direct, personal experience--that persons with disabilities are an important human resource. In my judgement, all employers would serve

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society and themselves by providing increased opportunities for disabled individuals to achieve their potential as self-sufficient, contributing members of the work place and the community." As previously stated by James Sears, ". . . the utilization of the abilities of the disabled is good business."

For a free written copy of tape of the result of the survey, "Equal to the Task," write:

E. I. duPont de Nemours and Company
Public Affairs Department
8084 duPont Building
Wilmington, DE 19898



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Sacramento CA 94280-0001
(916) 323-2545 (Voice or TDD)*

HOLD SSSB 394 —

WEDNESDAY

Vendor

KELLY: Cost Shifting

Pat Young: O fiscal note

KELLY: setting precedent to access
group health insurance.

PAT: cheaper approach

Pat Young: Program receipts — trying to
make better use

Admin: Check Fiscal NOTE
GET INFO FROM PAT YOUNG

SJR 63

ADOPT CS:

S B

395

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER *SB 395*

SPONSOR *Coghill*

BILL TITLE *Hold harmless provisions of PFD*

DATE REFERRED *1.19.90*

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

Senator John B. (Jack) Coghill

Alaska State Legislature

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Juneau, Alaska 99811
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Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

DATE: February 28, 1990

TO: Senator Pat Pourchot, Chair
Senate State Affairs Committee

FROM: Senator Jack Coghill

SUBJECT: Senate Bill 395 Sponsor Statement

BILL SUMMARY: Senate Bill 395, "An Act relating to the hold harmless provisions of the permanent fund dividend program; and providing for an effective date" is a piece of legislation which addresses the deductions that were taken from the permanent fund dividend last year.

FISCAL IMPACT: We have not yet received a fiscal note from the Department of Revenue as of today, February 28, 1990. However, we don't anticipate a fiscal impact.

ABOUT THE BILL: Senate Bill 395 would prohibit the Department of Revenue from applying deductions against each check on the hold harmless provisions. It establishes very clearly that the only deduction will be the cost of administering the permanent fund dividend program.

The legislature intends to fund the costs of the hold harmless provisions through sources other than the dividend fund. A possible source could be provided by setting up a separate account within the earnings reserve portion of the permanent fund. This would eliminate the need to legislatively fund the program each year, and it would not reduce the dividend check. Another alternative would be through the general fund.

" DIVIDEND INCREASE BILL "

SECTION ANALYSIS

SECTION 1;

States that the legislature intends to fund hold harmless, but rather than have it come from dividend checks it will be funded from some other source.

SECTION 2;

Eliminates statutory references to hold harmless from the (disclosure) requirements placed on Dept. of Revenue, since this bill would eliminate the dividend check deduction.

Also eliminates the need for the Dept. to show admin. costs since they no longer will be incurring these costs.

SECTIONS 3 & 4 ;

Makes it clear that future hold harmless benefits are contingent on the funding provided by the legislature.

Note: In conferring with Legal Services it was brought out that on-going funding could be provided by setting up a separate account within the earnings reserve portion of the permanent fund. This would eliminate the need to legislatively fund the program each year, and it would not reduce the dividend check. The other alternative of course would be the general fund.

POSITION PAPER

Senate Bill No. 395

"An act relating to the hold harmless provision of the permanent fund dividend program; and providing for an effective date."

Background

This legislation would change the current statutes for the Permanent Fund dividend (PFD) program to discontinue the practice of making appropriations from the permanent fund to pay for the hold harmless provisions of the dividend program. The hold harmless provisions protect the federally-funded cash and medical assistance benefits of public assistance recipients who would otherwise be denied benefits as a result of receiving Permanent Fund dividends. The bill would require that appropriations for the costs of administration and of benefit payments for the PFD hold harmless program be made from a source other than the dividend account, and that recipients' entitlements to benefits be subject to the amount appropriated. Not addressed in the legislation is the issue of what the new funding source for the hold harmless program might be - the general fund, or some other source.

Discussion

This proposed change in the law provides for continuation of the existing hold harmless program, simply requiring that the program be paid for by a source other than the dividend fund. We wish to point out that any move to appropriate less than the full amount needed to continue operation of the hold harmless program would have serious consequences for public assistance recipients and for the Department's ability to effectively administer public assistance programs. There is no provision in law or regulation that establishes a means or an amount by which hold harmless entitlement payments would be reduced or ended if the available funding were depleted.

The PFD hold harmless program was put into place at the same time as the provisions which enabled the initial, FY 82 dividend distribution. The Legislature saw fit to create the program because it recognized that, without the protection afforded by the hold harmless program, Alaskans at the lowest economic stratum stood to benefit least from the dividend program, a program intended to benefit all Alaskans, not merely those who are fortunate enough to not require the help of needs-based assistance programs.

Without hold harmless coverage, many public assistance recipients would suffer temporary ineligibility, or a dollar-for-dollar reduction in their assistance benefits, as a result of their receipt of their dividend checks. Some clients with substantial medical needs would lose eligibility for Medicaid and would actually be disadvantaged by receiving dividend payments. Individuals rendered ineligible for Medicaid as a result of receiving a dividend could suffer financial and personal costs far out of proportion to the amount of the dividend payment--might, in fact, lose

access to needed medical services for which they do not have the resources to pay. We believe that the original reasons for the hold harmless program are as valid today as they were when the program was enacted.

Elimination of PFD hold harmless payments would not only disadvantage our public assistance clients, as we have discussed above; an end to hold harmless coverage would also have serious negative impacts on the Department's administration of its federally-funded public assistance programs. These impacts would tend to drive up administrative costs, increase the state's potential liability for federally-funded programs, and disrupt the delivery of benefits to our eligible clients.

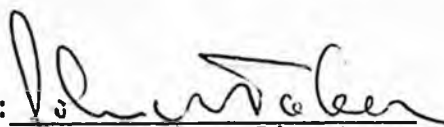
The existence of the PFD hold harmless program serves to mitigate the potential negative impact of the dividend distribution on the workload of public assistance caseworkers because, through two highly innovative special agreements with the federal Aid to Families with Dependent Children and Supplemental Security Income agencies, a system of program administration has been developed which has little adverse effect on the accuracy or the timeliness of benefit delivery during the annual dividend distribution period. Such agreements would be invalidated in the event of either a repeal of hold harmless coverage or its underfunding.

We cannot overemphasize the importance of timely, accurate benefit delivery to our public assistance caseload. This is a group which depends on these programs for its most basic needs: food, shelter, clothing, and medical benefits. In addition to the humane reasons for a prompt response to requests for assistance, the state is required to adhere to strict federal requirements for benefit processing timeframes. Division of Public Assistance staff are already hard-pressed to meet these timeframes, due to permanently high levels of application volume and still escalating overall caseloads.

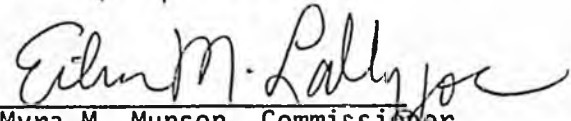
If the hold harmless provision were not available, every public assistance program case some 30,000 in all, affecting more than 40,000 Alaskans, would be potentially susceptible to being closed for at least one month, all during the three-month PFD distribution cycle. Thousands of families would be forced back through the arduous, federally-mandated application process. All would require a blizzard of formal, written notices of the actions being taken on their cases and their related appeal rights. Hundreds would demand hearings to express their frustration and disagreement with the termination or suspension of their benefits. Tight, federally-mandated processing requirements apply to these hearings, as well. The already overloaded eligibility determination process would collapse under the weight of these tens of thousands of additional, time-limited transactions, leaving a large percentage of the 40,000 eligible recipients without benefits for months after the distribution cycle. The only alternatives would be to restore the hold-harmless or to add scores of new eligibility workers to handle the crush of activity.

In the face of a termination of the federal agreements, the accuracy of eligibility decisions could be maintained only if additional staff were available to absorb the increased workload while continuing to issue benefits to eligible recipients in a timely manner. Any deterioration in the accuracy of case processing has a high potential cost to the state: federal fiscal sanctions are imposed whenever AFDC, Food Stamps, or Medicaid Quality Control error rates exceed congressionally mandated limits. The hold harmless program is among the key ingredients in Alaska's successful formula to bring down Quality Control error rates and maintain them within limits.

Recommendation: The Department of Health and Social Services neither supports nor opposes this legislation, except to the degree that it permits any reduction in the current entitlement to full replacement of benefits lost due to receipt of the Permanent Fund Dividend, whether explicitly or by underfunding. The Department does support the continued full funding of the Permanent Fund dividend hold harmless program, whatever the source of the funding. Thus, we recommend deletion of the new language at page 2, lines 24 and 25 and page 3, lines 6 and 7.

Recommended by: 
John R. Taber, Director
Division of Public Assistance

Date: 2/28/90

Approved by: 
Myra M. Munson, Commissioner
Department of Health &
Social Services

Date: 2-28-90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to the hold
harmless program
Sponsor: Coghill
Requestor: _____

Agency Affected: Health & Social Services
BRU: Perm. Fund Dividend Hold
Harmless
Components: PFD Hold Harmless

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	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	12336.5	12336.5	12336.5	12336.5	12336.5	12336.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER PFD Fund	12336.5)	(12336.5)	(12336.5)	12336.5)	(12336.5)	(12336.5)
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact. SB No. 395 changes the current funding source of the PFD Hold Harmless program from PFD fund to other sources. All Hold Harmless program provisions remain without change.

Prepared by: John R. Taber

Phone: 465-3347

Division: Public Assistance

Date: 2/23/90

Approved by Commissioner: [Signature]

Date: 2-28-90

Agency: Health & Social Services

Distribution (by preparer):

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

SB No. 395
Fiscal Note
Page 2

Department of Health and Social Services
Division of Public Assistance

The PFD hold harmless program budget is impacted by caseload changes, the dividend amount, federal rules and PA benefit levels under the AFDC, Food Stamps, Adult Public Assistance, Social Security Income, and Medicaid programs. This fiscal note does not include possible changes in future funding need above the FY 91 budgeted level. Whatever impact these factors will have across the various public assistance programs, we expect that the fiscal year cost of the hold harmless program will remain below 3% of the total cost of the PFD program.

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to the Hold Harmless provisions of the PFD program
Sponsor: COGHILL
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: The Department of Revenue takes no position as to how the Hold Harmless provisions of AS 43.23.075 should be funded. From 1982 until 1985, these costs were funded by the General Fund. From 1985 through 1989, they were funded by the dividend fund. If the funding were changed, it would, of course, result in a larger per capita dividend, approximately \$22. There would be no administrative effect on the permanent fund dividend program.

Prepared By: Ervin Jones Phone: 465-2323
Division: Permanent Fund Dividend Division Date: February 28, 1990

Approved by Commissioner: Hugh Malone for Date: 2/28/90
Agency: Revenue

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

S B

399

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 399

SPONSOR Governor

BILL TITLE Approving leases for Dept. of Admin

DATE REFERRED 1.23.90

HEARING SCHEDULED 3.28.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED ✓

INTERESTED PARTIES CONTACTED

Admin: 2200... Bob Link... Director of Gen. Services

OTHER

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 399

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act approving leases of office space by the
7 Department of Administration; and providing for an
8 effective date."

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

10 * Section 1. LEASE APPROVAL. (a) As provided in AS 36.30.080(c), the
11 legislature approves the Department of Administration's execution of the
12 following leases of office space in the locations specified, the annual
13 rent for each of which may exceed \$1,000,000:

14 Lease No. 1532

Anchorage *Law offices: Paterson Towers*

15 Lease No. 1445

Anchorage *Labor: 33rd/EAGLE*

16 Lease No. 1627

Juneau *GOLDBELT BLDG*

17 (b) The approval granted in (a) of this section applies to the
18 exercise of an option to renew the lease for an additional term or to a new
19 lease for the same requirement obtained after soliciting bids in compliance
20 with the state procurement code (AS 36.30).

21 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Departments of Administration, Education, Law, and Labor
 Title: An Act approving leases of office space by the DOA, and providing an effective date BRU: Leasing and Facilities
 Sponsor: Rules Committee Components: Leases
 Requestor: Governor

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

There are no FY 90 costs associated with this Bill. The intent is to offer voluntary compliance with AS 36.30.080(c); there will be no fiscal impact.

See Attached

Prepared by: Robert J. Link *Robert J. Link* Phone: (907) 465-2250
 Division: General Services and Supply *(initials)* Date: 1/29/90
 Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 1/29/90
 Agency: Department of Administration

Distribution (by preparer):

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

ANALYSIS: (Continued)

In compliance with AS 36.30.080(c) which states in part ". . . If the Department [Administration] intends to enter into a lease . . . with an annual rent to the State anticipated to exceed \$1,000,000, the Department shall provide notice to the Legislature." ". . . notice must include . . . anticipated annual lease obligation amount . . . total construction, acquisition . . . other costs of the project."

The following leases are expiring and will require that formal bids be issued in FY 91 for replacement space:

<u>Lease No.</u>	<u>Department</u>	<u>Location</u>	<u>Annual Cost Anticipated</u>
1532	Law	Anchorage	To exceed \$1,000,000
1627	Education	Juneau	To exceed \$1,000,000
1445	Labor	Anchorage	To exceed \$1,000,000

1.81
~~1.81~~ *2.05*
1.47

The cost of each new lease may exceed \$1,000,000.

Anticipated cost of acquisition \$0.0
 Anticipated cost of construction \$0.0
 Anticipated other costs of projects \$0.0

No acquisition, construction, or other project costs are anticipated. These are strictly continuation of operating leases. The cost of operations will be borne by the lessors.

There are no additional costs associated with this bill. Agencies must be housed in appropriate space that will allow them to carry out their appointed missions as required by statute, regulation, or public policy.

go0280sE
Bannister
4/6/90

SA CHANGES
HIGHLIGHTED

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 399 (State Affairs)

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 certain leases of the Department
7 of Administration; and providing for an effective
8 date."

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

10 * Section 1. AS 36.30.080(c) is amended to read:

11 (c) If the department intends to enter into or renew a lease or
12 lease-financing agreement with an annual rent to the state anticipated
13 to exceed \$1,000,000, the department shall provide notice to the
14 legislature. The notice must include the anticipated annual lease
15 obligation amount and the anticipated total construction, acquisition,
16 or other costs of the project. The department may not enter into or
17 renew an agreement under this subsection unless the project has been
18 approved by the legislature by law. An appropriation for the project
19 does not constitute approval of the project for purposes of this
20 subsection. The department may not enter into an agreement under this
21 subsection if an optional renewal period allowed under the agreement
22 exceeds two years.

23 * Sec. 2. LEASE APPROVAL. (a) As provided in AS 36.30.080(c), the
24 legislature approves the Department of Administration's execution of the
25 following leases of office space in the locations specified, the annual
26 rent for each of which may exceed \$1,000,000:

- 27 Lease No. 1532 Anchorage
- 28 Lease No. 1445 Anchorage
- 29 Lease No. 1627 Juneau

1 (b) The approval granted in (a) of this section applies to

2 (1) the exercise of an option to renew an existing lease for one
3 additional term; or

4 (2) a new lease that is obtained after soliciting bids in com-
5 pliance with the State Procurement Code (AS 36.30) and that is entered into
6 on or after the effective date of this Act.

7 (c) A new lease that is approved under (a) of this section may not
8 contain an optional renewal period that exceeds two years.

9 * Sec. 3. AS 36.30.080(c), as amended by sec. 1 of this Act, applies to
10 an agreement that is entered into on or after the effective date of this
11 Act, and does not apply to a lease or to the renewal of a lease if the
12 lease is in existence on the effective date of this Act.

13 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).
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LEASES BY EXPIRATION DATE

*last time
revised*

Lease No.	Lease	Location	Department	Cost per Month	Sq. Ft. or Other Unit	Cost per Unit	CO	Review	Adjust	Expires	Renewal Options	Extended Exp. Date
1538	RESOLUTION TOWER	ANCHORAGE	LAW	85,381.47 J	47,122	1.8119	DK	1992-05-24	1993-01-01	1993-09-24	1 2 -yr.	1992-09-24
1445	BLOMFIELD COMPANY, THE	ANCHORAGE	LABOR	56,539.30 J	48,640	1.1624	DK	1990-06-14	1987-07-01	1990-10-14	5 2 -yr.	2000-10-14
1627	MULTI-EMPLOYER PROP TRUST	JUNEAU	EDUCATION	91,982.45 J	40,899	2.2493	MRT	1992-02-28	1992-07-01	1992-06-30	0 0 -yr.	1992-06-30

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill approving certain leases of office space made by the Department of Administration. The approval is required by AS 36.30.080(c).

I have serious reservations about the validity of the provisions of AS 36.30.080(c) -- specifically, the provision that requires legislative approval of leases costing the state more than \$1,000,000 annually. That portion of the procurement code states that the approval must take the form of a general law rather than an appropriation. I agree that the legislature has the power to appropriate whatever amount it considers proper for the leasing of state office space. However, it violates the separation-of-powers doctrine for the legislature to retain a power of approval over individual leases. By doing this, the legislature could veto leasing decisions made by the Department of Administration. In effect, the legislature would be executing the law.

Out of respect for a coordinate branch of state government, I am introducing this bill so that the legislature is fully informed of all aspects of the leasing program. However, if appropriations are sufficient, I intend to direct the Department of Administration to execute the leases when they expire or when they are awarded. I hope that this bill will generate healthy discussion and constructive solutions to the state's need for adequate and economical office space for its agencies.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

SB 399, An Act approving lease by DOA March 28, 1990

Teleconference. . nobody may be on line for this.

TO TESTIFY;

Bob Link, Division of General Services

NOTES:

1. See Governor's letter, he is just going to execute the leases regardless of what you do with this bill.

S B

404

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 404

SPONSOR Fischer

BILL TITLE Exempting certain contractors and electricians

DATE REFERRED

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

P H O N E M E S S A G E	TO	Pat	DATE	7/1	TIME	2:35	AM							
	FROM	George Martin	AREA CODE				PM							
	OF	Communications Ak	NO.											
		(Electric)	EXT.											
	Strongly supports SB 404. Hopes you will support & expedite hearings & passage													
					SIGNED									
	PHONED	<input checked="" type="checkbox"/>	CALL BACK	<input type="checkbox"/>	RETURNED CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>	W/S IN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>

SB 404:

2.13.95

Michael Ishihara
Executone of AK
6927 Old. Seward Hwy

349-1176

99518

Supports: because requirements
are not equal - Everyone
should be exempt from having
to have elec. administrator,
if competing

S B

405

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 405

SPONSOR Kelly

BILL TITLE Approp. 5.6 mil to Kawai Congregate Housing

DATE REFERRED 1-25-90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

March 28, 1990

SB 405, \$5.6 million special appropriation to City Of Kenai for Congregate Housing.

TELECONFERENCE; Anchorage LIO, Kenai LIO, Senior Citizen Home: Kenai, Homer Senior Citizen Home, Chugiak Senior Citizen Home and Nome LIO.

TO TESTIFY;

Senator Fischer
Public Testimony

NOTES:

1. "Swackhammer" is upset that Fischer introduced this bill, apparently he's been having to defend himself against "it" all session. **according to Tom Wright*
2. Breaks down to \$140,000 per unit.
3. Sandy confirmed that Fischer just wants a "hearing" on the bill, not expecting any movement.



1791 - 1991

CITY OF KENAI
"Oil Capital of Alaska"

210 FIDALGO KENAI, ALASKA 99611
TELEPHONE 283 - 7535
FAX 907-283-3014

March 28, 1990

Honorable Pat Pourchot
Alaska State Senate
Box V
Juneau, AK 99811

Dear Senator Pourchot:

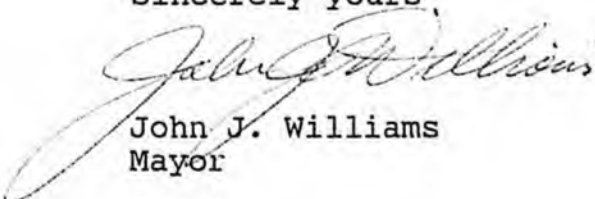
May I take this opportunity on behalf of the City of Kenai and the City Council to thank you for your support and for your action in passing our Congregate Housing bill on to the Finance Committee.

It is with a great deal of pleasure that I will be able to pass this information on to the City Council and I am sure that each and every one of them is as appreciative as I am.

You may rest assured that should this project become a reality, it will serve as an example of how the State's money can truly be invested for future generations to use.

Once again, on behalf of all of us, we thank you.

Sincerely yours,


John J. Williams
Mayor

JJW:jr

WHAT IS CONGREGATE HOUSING?

As defined in the State of Alaska Senior Housing Report prepared by the Older Alaskans Commission, January 1989, Congregate Living is:

"large group-living facility, with meals and some on-site supportive services, operated by a non-profit housing authority or private developer...fills a gap between independent living and nursing care; basic services prolong tenants' ability to maintain a semi-independent lifestyle."

Proposed in the "Feasibility and Schematic Design for a Congregate Housing Facility for the City of Kenai, Alaska," a 40 unit apartment house will be built adjacent to the Kenai Senior Citizens Center with a covered walkway connecting the two buildings on land donated by the City of Kenai. A hot meal will be served seven days a week.

Unlike low income housing, Congregate Housing as proposed for this project would provide housing for the frail and elderly WITHOUT government occupancy restrictions. Seniors who would normally enter a Pioneer Home if one were available in the area would have an alternative presently denied.

This project would address the very real need for middle-income and residential care facilities and provides the necessary alternatives to independent living and nursing care. It allows Seniors INDEPENDENCE WITHOUT INSECURITY.

A one-time State grant of approximately \$5.7 million would cover all construction costs. It is expected that rents would cover all operating costs and the project would not be a continuing burden to the taxpayers. Similar to the senior housing facilities built and operating in Chugiak and Homer, a State grant would establish a Congregate Housing facility for the Kenai Peninsula.

WHY FUNDING CONSTRUCTION WITH A STATE GRANT?

The Senior Housing Report prepared by the Older Alaskans Commission in January, 1989 summed up the conflict faced by Seniors who are seeking residential facilities without occupancy restrictions:

"No one is aggressively pursuing the middle-income senior housing market, and that creates a problem for those seniors who desire such housing. Alaska is a small market by national standards and private developers are hesitant to build an unsubsidized middle-income project here -- large enough to be profitable for the developer yet small enough to fit Alaska's limited demand. There also is the possibility that if an unsubsidized residential facility for middle-income seniors were constructed, the market-value rents might be too high for some seniors on a marginal middle income."

There also exists a precedent as the Chugiak and Homer senior housing facilities were built with State grants and maintain reasonable rents with a waiting list of Seniors desiring affordable housing.

As a State grant for \$5.7 million would cover construction of a 40 unit facility, the "Feasibility and Schematic Design for a Congregate Living Facility for the City of Kenai, Alaska" reveals that a 40 unit facility shows a "better relationship between revenues and expenses...the current and future needs demand for congregate housing would be met." Eliminating the added burden of debt retirement (as a loan would require) the rents can remain reasonable and the facility can maintain itself WITHOUT continuing State support.

WHY KENAI?

- * The City of Kenai has made the Congregate Housing Project its top legislative priority.
- * The City of Kenai has graciously donated the site as well as the water, sewer, and road facilities for the proposed Congregate Housing project adjacent to the Kenai Senior Citizens Center.
- * Pioneer Homes are located almost everywhere in Alaska EXCEPT the Kenai Peninsula, yet of the four largest boroughs in the State (Anchorage, Fairbanks North Star, Mat-Su, and the Kenai Peninsula) the Kenai Peninsula Borough has the largest percentage of seniors in relation to total population - and the Senior population is growing!
- * The proposed location is within walking distance of medical facilities, grocery and drug stores, City library, shopping areas, recreation complex, and municipal airport services.
- * The Congregate Housing facility will be built adjacent to the Kenai Senior Center providing access to recreational facilities, small library, sewing room, large kitchen facilities, and most importantly a great social atmosphere. Duplication of services and sense of community will not occur.
- * The State of Alaska has already funded a \$161,500 grant to the City of Kenai for the purpose of compiling a feasibility study which indicated the serious need on the Kenai Peninsula for housing of this nature and the City of Kenai was the most appropriate place to locate this facility.

COST

April 1988

The original cost based on the schematic design was prepared by architect Carmen Gintoli in 1988. As published in the "Feasibility and Schematic Design for a Congregate Housing Facility for the City of Kenai, Alaska," the total project cost was summed up as follows:

Main Structure	40,000 sq.ft. x \$125/ sq.ft.	= \$ 5,000,000
Addition to Senior Center Dining Room -		
	1250 sq.ft. x \$125/sq.ft.	= 156,250
Site Development		
Paving	16,100 sq.ft. x \$5	= 80,500
Landscaping	1 job	= 20,000
Water & Sewer Lines	150 lin.ft. x \$40 each	= 12,000
Re-route water & sewer mains (assumed)		
	400 lin.ft. x \$50 each	= 40,000
Furnishings & Equipment, i.e.:		
Laundry equipment, Adult Day Care, office commons, conference room, etc.		= 40,000
Sub Total		= <u>\$5,348,750</u>
Architectural and Engineering Fees		= <u>425,000</u>
		5,773,750
Project Contingency @10%		= <u>577,375</u>
TOTAL PROJECT COST		= <u>\$6,351,125</u>

ROUNDED COST = \$6,400,000

June 1989

In an effort to re-assess and reduce the proposed cost of the project, dedicated volunteers called upon the expertise of Kenai brown, Public Works Director, Kenai Peninsula Borough; Keith Kornelis, public Works Director, City of Kenai; and Bill Kluge, of Kluge and Associates Architects and Planners. While various cost-saving techniques were discussed, significant cuts came when current production/labor costs were factored in and it was agreed that budgeted costs and a modification of building design would be implemented. The addition to the Senior Center dining room would be deleted as well, and the total proposed cost was reduced by approximately \$700,000 and the most recent proposed cost analysis follows:

PROPOSED COST ANALYSIS

Main Structure	40,000 sq.ft. x \$115/sq.ft.	= \$4,600,000
Site Development		
Paving	16,000 sq.ft. x \$2.50/sq.ft.	= 40,000
Landscaping	1 job	= 20,000
Water & sewer lines	150 lin.ft. x \$40 each	= 12,000
Re-route water & sewer mains (assumed)	400 lin.ft. x \$50 each	= 40,000
Furnishings & Equipment, i.e.:		
Laundry equipment, Adult Day Care, office commons, conference room, etc.		= 40,000
Sub Total		= <u>\$4,752,000</u>
Architectural & Engineering Fees		= 381,200
		<u>5,133,200</u>
Project Contingency 10%		= 513,320
TOTAL PROJECT COST		= <u>\$5,646,520</u>

ROUNDED COST = \$5,700,000

CITY OF KENAI
 CONGREGATE HOUSING PROJECT
 ECONOMIC IMPACT PROJECTIONS

As with any project where City and State money is being used, a financial impact model should be constructed. The following represents what is considered by the writer to be a fair assessment of the positive financial impact that will occur to the City of Kenai as a result of the construction of 40 units of elderly congregate as proposed by the City of Kenai to the State of Alaska. Considerations are given to the following areas and are considered to be conservative in nature.

1. Sales tax impact to City and Borough
2. Economic impact to the local area
3. Number of jobs created as a result

SALES TAX IMPACT

Forty units of housing rented under the proposal will generate \$192,000 in rental income per year at \$400 per month per unit. All rentals are taxed at 5% with 2% going to the Borough and 3% to the City. The following represents the "first impact" of those funds.

	\$192,000.00
	x .05
	<u>9,600.00</u>
60% City	5,760.00
40% Borough	<u>3,840.00</u>
	\$ 9,600.00

Since the \$192,000 in rental income will in all likelihood be spent within the local economy on such things as utilities, maintenance, and services, the roll over impact at a conservative estimate of three times will bring a secondary sales tax effect represented as follows:

	\$ 9,600.00
	x 3
	<u>28,800.00</u>
60% City	17,280.00
40% Borough	<u>11,520.00</u>
	\$ 28,800.00

Thus the sales tax effect from the rentals alone, using the three times multiplier will be:

	\$ 9,600.00
	+ 28,800.00
	<u>\$ 38,400.00</u>
60% City	23,040.00
40% Borough	<u>15,360.00</u>
	\$ 38,400.00

ECONOMIC IMPACT TO LOCAL AREA

With the addition of 40 units of senior housing, the community benefits from the same effect as having 60 new jobs brought into the economy. The 60 figure is based on the assumption that one half of the units will be occupied by singles and one half will be occupied by married couples. Additionally, at least 30 of the residents will have additional pension money from retirement accounts other than social security. All of the residents will have spendable income on an annual basis calculated as follows:

30 RESIDENTS, ANNUAL MINIMAL INCOME

Longevity Bonus	\$	3,000.00
Permanent Fund		900.00
Social Security		<u>7,200.00</u>
		11,100.00

30 Residents	x	30
		<u>\$330,000.00</u>

30 RESIDENTS WITH HIGHER INCOME

Social Security	\$	7,200.00
Longevity Bonus		3,000.00
Permanent Fund		900.00
Add. Retirement		<u>7,200.00</u>
		18,300.00

30 residents	x	30
		<u>\$549,000.00</u>

Total all spendable income		330,000.00
		<u>549,000.00</u>
		879,000.00
Less rent paid to unit	-	<u>192,000.00</u>
Net spendable income		<u>\$ 687,000.00</u>

Given once again, a conservative economic roll of three times through the economy we can show a real value to the economy with the above figure of:

\$	687,000.00
	<u>x 3</u>
	\$2,061,000.00

The secondary take on sales tax from the total spendable package then can be seen as:

	\$2,061,000.00
	<u>x .05</u>
	103,050.00
60% City	61,830.00
40% Borough	<u>41,220.00</u>
	\$ 103,050.00

In recapping the above figures, we find that the local economy should benefit in a total of \$2,253,000 (including original rents paid), the City of Kenai should receive \$67,590 sales tax and the Kenai Peninsula Borough should receive \$45,060 as their share of sales tax.

NUMBER OF JOBS CREATED IN LOCAL AREA

Assuming that 40% of the \$2,253,000 would be spent on wages and 60% on the wholesale merchandise that will create the wages we find the following jobs created based on \$30,000 gross per job created per year.

	\$2,253,000.00
	<u>40%</u>
	901,200.00
Divided by	<u>30,000.00</u>
Jobs created	30

One can see by the economic model that there are several variables. One being the rental factor of the project, another being the income of the senior citizens, and third being the roll over factor of the local economy, (three being conservative and five being to liberal in the writer's estimation) a fourth being the amount allowed for wages versus materials (60/40), and finally, the amount assigned to the value per job, (\$30,000.00). It has often been said that "what we need is more one handed economists so that they can't say, on one hand, but then on the other hand". I trust that the reader will find the foregoing helpful in the decision making process as it relates to the Kenai Senior Citizens Congregate Housing Project.

SUMMARY
ECONOMIC MODEL
SENIOR CITIZEN CONGREGATE HOUSING

1.	Total cost of project	\$5,700,000
2.	Annual economic impact	2,253,000
3.	Sales tax to City	67,590
4.	Sales tax to Borough	45,060
5.	Jobs created in the local economy at \$30,000 each	30

MODEL PRODUCED BY:
JOHN J. WILLIAMS
MAYOR, CITY OF KENAI

HISTORY

January 1983

The need for a Pioneer Home is discussed and local physicians write letters confirming the Seniors request. Letters to legislators follow.

Later in the year the current Kenai Senior Citizens Center was completed, and it was hailed as a "much-needed social outlet for those living in the (proposed) Pioneer Home."

1984

State appropriates monies for a study by Laventhol and Horwath to determine the need of a Pioneer Home for the Kenai Peninsula. The study indicates that the Pioneer Home should be built in Kenai and provide at least 56 beds of which 26 would be residential beds and 30 would be intermediate and skilled nursing beds. "Current demand for the facility would support 56 beds .. suitable site at a location central to the eligible population and accessible to supporting services."

1985

House Bill 52 was introduced which would provide for a Pioneer Home in Kenai at the cost of \$10.2 million.

Seniors organized a letter writing campaign to urge legislators to pass HB 52.

1986

While HB 52 would not pass this session, Senator Fischer obtained funds for a feasibility and schematic design for a Congregate Housing Study which would be conducted by the Lutheran Hospitals and Homes Society. They sought to find what finance model would combine the elements necessary for a successful project:

Cost effectiveness
Does not duplicate existing services
Addresses specific needs of frail elderly (residential) care

1987-1988

A group of committed volunteers formed the "Design Review Committee" and met regularly with representatives from the Lutheran Hospitals and Homes Society and architect Carmen Gintoli, to develop a project that would best meet the needs of Peninsula Seniors and would be cost efficient.

The "Feasibility and Schematic Design for a Congregate Housing Facility for the City of Kenai, Alaska," was a result of many hours of work. The 40 unit facility was estimated to cost \$6.4 million. The Seniors distributed copies of the study to the legislative delegation and sought their support.

January 1989

Congregate Housing Committee meets to discuss means of obtaining legislative support and funding for proposed project and agrees to meet every Monday thereafter.

February/March 1989

Letter writing drive began to convince legislators of support and need.

April 1989

A special representative and Linda Swarner, member of the Kenai City Council, go to Juneau to meet with legislators to discuss the possibility of funding the Congregate Housing project. Senator Fischer thought we might be able to obtain \$350,000 for the Architectural and Engineering design costs. Bill Kluge, local architect agreed that the estimated \$425,000 was high and he could do it for \$350,000. The legislative appropriation failed to come through, however.

June 1989

The Committee meets to re-evaluate the proposed cost of the project and works to reduce the \$6.4 million price tag. By factoring in current labor/production costs, modifying the structure, and deleting the addition to the Senior Center's dining hall, the proposed cost is now estimated to be \$5.6 million.

The Kenai City Council votes to push the Congregate Housing project, a Senior housing facility for Peninsula Seniors, as the City's top priority for Capital Improvement money from the legislature. Mayor Williams, a dedicated supporter of the project, promises to continue working to obtain funding for Congregate Housing.

September 1989

A petition is drafted to be signed by Peninsula Seniors who support this project. It will be sent to Senator Jay Kerttula, Chairman of the Senate Special Committee on Senior Citizens and Pioneers and the legislative delegation from the Kenai Peninsula indicating the continued and growing support of the Congregate Housing project.

SUPPORT

Pioneers of Alaska - Igloo 33/Auxiliary 16

"A unanimous vote in favor of the Congregate Housing Program ..."

Senator Paul Fischer

"I understand and appreciate the need for this project and intend to continue working for Seniors on the Kenai Peninsula."

Senator Jay Kerttula

"This would be an invaluable asset for Kenai Seniors as well as the entire community. I have reviewed the study and support the project."

Heritage Place Advisory Board

"There exists a need for such housing on the Kenai Peninsula.." "...such a project could prioritize admittance based on frailty and functional deficit if it were not limited to federal housing regulations .. we hereby endorse the Kenai Congregate Housing Project..."

Representative Swackhammer

"The Congregate Housing proposal is one of the best alternatives proposed and has my support."

Representative Virginia Collins

"I have always been supportive of housing alternatives that allow our Senior Citizens to stay out of nursing homes and promote independent living to the greatest degree possible. I will be happy to work with Kenai legislators to fund the Congregate Living facility..."

North Peninsula Chamber of Commerce

"..WHEREAS the site location is within walking distance of restaurants, theaters, grocery stores, city library, and medical facilities makes it an ideal location for our Senior Citizens on the Kenai Peninsula."
"...urging the State of Alaska to fund a Senior Citizen residential facility in the City of Kenai to service the entire Kenai Peninsula in lieu of building a Pioneer Home on the Kenai Peninsula."

Senator Mike Szymanski

"I have always been a staunch supporter of seniors and that certainly includes congregate housing."

American Association of Retired Persons - Chapter 745

"The proposed Congregate Housing project would require a one-time State grant of \$5.7 million and would become SELF-SUFFICIENT unlike Pioneer Homes .. and low income housing which requires federal subsidies..."

S B

406

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 406

SPONSOR Kelly

BILL TITLE 4 mil approp to Perm. Fund

DATE REFERRED 1.25.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act making a special appro-
priation to the permanent fund
Sponsor: KELLY, Frank, et al
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
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: February 28, 1990

Approved by Commissioner: _____
Agency: Revenue

Date: 2/28/90

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

Introduced: 1/25/90
Referred: State Affairs and Finance

6-2013A

Funding Information: General Fund \$ -0-
 Other Funds 400,000,000
 \$400,000,000

BY SEN. KELLY, Frank, Sturgulewski, Fischer, Pearce, Faiks, Coghill,
Pourchot, Rodey, Jones

1 IN THE SENATE

2 SENATE BILL NO. 406

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the princi-
7 pal of the permanent fund; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$400,000,000 is appropriated from the earnings
11 reserve account (AS 37.13.145) to the principal of the permanent fund.

12 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).
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416

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 416

SPONSOR Rules

BILL TITLE powers and duties of the ombudsman

DATE REFERRED 1-29-90

HEARING SCHEDULED 2

FISCAL NOTE PREPARED Req. Duncan

SPONSOR CONTACTED Duncan ✓

INTERESTED PARTIES CONTACTED

Mike Davis 2-23-90 - 4930

P H O N E	TO	Susie	DATE	2/2	TIME	8:15	AM
	FROM	Gen Stranbary	AREA CODE				PM
	OF		NO.	264-8228	EXT.		
M E S S A G E	re SB 416 — on court system						
PHONED		CALL BACK	RETURNED CALL	WANTS TO SEE YOU	WILL CALL AGAIN	SIGNED	URGENT

OTHER

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/29/90

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

State Affairs Committee considered SB 416

"An Act relating to the office of the ombudsman and to the powers and duties of the ombudsman."

and recommended:

- replace with _____ CS SB 416 same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) office of Ombudsman 2-7-90

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Paul He
Pat Adams
Jan Mills

Tim Kelly - No Rec

Pat Leavelle do pass
Chair: Signature and Recommendation

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot
RE: Friday, February 23 Committee Hearing
DATE: February 22, 1990

On Friday, February 23 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hold a teleconference hearing on the following bills:

CS SB 384. An Act relating to election campaigns and providing for an effective date.

Continuation of Wednesday hearing. Scheduled for final action.

Proposed CS for SS SB 150. An Act establishing a senior housing office and loan program in the Department of Community and Regional Affairs; and authorizing the issuance of bonds for senior housing.

Continuation of Wednesday hearing, brief update.

SB 416. An Act relating to the office of the ombudsman and to the powers and duties of the ombudsman.

This bill was introduced by the Legislative Council at the request of Duncan Fowler, State Ombudsman. The major provisions are to keep reports to agencies confidential while the agencies prepare responses to preliminary ombudsman reports; 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 LAA and clarifying how school districts could opt for ombudsman services.

SJR 61. Relating to persons immigrating to and requesting asylum in the United States. Sponsored by Senator Faiks, this resolution urges the U.S. Immigration and Naturalization Service to allow political asylum to persons from Eastern Bloc countries, regardless of date of application and to not revoke political asylum already granted to persons from those Eastern Bloc countries of Hungary, Poland, East Germany, the Union of Soviet Socialist Republics, Czechoslovakia, Bulgaria and Romania. A copy of the companion house bill, CS HJR 63 is attached, showing the amendments.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM:

TO; Senate State Affairs Committee Members

FROM; Senator Pat Pourchot

RE; CS HB 452, An Act relating to the office of the ombudsman

DATE; March 5, 1990

CS HB 452 has been referred to Senate State Affairs Committee. We passed out the companion bill, SB 416 on February 23, 1990 with changes matching those of the House State Affairs Committee. CS HB 452 was amended on the house floor, at the request of the Department of Public Safety and the Prosecutor's office to add a restriction which reads:

(a) In an investigation, the ombudsman may
(4) notwithstanding other provisions of law, have access at all times to records of every state agency, including confidential records, except sealed court records, production of which may only be compelled by subpoena, and except for records of active criminal investigations and records that could lead to the identity of confidential police informants.

The Senate Finance Committee has scheduled SB 416 for Tuesday, March 6th. I would like to know the committee's wishes concerning these two bills.



State of Alaska
Ombudsman

Duncan C. Fowler

March 2, 1990

Mike Davis, Chair
Alaska Legislative Council
Alaska State Legislature
Box V
Juneau, Alaska 99811-3100

RE: FY'91 Ombudsman Budget

Dear Representative Davis:

I understand there were some questions about the Ombudsman FY'91 budget request at the last Legislative Council meeting. Hopefully this letter will answer them. If not, please let me know. I would be happy to meet with you. The figure provided to Pam Stoops of Legislative Affairs was off my spreadsheet. Staff of the finance committees have advised me the final budget is not needed for another two or three weeks. If you wish, I will be happy to send you a copy of the final document.

My FY'91 budget request is the product of two significant issues. First is the remarkable 26% increase in citizen inquiries we have experienced this year. Most of that increase has come from residents of the Anchorage bowl area. To put this unexpected growth in perspective, our workload has increased 117% in the past two years. In part, this has been due to the reopening of the Fairbanks office. However, staffing has not increased commensurate with this unexpected demand. I note that this FY'91 General Fund request is similar to our FY'83 appropriation yet significantly less than given the office in FY'85.

The second issue is a response to recommendations made by the Governor's Conference on Small Business. Ninety-nine Alaska men and women from around the state met to seek solutions to small business problems. Their efforts were sponsored by significant grants from Alaska's private sector and some state assistance. The group identified 156 problem areas. They focused on the top 20 and recommended ways to solve them. Solutions for three of the top 20 problems involved the Office of the Ombudsman. The conference recommended that *each* of my offices have a specialist assigned only to small business issues. Because of budget implications, I only included an Assistant Ombudsman position to deal with small business issues for the Anchorage office. I was pleased the Governor's formal response to the recommendations relating to this office was positive. I was even more pleased by the vote of confidence by Alaska's business community in the ombudsman concept.

Reply to:

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(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707
(907) 452-4001
(800) 478-3257

I am aware that asking for budget increases is not a popular thing to do. However, I believe I would be derelict as Ombudsman and as this program's manager in not advising the legislature of the increased citizen demands on this office. Further, I feel obligated to request the resources necessary to *minimally* fulfill the statute's mandate for this office.

Although my final figures may vary slightly as they move from the spread sheet to budget forms, the increases will reflect the following. I have shown the equipment costs separately as they are one time cost items.

FY90 appropriation	1033.3
Staff increase to maintain service level (Anch 2.5, Fbks 1, Juneau 1)	239.7
Equipment for new staff	42.7
Small Business pilot project	65.8
Equipment for Small Business	<u>7.3</u>
Total FY'91 Request	1426.4
Revenues from Municipal contracts	<u>42.0</u>
FY'91 General Fund request	1384.4

The Alaska Ombudsman Act allows municipalities to contract with this office for ombudsman services. However, it also requires they pay the *full* cost of that service. Contracts currently exist with the City and Borough of Juneau and the cities of Palmer and Wrangell. I have had requests for cost figures from the North Slope Borough and the Fairbanks North Star Borough as well.

I have attached a sheet with several graphs to give you an overview of this office's operation. Please note the following:

- * The number of citizen complaints and requests for assistance has never been higher. Alaskans ask the ombudsman for help at the rate of 1 out of every 50 of the state's population.
- * FY'91 Inquiry figures have been minimally projected.
- * Southcentral Alaska citizens use of this office is breaking records.
- * There is an increasing and disturbing upward trend in the number of days needed to close complaints, a direct reflection on existing staff resources.
- * Current FY'90 staff workloads are 70% higher than they should be. The FY'91 request will improve but not eliminate the problem.

Currently, individual staff workload is almost double what it should be. It should not exceed 750 inquiries per investigator per year. When it exceeds that figure investigators must limit the attention given to any one complaint. Some issues do not get the review they deserve. The potential for making errors increases. Opportunities to fix systemic problems affecting large numbers of Alaskans are limited as staff are busy band-aiding individual problems. Although they cannot do the job of a trained investigator, students and volunteers are being sought to help with some of our volume.

It is important you know we require individuals who seek help from this office first try and fix the problem on their own. If they do not know how, staff point them in the right direction. The Office of the Ombudsman acts as a refuge of last resort for thousands of Alaskans having trouble with government. Inadequate staffing of this office can effectively prevent many Alaskans unfairly treated by government from receiving the services properly due them.

And, finally, I believe this office plays an important role in providing legislative oversight of governmental agencies. Adequate staffing helps assure we can continue in that role. I would appreciate your support of this budget request. Let me know if you have questions about this budget or suggestions for the office.

Sincerely,

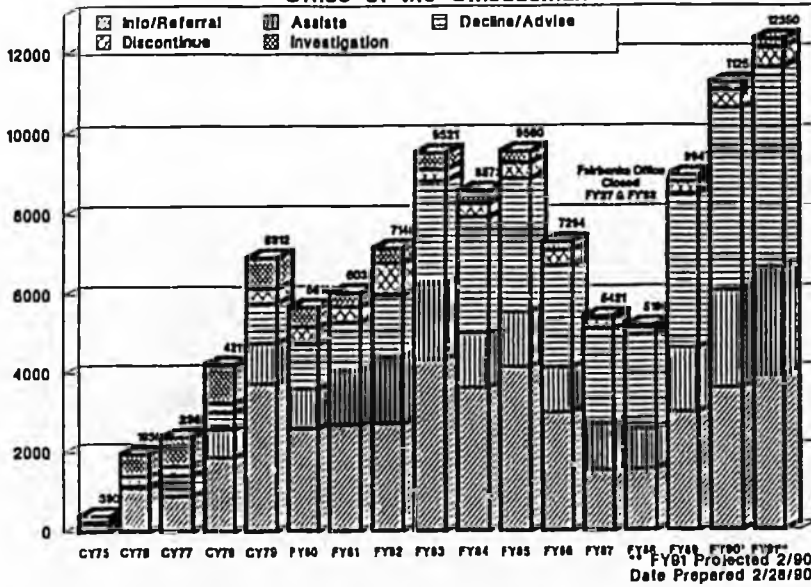
Duncan C. Fowler
Ombudsman



Ombudsman

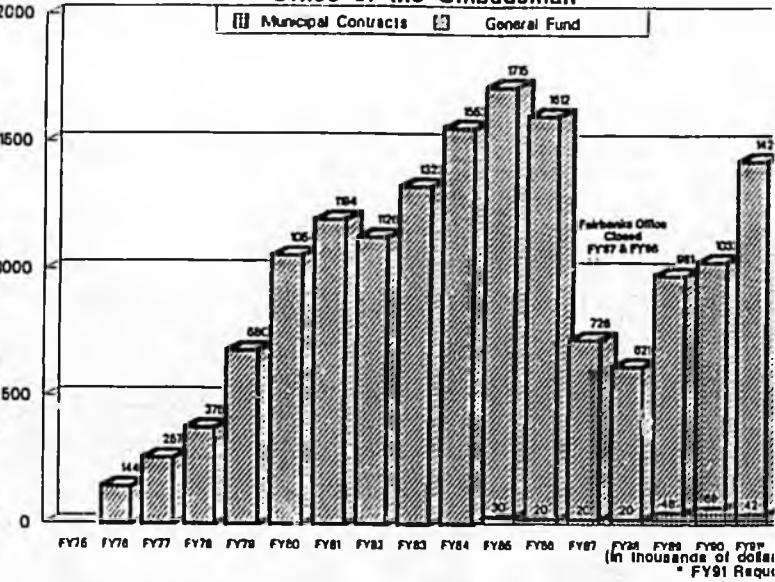
Inquiries by Type and Year

Office of the Ombudsman

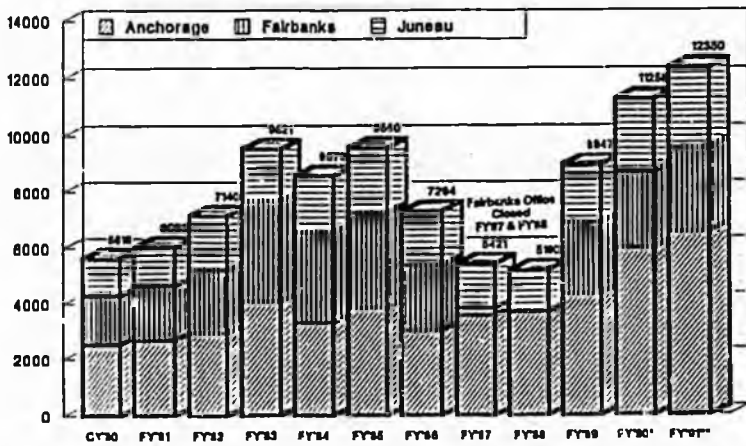


Fiscal Year Expenditures

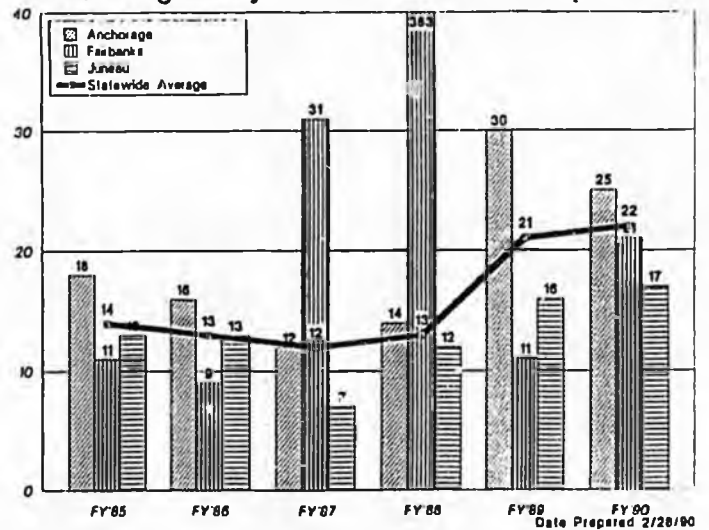
Office of the Ombudsman



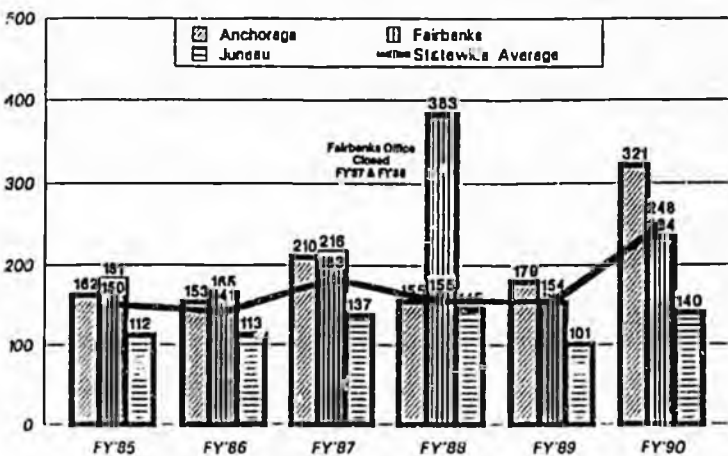
Source of Inquiries



Average Days to Close All Complaints

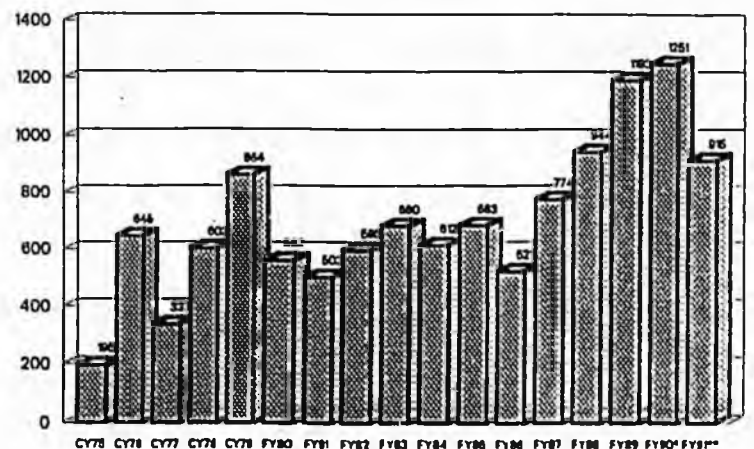


Average Days to Close Full Investigations



Inquiries Per Investigator

Ratio should not exceed 750





State of Alaska
Ombudsman

Duncan C. Fowler

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March 9, 1990

Senator Steve Frank
Senate Finance Committee
Post Office Box V
Juneau, Alaska 99811-3100

RE: CSHB 452(SA)am

Dear Senator Frank:

You asked my opinion about amending the Ombudsman Act to require my budget submission be given to the Legislative Council each year. Current law requires submission be directly to the House and Senate Finance Committees for review. I not only see advantages to your suggestion but support it.

I surveyed other states with legislative ombudsman to learn their practice. Nebraska and Iowa ombudsman do submit their budgets to bodies similar to our council. Hawaii does not have a council but is establishing one in response to recommendations by the National Council on State Legislatures. The Hawaii Ombudsman will have her budget reviewed by the new body.

Personally, I would enjoy the opportunity to work more closely with the legislative leadership. I believe it would benefit both this office and the work of the legislature if more members of the legislature understood and could support the work we do. This has not always been the case.

I would be happy to answer any additional questions you may have regarding the impact of your amendment on our operation. We both know it is important this office remain a nonpartisan and independent agency. This reputation allows our work to be viewed as credible by both the public and those agencies we investigate.

Sincerely,

Duncan C. Fowler
Ombudsman

DCF:pjc

AMENDMENT

IN THE SENATE

BY SEN. FRANK

TO: CS SB 416 (STATE AFFAIRS)

IS AMENDED BY ADDING A NEW SECTION TO READ:

" * SEC. 5. AS 24.55.080 (C) IS AMENDED TO READ

(c) the ombudsman shall submit a budget for each fiscal year to the Alaska Legislative Council [Finance Committees of the Legislature] and the council shall annually submit an estimated budget to the governor for information purposes in the preparation of the executive budget."

renumber the following bill sections accordingly.

SB 416, An Act relating to the office of the ombudsman and to the powers and duties of the ombudsman.

HB 452, the House companion bill is on the floor today.

*Duncan Fowler will testify.

The Alaska Court System supports this bill with amendment. Amendment is in the packet.

No objections have been stated on the house side to this bill nor have I received any calls.

Ombudsman charges agency stonewalling

By JOHN TETPON
Times Writer

The state Department of Corrections has stonewalled for months regarding what it has done about a complaint of employee misconduct and may not have taken action against the offender, state Ombudsman Duncan Fowler said Wednesday.

The case involves a 20-year staff member of the parole and probation office in Juneau who took five weeks of leave and did not deduct it from his vacation time,

Fowler said.

The man was turned in by his fellow workers.

Fowler refused to identify the employee because of confidentiality rules, but said the man makes more than \$4,000 a month.

Although Corrections Commissioner Susan Humphrey-Barnett said Tuesday she has reprimanded the worker, department personnel officer Beth Lassiter of Juneau said Wednesday she did not know

See Agency, page A-8

Agency

Continued from page A-1

if any action had been taken. "I'm not aware of anything," Lassiter said.

The ombudsman's office, created in 1975 by the state legislature, has authority to investigate citizen complaints about the way state agencies do their jobs. If wrongs are found, the ombudsman makes recommendations to the agency to correct them.

The watchdog office can also ask the agency to tell the ombudsman what it will do in response to a problem and, if nothing is done, take the matter to the legislature and the governor, Fowler said.

The case has been on the books for eight months and has been a longstanding source of frustration, according to Fowler. Until Fowler sees a report from the Corrections commissioner, he will consider that nothing has been done.

"That it took eight months for

the Department of Corrections to do something, that's the most disturbing of all," Fowler said.

Another bone of contention is whether the ombudsman has the authority to obtain records of personnel actions from state agencies. Fowler said he understands his office has that right.

But, Assistant Attorney General Larry McKinstry said Fowler does not have such authority. "That's my reading of the (state) statute," he said.

Deputy Ombudsman Rosa Garner said her Anchorage office has had several opinions from the attorney general's office over the years supporting Fowler's position.

Deputy Corrections Commissioner Frank Prewitt said the Corrections Department is not trying to hide anything.

"There's more going on behind the scenes on this," Prewitt said, referring to the involvement of Corrections, the attorney general and the state Division of Labor Relations. He blamed the snail's pace on the wheels of government. "It's the bureaucratic machinery," he said.

But Fowler said the case is not the first time Corrections

Commissioner Barnett has failed or refused to cooperate.

"It has happened before," Fowler said. "Other state commissioners usually get their investigations and resolutions to problems back to me in four to six weeks."

Barnett said Tuesday the case has dragged on because it involved a confidential personnel matter. She also refused to name the man.

The employee was turned in by fellow workers in the Juneau parole and probation division in May 1988. He is also accused of coming to work late and leaving early.

Deputy Ombudsman Garner said Tuesday she has written a letter to Barnett asking what kind of disciplinary action has been taken. But because of confidentiality in personnel matters, Garner said she may not get a reply.

Fowler said after finding the accusations by Corrections employees had some truth to them, he offered several recommendations. He said he asked Corrections to set up a system to monitor vacation time taken by its employees. He said that was done.



State of Alaska
ombudsman

Duncan C. Fowler

February 25, 1990

Members of the house
Alaska Legislature
Box V
Juneau, Alaska 99811

RE: HB 452 Ombudsman Act amendment

Dear Representative

Amendment No.2 to HB 452 was offered on the floor last Friday. It virtually eliminates the ombudsman's jurisdiction over the Department of Corrections. It would significantly decrease legislative oversight over one of the largest departments in state government. The Office of the Ombudsman does not support this amendment. I would appreciate your support of my position.

The Alaska Ombudsman Act is a model act. HB 452 was proposed to correct problems identified over the past 15 years. The Ombudsman Act contains specific provisions to insure persons held in state custody (whether it be mental, medical or correctional) have rapid and uncensored access to this office. Persons who are held in state facilities are in an unusual position. The state has virtually total control over all aspects of their daily life. Despite the fact most state employees do a good job, humans do error. And sometimes the wrong person is hired to do a job. Abuses of patients and inmates can and do occur in Alaska facilities. It is unfortunate that some have even died because of errors made.

The ombudsman fixes problems between the "keepers" and the "kept" on a daily basis both formally and informally. There are times we support decisions made by correctional managers. There are other times we find the inmate was wronged and we recommend that the agency make things right. We provide an external review and offer solutions to problems. Our review of an issue, even on an informal level, gives an air of legitimacy to many of the department's decisions in the eyes of the inmates. We are not part of that system.

No matter who the complainant is, staff are required to see what the person has done to resolve the problem. If they haven't done anything about it we explain how to fix it on their own. With inmates, this is done very quickly. With the exception of emergencies involving health or safety issues, inmates are required to go through corrections' internal grievance process. Ombudsman staff are very familiar with those procedures and can quickly provide advice to the inmate.

Ombudsman staff are urged to attempt to resolve all complaints as quickly as possible. This means that a large number of significant issues are resolved at an informal level. This is especially true with inmate complaints. Internally we use

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terminology like "Assist" or "Decline/Advise" to describe the informal complaint resolution process. Here are examples of issues that have been resolved informally:

Denial of medical treatment or prescription drugs. Ombudsman staff resolve these with institutional supervisors and medical personal.

Inmate personal property and funds kept in the departments custody being lost, damaged, stolen or unaccounted for.

An officer used MACE on inmates several times without cause. No action was taken until advised we would pursue it if they didn't.

Inmate *court* papers being "lost", "destroyed" or "misplaced" by correctional staff.

We receive frequent complaints about "lost" or "never received" grievances. We review grievances that are summarily denied without reasons given. We have even received a "cop out" (preliminary grievance form) with a big red "NO" stamped on the form without further explanation. Corrections holds inmates to appeal and grievance time lines but is not obligated to do likewise. It is important that the state play by the rules. The ombudsman acts as a check on the fairness of that process.

In the past 5 years we have formally investigated 103 corrections complaints. Fifty-six percent were fully or partially justified. Examples of inmate complaints where allegations were found to be "Justified" or "Partially Justified" are:

Failure to comply with fire safety requirements in jail cell area. Inoperable smoke alarms, sprinklers and fire extinguishers.

Inmate placed in Maximum Security because superintendent had personal grudge. Appeal to the director was unfairly handled.

Staff placing untruthful incident reports in inmate's file.

Jail food was unsanitary. It had bugs crawling in it.

Agency refusal to allow an inmate to attend a civil court hearing.

Refusal to allow inmates in lock down to contact their attorneys.

Loss of engagement ring. This resulted in restitution to the inmate and significant revisions to institutional property control procedures.

Unfair and inconsistent disciplinary penalties including loss of months of "good time" and use of punitive segregation.

Many complaints involving the internal agency grievance and appeal system.

Improper handling of inmate mail. Refusal of agency to investigate resulting misconduct complaint.

Several of these complaints had the potential for litigation. Ombudsman intervention can eliminate the need for an inmate to look to the courts for relief. Alaska is already subject to a growing number of inmate law suits. In 1983 only 13 were filed. But, in *each* of the past three years more than 100 new suits have been filed. With appropriate resources, I believe the ombudsman office is a cost effective way to help stem the growing number of law suits.

Alaska is not alone in its frustrations of having to care for criminals. Three states, Michigan, Kansas and Minnesota, have only corrections ombudsman. They have recognized the liability of an improperly monitored correctional system. The states of Nebraska, Iowa and Hawaii have general jurisdiction ombudsman as in Alaska. All of the states are challenged by a large number of inmate complaints. I note that the Hawaii legislature was so frustrated with the large number of inmate complaints to their ombudsman, they passed a resolution directing the Department of Corrections to improve its grievance system.

The number of complaints about the Department of Corrections will double this year to 1272 and I am concerned about it. Many of you know I worked in corrections for several years. Please accept my observation that managing a correctional system is not an easy task. *They have the legal responsibility to be the fairest of the fair.* And to make things more difficult, when you hire humans to *contain* other humans, conflicts will naturally arise. To keep order, an effective internal and external dispute resolution process is required in a correctional setting. I believe the ombudsman is a key in that external review. We are a cost effective tool that helps insure fair and humane treatment in our correctional facilities. It helps to reduce the states liability exposure. We help increase the security of the prisons by helping to reduce conflict.

In closing, it is important for you to understand the roll of the Cleary Monitors. They are Corrections employees who are supervised and evaluated by the local institution's superintendent. They do a good job in resolving many problems and are invaluable to my staff. But, they only provide an internal review and it does make sense to keep your boss happy. In fact it is not unusual for us to get a call from a monitor asking us to pursue a problem they have been unable to resolve internally.

This past week the media reported that Corrections has been less than cooperative with this office in a couple of recent issues. I believe passing Amendment No.2 could send an unintended message to managers in the executive branch. I would appreciate your support of my position in this matter.

Sincerely,

Duncan C. Fowler
Ombudsman



State of Alaska
ombudsman

Duncan C. Fowler

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February 16, 1990

Senator Pat Pourchot, Chairman
Senate State Affairs Committee
Post Office Box V
Juneau, Alaska 99811-3100

RE: SB 416, Proposed ombudsman legislation

Dear Senator *DP* Pourchot:

This bill is scheduled to come before the Senate State Affairs Committee at its February 23 meeting. I thought it might be useful for you to receive some background on the matter prior to the meeting. You may be interested to know a similar bill, HB 452, has passed from House State Affairs to Rules. They adopted a helpful amendment offered by the Court System. I would appreciate similar consideration by the Senate State Affairs Committee.

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.

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

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 15 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.

Both the Attorney General and Court System have reviewed this bill. The Attorney General found no objections to this bill. The Court System offered what I believe to be a constructive amendment to Sec. 8 and ask this committee to include it in SB 416. The amendment is:

On page 3, line 9 add the following sentence: "*Sealed court records must be subpoenaed.*"

This amendment provides the court system a familiar mechanism to challenge our attempts to review records sealed by court order. If the court took issue with our attempt to access those records we would work it out in a court hearing. Such requests would be rare and I see the amendment as appropriate. I have included their letter to the Chairman of the House State Affairs Committee for your information.

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 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. As I have mentioned, the Attorney General and the Court System have reviewed the bill. They do not object to its approach with the proposed amendment.

I will be calling your office before the meeting in case you have questions about this bill. I am anxious to work with you and the 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
Enclosures



State of Alaska
ombudsman

Duncan C. Fowler

Letter # 1

February 6, 1990

Senator Pat Pourchot, Chairman
Senate State Affairs Committee
Post Office Box V
Juneau, Alaska 99811-3100

2636
AK 99510-2636
(907) 465-3673
(800) 478-2624
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Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
 P.O. Box 74358
Fairbanks, AK 99707
(907) 452-4001
(800) 478-3257

RE: SB 416, Proposed ombudsman legislation

Dear Senator Pourchot:

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, HB 452, has been introduced in the House.

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.

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Sec. 13) Municipalities and School Districts

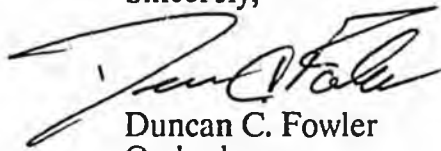
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February 6, 1990

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

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, to 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 within 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

SB 416 —

Duncan requests this
amendment.

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

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

AS AMENDED

1 IN THE SENATE

2

SENATE BILL NO. 416

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
to the powers and duties of the ombudsman."

7

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

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of a successor under this chapter, the incumbent ombudsman may con-

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tinue in office until a successor is appointed. If the ombudsman

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dies, resigns, becomes ineligible to serve, or is removed or suspended

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from office, the person appointed as [DEPUTY OMBUDSMAN BECOMES] acting

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ombudsman under AS 24.55.070(a) serves until a new ombudsman is ap-

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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

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acting [DEPUTY] ombudsman in the absence of the ombudsman. The om-

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budsman shall also appoint assistants and clerical personnel necessary

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to carry out the provisions of this chapter.

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

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(b) The ombudsman may delegate to the [DEPUTY OR] assistants any

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of the ombudsman's duties except those specified in AS 24.55.190 and

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24.55.200, however, during the ombudsman's absence from the principal

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business offices, the ombudsman may delegate the duties specified in

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AS 24.55.190 and 24.55.200 to the acting ombudsman [DEPUTY] for the

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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: