

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 00/2

7009 HOUSE JUDICIARY

25

APPENDIX "A"

The following is the text of each provision proposed for repeal in sec. 62, HCS
CSSB 86(Jud):

AS 02.15.260(14) --

(14) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

AS 05.15.210(21) --

(21) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

AS 08.24.180 --

Sec. 08.24.180. PERSONS PRESENTLY ENGAGED IN COLLECTION BUSINESS.

(a) A person who is actively engaged in a collection agency business on May 1, 1968, and who wishes to continue to engage in this business shall apply for a license within 60 days after May 1, 1968.

(b) A person who applies or receives a license under (a) of this section is subject to all of the provisions of this chapter, except that in the person's application for a license the person is not required to comply with AS 08.24.120(a)(3) and (4).

AS 08.42.020(b) --

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before January 1, 1977, shall be granted a license to practice embalming and may renew the license. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew that license.

AS 14.36.070(1) --

(1) "board" means the governing body of a school district;

AS 14.36.070(2) --

(2) "commissioner" means the commissioner of education;

AS 14.36.070(4) --

(4) "department" means the Department of Education;

AS 21.72.170(5) --

In addition to the provisions contained in the chapter, other chapters and provisions of this title shall apply to benevolent associations, to the extent applicable, as follows: * * *

(5) AS 21.21.320; * * *.

AS 21.75.340 --

Sec. 21.75.340. DEFINITIONS. In this chapter "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

AS 21.88.060(b) --

(b) The corporation is exempt from taxation under this section for a period of five years starting from July 1, 1978.

AS 34.03.360(9) --

(9) "person" includes an individual or organization;

AS 34.65.100(1) --

(1) "accessory" means physical evidence adjacent to a monument used for the future identification and restoration of a monument;

AS 43.20.310 --

Sec. 43.20.310. TAXABLE YEARS TO WHICH APPLICABLE. This chapter applies to (1) the taxable years beginning January 1, 1955; (2) fractions of fiscal years ending in 1955 computed from January 1, 1955; (3) taxable years beginning in 1955 and ending in 1956; and (4) all ensuing taxable years. Nothing in this chapter may be construed to affect a tax liability, action or cause of action incident to it which arose or might have arisen before January 1, 1955, under ch. 115 SLA 1949, as amended before March 28, 1955.

AS 43.20.320 --

Sec. 43.20.320. ARRANGEMENT AND CLASSIFICATION. No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of a particular section or provision or portion of this chapter, nor may the descriptive matter or headings relating to part, section, subsection or paragraph be given legal effect.

AS 43.23.005(e) --

(e) If a court finds the durational residency requirement under (a)(2) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

AS 46.03.314 --

Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a) Not later than July 1, 1987, the department shall submit to the governor and the legislature a preliminary report that includes

(1) proposals for the siting of hazardous waste management facilities in the state;

(2) proposals for the methods of financing and operating the facilities;

(3) proposals for the types of facilities that should be constructed, such as chemical processing facilities, incineration facilities, and transfer and storage facilities; and

(4) information about private hazardous waste management sites and facilities approved by the department.

(b) Not later than July 1, 1989, the department shall submit to the governor and the legislature a final report that includes

(1) identification of sites selected by the department for hazardous waste management facilities;

(2) recommendations for the methods of financing and operating facilities at the sites listed in (1) of this subsection;

(3) recommendations for the types of facilities that should be constructed at sites listed in (1) of this subsection; and

(4) information about private hazardous waste management sites and facilities approved by the department.

AS 46.03.790(g)(3) --

(3) "knowingly" has the meaning given in AS 11.81.900.

AS 46.03.900(16) --

(16) "municipality" means an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise;

AS 47.45.010(d) --

(d) If a court finds the durational residency requirement under (a) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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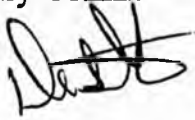
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Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 25, 1991

SUBJECT: Amendment for CSSB 86(Jud) (Work Order No. 7-LS0444D.1)

TO: Representative Dave Donley
Chair, House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is an amendment containing sections that should be added to CSSB 86(Jud), the 1991 revisor's bill. I apologize for the length of the amendment, but our editorial work on titles was delayed a bit this year and most of the proposed new sections derived from that work. In the sectional analysis, the references are to the bill section numbers used in the amendment unless otherwise noted.

SECTIONAL ANALYSIS

- Sec. 2.** This deletes references to provisions that have been repealed.
- Sec. 3.** Adds a phrase that is necessary for clarity.
- Sec. 5.** Makes a reference more specific for clarity.
- Sec. 6.** Corrects an incorrect description of departmental powers under AS 08.01.100.
- Sec. 7.** Corrects what must have been an error, in that it is doubtful that the legislature intended to exempt opticians from the requirements of AS 08.72.725, which sets out certain safety standards for the materials used in eyeglass lenses.
- Sec. 8.** Corrects an obvious error.
- Sec. 16.** This corrects a long-standing error in the definition of edible meat for the fish and game code. The error was brought to our attention by a staff biologist in the division of wildlife conservation.

Sec. 17. The federal statutes referenced in this provision have been repealed, and the amendment simply deletes the references and rewrites the provision appropriately.

Sec. 18. This amendment adds a definition of "commissioner" to the definitions for AS 18.10.

Sec. 19. This corrects three erroneous references in one of the provisions of the law regulating outdoor advertising along highways. The errors date back to the 1968 enactment of the provision. The reference should only be to those laws regulating outdoor advertising, not to the entire chapter, because the chapter includes provisions relating to the use of highway rights-of-way for utilities, and to encroachments, both of which have their own remedy provisions.

Sec. 23. Corrects erroneous references that resulted when the standard valuation model law was adapted to Alaska, and clarifies certain vague language. The amendment has been reviewed by the division of insurance.

Sec. 24. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska.

Sec. 25. Corrects an erroneous reference that resulted when the standard valuation model law was adapted to Alaska, and clarifies vague language. The amendment has been reviewed by the division of insurance.

Sec. 27. Adds a reference to AS 21.36.360(n) in AS 21.36.360(q)(6). The subsection was inadvertently omitted from the provisions of (q), which sets out the various penalties for violations described in subsections (b) - (p). The division of insurance gave us direction on which of the eight possible penalty provisions was appropriate for a violation of (n). Subsection (n) makes it a crime for an agent to intentionally fail to report to the insurer the exact amount of the premium charged the insured and to maintain records of those premium charges.

Sec. 28. This substitutes a reference to "insurer" for an incorrect reference to a "corporation."

Sec. 29. This clarifies the first sentence of a required policy provision so that it is more readable and understandable.

Secs. 30 and 31. Delete obsolete references to dates.

Sec. 32. Deletes obsolete references to initial terms of governors of the Medical Indemnity Corporation of Alaska.

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Secs. 33 and 34. Delete obsolete references to dates.

Secs. 43 and 44. In § 6, ch. 112, SLA 1980, the legislature amended AS 38.06.055(a) to change a reference to legislative approval of a royalty oil contract "by resolution" to approval "by enacting legislation." These sections of the bill would belatedly conform two related provisions of AS 38.06 to the 1980 change.

Secs. 59 and 60. Delete a reference to a repealed provision.

Sec. 37 (of CSSB 86(Jud)). Finally, the amendment adds several provisions to the section that repeals obsolete laws. The reasons for the repeals are:

- AS 02.15.260(14) -- redundant to AS 01.10.060(4);
- AS 05.15.210(21) -- redundant to AS 01.10.060(4);
- AS 08.24.180 -- obsolete by passage of time;
- AS 08.42.020(b) -- obsolete by passage of time;
- AS 14.36.070(1) -- defines a word that is not used in the chapter;
- AS 14.36.070(2) -- redundant to AS 14.60.010;
- AS 14.36.070(4) -- redundant to AS 14.60.010;
- AS 21.72.170(5) -- section it refers to repealed in 1980;
- AS 21.75.340 -- redundant to AS 01.10.060(4);
- AS 21.88.060(b) -- obsolete by passage of time;
- AS 46.03.790(g)(3) -- defines a word that is not used in the section;
- AS 46.03.900(16) -- redundant to AS 01.10.060(4).

The full text of provisions proposed for repeal is attached hereto as Appendix "A".

APPENDIX "A"

The following is the text of each provision proposed for repeal in amendment D.1 to CSSB 86(Jud):

AS 02.15.260(14) --

(14) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

AS 05.15.210(21) --

(21) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

AS 08.24.180 --

Sec. 08.24.180. PERSONS PRESENTLY ENGAGED IN COLLECTION BUSINESS.

(a) A person who is actively engaged in a collection agency business on May 1, 1968, and who wishes to continue to engage in this business shall apply for a license within 60 days after May 1, 1968.

(b) A person who applies or receives a license under (a) of this section is subject to all of the provisions of this chapter, except that in the person's application for a license the person is not required to comply with AS 08.24.-120(a)(3) and (4).

AS 08.42.020(b) --

(b) A person who has actively practiced embalming in the state for at least one year and holds a valid embalmer's license issued in this state before January 1, 1977, shall be granted a license to practice embalming and may renew the license. A person who has actively practiced in the state as a funeral director for a period of at least one year shall be granted a license to practice as a funeral director and may renew that license.

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(1) "board" means the governing body of a school district;

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(2) "commissioner" means the commissioner of education;

AS 14.36.070(4) --

(4) "department" means the Department of Education;

AS 21.72.170(5) --

In addition to the provisions contained in the chapter, other chapters and provisions of this title shall apply to benevolent associations, to the extent applicable, as follows: * * *

(5) AS 21.21.320; * * *.

AS 21.75.340 --

Sec. 21.75.340. DEFINITIONS. In this chapter "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

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(b) The corporation is exempt from taxation under this section for a period of five years starting from July 1, 1978.

AS 46.03.790(g)(3) --

(3) "knowingly" has the meaning given in AS 11.81.900.

AS 46.03.900(16) --

(16) "municipality" means an organized borough or an incorporated city outside an organized borough, and includes all classes of boroughs and cities whether home rule or otherwise;

DRD:gc
91-237.glc

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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MEMORANDUM

April 24, 1991

SUBJECT: CSSB 86(Judiciary) - 1991 Revisor's Bill

TO: Representative Dave Donley
Chair, House Judiciary Committee
Attn: Laurie Otto

FROM: David R. Dierdorff 
Revisor of Statutes

Enclosed is the sectional analysis prepared for SB 86. It was published as Senate Journal Supplement No. 2, January 25, 1991. The only change made by the Senate was to delete bill section 8, relating to the terms of members of the boards of fish and game. Consequently, the original sectional may still be used. Simply consider the narrative for sections 9 - 39 to be the narrative for sections 8 - 38 of CSSB 86(Jud).

I am putting the finishing touches on an amendment which incorporates technical amendments dealing with problems discovered in four of the titles we are reviewing this year (AS 08, AS 18, AS 21, and AS 46), and a few additional items that came to our attention after the bill was introduced. I will have that amendment and a sectional analysis of it for you by the end of the week.

If I may be of further assistance, please advise.

DRD:pl
91-300.plm

Enclosure

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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MEMORANDUM

January 23, 1991

SUBJECT: 1991 Revisor's Bill (W.O. 7-LS0444\A)
TO: Senator Bettye Fahrenkamp
Chair, Legislative Council
FROM: David R. Dierdorff
Revisor of Statutes

This memorandum discusses the enclosed 1991 revisor's bill (W.O. 7-LS0444\A). I would appreciate your consideration of the draft at the next council meeting in order that the bill may be introduced at the earliest opportunity.

The bill was prepared under AS 01.03.036, which provides, in part, that the revisor of statutes shall

* * * prepare for submission to the legislature legislation for the correction or removal of * * * deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the draft, I have summarized the contents by listing sections that have similar effects.

Sections that delete or repeal obsolete provisions: Sections 2, 16, 22, 35, 36 and 38 delete or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that eliminate conflicts with other laws: Sections 5, 17 - 19, 24, 25, and 37 resolve conflicts between different statutory provisions or with court decisions.

Sections that correct errors or oversights: Sections 3, 7 - 9, 11 - 13, 15, 20, 21, and 34 correct errors or oversights that can not be corrected editorially.

Senator Bettye Fahrenkamp

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board of fish and game (and, consequently, the new boards), were deleted. Our review of the legislative history and actual practice from 1975 until the present time suggests strongly that the deletion (or failure to enact a new provision) was an oversight and that the legislature intended that the terms be three years. This bill section adds appropriate language for the term of a member of each board. Because this ratifies existing practice, an applicability provision may not be required. However, it should be considered.

Sec. 9. In the fish and game code, a resident is required, by definition, to have resided in the state for at least one year. The amendment proposed in this bill section deletes language made redundant by the definition.

Secs. 11 and 12. Last year the legislature enacted ch. 50, making substantial changes in the insurance code. The amendments made in these two bill sections change a date to conform the provisions to secs. 84 and 86 of ch. 50, SLA 1990. The amendments were requested by the Department of Law on behalf of the Division of Insurance to correct a drafting oversight.

Sec. 13. The amendment corrects what we assume was a typographical error in ch. 50, SLA 1990, but which we believe requires legislative review rather than editorial correction.

Sec. 14. This proposed amendment conforms the language of AS 21.33.021(e) with similar language used in AS 21.33.030(d).

Sec. 15. This bill section corrects an error in the 1978 Act which enacted the revised motor vehicle code. The reference proposed for deletion should have been deleted when the referenced subsection was dropped from the bill as it moved through the legislature.

Sec. 16. The reference to AS 28.35.034 that is being deleted is meaningless, because that section does not set out a penalty for refusal to submit to a chemical test of breath. This amendment corrects an apparent error in the 1982 enactment.

Sec. 17. This bill section proposes an amendment to AS 29.20.170(8), added by the 1985 municipal code revision, to harmonize a conflict between that provision and AS 29.20.140(a), a provision that was carried over from earlier law. AS 29.20.140(a) provides:

(a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the governing body who ceases to be a voter in the municipality immediately forfeits office.

CORRECTION

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

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

January 23, 1991

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Chair, Legislative Council
FROM: David R. Dierdorff
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Sections that correct errors or oversights: Sections 3, 7 - 9, 11 - 13, 15, 20, 21, and 34 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 1, 4, 6, 10, 14, 23, and 26 - 33 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section proposes an addition to the provisions applicable to all Alaska Statutes. Under standard rules of statutory drafting and interpretation, the term "includes" is used preceding a partial listing or illustrative list in a definition, while the term "means" is used to provide a complete meaning for the term defined. The Alaska Supreme Court has adopted this rule (Brown v. Wood, 575 P.2d 760, 767 (AK 1978)). The proposed provision would enact this standard rule, to clarify that it is not necessary to set out "but is not limited to" in other parts of the statutes.

Sec. 2. Two old dates that are now meaningless are deleted from AS 08.04.120 in this bill section.

Sec. 3. This section corrects an error in the 1987 law that amended AS 08.84.065(a) and also AS 08.84.030 and 08.84.032, the sections referenced in AS 08.84.065(a).

Secs. 4, 10, 26, 30, 32, and 33. Each of these sections substitutes a reference to the crime of unsworn falsification for a reference to the crime of perjury. The reason for this is that the underlying provisions do not require that the relevant statement be sworn. Consequently, a prosecution for perjury could not be maintained. A prosecution for unsworn falsification, however, would be appropriate.

Sec. 5. In Lundgren v. Gaudiane, 782 P.2d 285 (AK 1989), the Alaska Supreme Court ruled that AS 13.16.505, which provides that a decedent's judgment creditor may not execute on property of the decedent's estate under the judgment, prevails over an older, inconsistent statute, AS 09.35.060. The amendment proposed in this bill section codifies the court's ruling by providing notice in AS 09.35.060 that AS 13.16.505 controls.

Sec. 6. This section simply improves a reference to the rules of court to avoid confusion and eliminate the need to further change the reference as the rules themselves evolve.

Sec. 7. This section corrects a statutory reference in the list of mitigating factors to be considered when a person is being sentenced for a felony. The deleted reference is to a crime that is a misdemeanor, so it is irrelevant to the provision. The amendment eliminates any confusion that may result from the erroneous reference.

Sec. 8. When the boards of fisheries and game were created in 1975, and the related laws substantially revised, the provisions relating to the term of a member of the old

board of fish and game (and, consequently, the new boards), were deleted. Our review of the legislative history and actual practice from 1975 until the present time suggests strongly that the deletion (or failure to enact a new provision) was an oversight and that the legislature intended that the terms be three years. This bill section adds appropriate language for the term of a member of each board. Because this ratifies existing practice, an applicability provision may not be required. However, it should be considered.

Sec. 9. In the fish and game code, a resident is required, by definition, to have resided in the state for at least one year. The amendment proposed in this bill section deletes language made redundant by the definition.

Secs. 11 and 12. Last year the legislature enacted ch. 50, making substantial changes in the insurance code. The amendments made in these two bill sections change a date to conform the provisions to secs. 84 and 86 of ch. 50, SLA 1990. The amendments were requested by the Department of Law on behalf of the Division of Insurance to correct a drafting oversight.

Sec. 13. The amendment corrects what we assume was a typographical error in ch. 50, SLA 1990, but which we believe requires legislative review rather than editorial correction.

Sec. 14. This proposed amendment conforms the language of AS 21.33.021(e) with similar language used in AS 21.33.030(d).

Sec. 15. This bill section corrects an error in the 1978 Act which enacted the revised motor vehicle code. The reference proposed for deletion should have been deleted when the referenced subsection was dropped from the bill as it moved through the legislature.

Sec. 16. The reference to AS 28.35.034 that is being deleted is meaningless, because that section does not set out a penalty for refusal to submit to a chemical test of breath. This amendment corrects an apparent error in the 1982 enactment.

Sec. 17. This bill section proposes an amendment to AS 29.20.170(8), added by the 1985 municipal code revision, to harmonize a conflict between that provision and AS 29.20.140(a), a provision that was carried over from earlier law. AS 29.20.140(a) provides:

(a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the governing body who ceases to be a voter in the municipality immediately forfeits office.

Secs. 18 and 19. There is an apparent conflict between AS 29.35.050(a) and AS 29.35.200 - 29.35.220, in that the former suggests that any municipality may provide garbage collection and disposal services, while the latter statutes list that power only as to second class boroughs. The amendment to AS 29.35.050(a) is intended to clarify that the provision applies to all municipalities, notwithstanding anything that may be said in AS 29.35.200 - 29.35.220. The amendment to AS 29.35.210(a)(4) is intended to clarify that if a second class borough exercises the power, that power is subject to AS 29.35.050. Municipal law prior to the 1985 revision had a similar provision.

Secs. 20 and 21. The references in AS 34.40.120 and 34.40.130 are erroneous. The source of the problem appears to be erroneous references in the 1913 compiled laws of Alaska.

Sec. 22. This section deletes an obsolete date.

Secs. 23, 27 - 29, and 31. These bill sections amend a series of tax credit provisions to reflect the fact that the University of Alaska, and perhaps other, private institutions, conduct a substantial portion of their fund-raising through a private, non-profit corporation. These amendments were requested by the university to correct an apparent oversight in the original legislation.

Secs. 24, 25, and 37. In 1989, the legislature enacted a two-year residency requirement for the permanent fund dividend and longevity bonus programs. At the same time, provisions were enacted that provided for a one-year requirement in the event a court decided that the two-year requirement was invalid. A superior court did decide the question and that decision was not appealed. Consequently, the residency requirement for both programs is now one year. The amendments made in these bill sections simply conform the applicable statutory provisions to the one-year requirement to avoid confusion. Additionally, in sec. 38, the provisions that established the "stepped" residency dependent on court decisions are repealed as no longer needed.

Sec. 34. This section corrects an erroneous reference that derives from the original enactment.

Secs. 35 and 36. Each section amends a provision in AS 46.03.313. The first section deletes an obsolete date in subsection (b) and the second deletes a reference in subsection (d) to a provision that is repealed in sec. 38 of this draft.

Sec. 38. The repealer. The text of all provisions proposed for repeal is attached as Appendix "A". The reasons for the repeals are:

AS 34.03.360(9) -- the definition of "person" is redundant to AS 01.10.060.

Senator Bettye Fahrenkamp
January 23, 1991
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AS 34.65.100(1) -- the term defined is not found in AS 34.65.

AS 43.20.310 -- obsolete by passage of time.

AS 43.20.320 -- redundant to AS 01.05.006 and other general laws.

AS 43.23.005(e) -- see discussion relating to secs. 24, 25, and 37.

AS 46.03.314 -- this provision is no longer applicable by its own terms and should be fully executed.

AS 47.45.010(d) -- see discussion relating to secs. 24, 25, and 37.

Sec. 39. Provides an immediate effective date.

DRD:pl
91-022.plm

Enclosure

APPENDIX "A"

Statutory Provisions Proposed for Repeal:

AS 34.03.360(9) --

(9) "person" includes an individual or organization;

AS 34.65.100(1) --

(1) "accessory" means physical evidence adjacent to a monument used for the future identification and restoration of a monument;

AS 43.20.310 --

Sec. 43.20.310. TAXABLE YEARS TO WHICH APPLICABLE. This chapter applies to (1) the taxable years beginning January 1, 1955; (2) fractions of fiscal years ending in 1955 computed from January 1, 1955; (3) taxable years beginning in 1955 and ending in 1956; and (4) all ensuing taxable years. Nothing in this chapter may be construed to affect a tax liability, action or cause of action incident to it which arose or might have arisen before January 1, 1955, under ch. 115 SLA 1949, as amended before March 28, 1955.

AS 43.20.320 --

Sec. 43.20.320. ARRANGEMENT AND CLASSIFICATION. No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of a particular section or provision or portion of this chapter, nor may the descriptive matter or headings relating to part, section, subsection or paragraph be given legal effect.

AS 43.23.005(e) --

2 (e) If a court finds the duration^{al} residency requirement under (a)(2) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

AS 46.03.314 --

3 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a) Not later than July 1, 1987, the department shall submit to the governor and the legislature a preliminary report that includes

(1) proposals for the siting of hazardous waste management facilities in the state;

(2) proposals for the methods of financing and operating the facilities;

(3) proposals for the types of facilities that should be constructed, such as chemical processing facilities, incineration facilities, and transfer and storage facilities; and

(4) information about private hazardous waste management sites and facilities approved by the department.

(b) Not later than July 1, 1989, the department shall submit to the governor and the legislature a final report that includes

(1) identification of sites selected by the department for hazardous waste management facilities;

(2) recommendations for the methods of financing and operating facilities at the sites listed in (1) of this subsection;

(3) recommendations for the types of facilities that should be constructed at sites listed in (1) of this subsection; and

(4) information about private hazardous waste management sites and facilities approved by the department.

AS 47.45.010(d) --

(d) If a court finds the durational residency requirement under (a) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law.

91.021.plm

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HOUSE COMMITTEE REPORT

(7)
 Date Referred: May 2, 1991 FURTHER REFERRALS: Finance

Date of Committee Action: 3/20/92

The JUDICIARY Committee considered: CSSB 101(JUD)

CS FOR SENATE BILL NO. 101 (JUDICIARY) JURISDICTION OF DISTRICT COURT

"An Act relating to the jurisdiction of the district court and to the district court's ability to hear actions as small claims."

RECOMMENDATIONS:
 be replaced with HCSCSSB 101 (JUD) the same title
 a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal impact _____ fiscal note(s) _____
 zero fiscal note _____ zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>W. L. ...</i>	<input checked="" type="checkbox"/>				
<i>J. ...</i>	<input checked="" type="checkbox"/>				
		<i>Kevin P. ...</i>		<input checked="" type="checkbox"/>	
		<i>Mike Miller</i>		<input checked="" type="checkbox"/>	
		<i>Larry ...</i>		<input checked="" type="checkbox"/>	
		<i>Mark ...</i>		<input checked="" type="checkbox"/>	

W. L. ...
 Vice CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill No. HCS CSSB 101 (Judiciary)

Revision Date: 01/21/92 Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction of the BRU: Trial Courts
district court...ability to hear actions as small claims Components: _____
 Sponsor: Judiciary Committee
 Requestor: Judiciary COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUE S: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	35.8	35.8	35.8	35.8	35.8	35.8
TRAVEL	11.5					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	47.3	35.8	35.8	35.8	35.8	35.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	47.3	35.8	35.8	35.8	35.8	35.8
FEDERAL FUNDS						
OTHER						
TOTAL	47.3	35.8	35.8	35.8	35.8	35.8


POSITIONS:

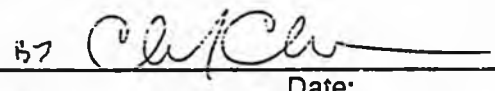
FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Division: Alaska Court System Date: 01/21/92

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 01/21/92
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System
HCS CSSB 101 (Judiciary)
Fiscal Analysis

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, PFT, range 10B, Anchorage	\$24,768	\$11,069	\$35,837

Travel (one-time cost)

Three meetings of the Forms Committee to revise forms and informational pamphlets (3 @ \$1,500)			4,500
Two meetings of the Civil Rules Committee to revise the rules of court (2 @ \$1,500)			3,000
Training for Clerk of Court (additional day of training added to annual clerks conference)			4,000
	Total Travel		<u>11,500</u>
	Total First Year Cost		<u>\$47,337</u>

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. HCS CSSB 101 (Judiciary)

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction of the BRU: Trial Courts
district court...ability to hear actions as small claims Components: _____
 Sponsor: Judiciary Committee
 Requestor: Judiciary COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	35.0	35.0	35.0	35.0	35.0	35.0
TRAVEL	11.5					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	46.5	35.0	35.0	35.0	35.0	35.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	46.5	35.0	35.0	35.0	35.0	35.0
FEDERAL FUNDS						
OTHER						
TOTAL	46.5	35.0	35.0	35.0	35.0	35.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *Charles Christensen III* Phone: 264-8228
 Division: Alaska Court System Date: 05/10/91

Approved by: Arthur H. Snowden, II, Administrative Director *Arthur H. Snowden II*
 Agency: Alaska Court System Date: 05/10/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System
CSHB 309
Fiscal Analysis

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, PFT, range 10B, Anchorage	\$23,592	\$11,372	\$34,964

Travel (one-time cost)

Three meetings of the Forms Committee to revise forms and informational pamphlets (3 @ \$1,500) 4,500

Two meetings of the Civil Rules Committee to revise the rules of court (2 @ \$1,500) 3,000

Training for Clerk of Court (additional day of training added to annual clerks conference) 4,000

Total Travel 11,500

Total First Year Cost \$46,464

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

"Work Draft"
BILL NO. HCSCSSB 101 (Jud)

Revision Date: December 16, 1991 Department Affected: Department of Law
 Title: "An Act relating to the jurisdiction of the district court." BRU: Legal Services
 Component: Operations
 Sponsor: Senate Judiciary
 Requestor: Governor's Office COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	506.2	521.4	537.0	553.1	569.2	586.8
TRAVEL	32.5	33.5	34.5	35.5	36.6	37.7
CONTRACTUAL	99.8	102.8	105.9	109.1	112.4	115.8
SUPPLIES	37.2	38.3	39.4	40.6	41.8	43.1
EQUIPMENT	59.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	735.2	696.0	716.8	738.3	760.5	783.4

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE: IAR	735.2	696.0	716.8	738.3	760.5	783.4
TOTAL	735.2	696.0	716.8	738.3	760.5	783.4

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: December 16, 1991
 Approved by Commissioner: Richard I. Pegues / FAR / Charles F. Cole, Attorney General
 Agency: Department of Law Date: December 16, 1991

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

The work draft for HCSCSSB 101 (Jud) changes this bill to reintroduce language that would authorize tort claims against the state to be filed in small claims court. This version of the bill would also authorize forcible entry and detainer actions, with a value of less than \$5,000, to be filed in small claims. This latter change, which involves evictions, will not impact the department, but it may have a substantial impact on the court system.

When this bill was initially considered in its original form, SB101, the Department of Law found that a substantial fiscal impact would result for the department, because of a provision in the bill authorizing tort claims against the state to be filed in small claims court. As a consequence, the Senate Judiciary Committee dropped this provision, and the department's fiscal impact statement was accordingly withdrawn. The reintroduction of the small claims provision in the work draft makes it necessary for the department to request fiscal impact funding. The department's comments on this provision are presented below.

Senate Bill No. 101 amends AS 09.50.250 and AS 22.15.050 to provide that a person or a corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in district court. At the present time, claims against the state, not settled administratively by state agencies, can be filed only in superior court, irrespective of the value of the claim. The superior court normally only adjudicates claims that exceed \$50,000. This bill would act to direct claims of up to \$50,000 to the district court. Claims that exceed \$50,000 would still be heard in superior court if they were not settled administratively.

Most contract claims against the state are handled administratively by the contract remedy process provided in AS 36.30.560 - AS 36.30.695, and AS 44.77.010 - AS 44.77.070. Contract claims that are currently appealed to the superior court after these administrative proceedings usually exceed the \$50,000 threshold for original entry as a superior court appeal, although they need not exceed the threshold to do so. The bill should not cause a substantial fiscal impact for contract appeals because of the comprehensive mandatory administrative remedy process provided in the state's Procurement Code, which must be exhausted before an appeal can be undertaken in court.

Tort claims, however, are an entirely different matter. The number of personal injury claims filed against the state during the past four and one-half years has averaged 700 claims per year and is growing steadily each year. Of this number, about 130 claims now result in lawsuits in superior court. Extending the jurisdiction of the district court to include claims against the state which do not exceed \$50,000 is expected to substantially increase the number of claims that result in lawsuits. This should result in a corresponding increase in the state's cost to defend against tort suits.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

Most tort claims, about 570 of the 700 claims now being filed annually, are settled administratively by the state's contracted insurance adjustor. If resolution fails at the adjustor's level, a claim is settled by the Division of Risk Management. If a claimant is not satisfied with a settlement offer, or if a claim is denied, a claimant currently has the option of bringing a tort action in superior court. During the past four years approximately forty-five percent of the claims handled administratively were denied.

There is no existing requirement, however, that a claimant even contact the state to seek an administrative settlement, and a claimant may bring a lawsuit without ever having sought a settlement from the state's adjustor or the Division of Risk Management.

It is important to note that the state on its own initiative already contacts potential claimants in the course of investigating state agency accident reports and voluntarily offers settlements where it is appropriate to do so. Nevertheless, there are many instances where injuries are alleged in a lawsuit where the state does not have prior notice or knowledge. Indeed, the state does not receive prior notice of about ninety percent of the claims that are filed as lawsuits.

It is unknown to what extent the bill, by itself, will encourage additional claims, but that eventuality seems likely in view of less complex small claims court procedures, and because of the relative ease by which claimants can represent themselves as pro se counsel in small claims court. There is no totally accurate way, and certainly no easy way to forecast the number of new lawsuits that will occur as a result of the enactment of this bill. However, we live in a litigious age where the state is perceived by some, including some of those who make their living prosecuting personal injury suits, as having a deep pocket. Therefore, for the purposes of this analysis, we have attempted to show that there will be an appreciable increase in the state's tort defense, while still employing conservative cost projections.

For example, if twenty-five percent of the 570 claims that do not now result in lawsuits end up in district court, the department would have to defend 142 new suits. Although the state's defense would be under rules that are less formal or strenuous than those required by the superior court, it is anticipated that a minimum of twenty attorney hours would be required to prepare for and present the state's defense in each case. This is an estimate of the minimum time that would be required, and there will be many occasions when a substantially greater effort will be necessary.

Furthermore, some percentage of the outcome of the new cases that will be heard in district court will be appealed to the superior court. Here again, it is difficult to provide an exact estimate, but it is not unreasonable

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

to expect that about twenty-five percent of the district court cases will be appealed to the superior court by either claimant plaintiffs or the defendant state. It is estimated that each appeal of a district court judgment will require a minimum of 100 hours of state attorney time to prepare and litigate in superior court. There will also be numerous times when either side in a district court trial will appeal the court's rulings to the superior court during the course of a trial, in the form of petitions for review.

The number of cases now filed in superior court with a value that does not exceed \$50,000 is relatively small, perhaps ten to fifteen percent of the 130 tort cases filed against the state in superior court. Thus the number of cases that would be directed to district court will be easily offset, and very likely be outweighed, by the number of district court appeals to the superior court. Moreover, the superior court will be repeatedly called upon to rule on petitions for review for tort cases being tried in district court. Also, because tort claims filed in district court will automatically have an additional level of appeal (Rule 601), some claims will take one or two years longer to complete before a final judgment is entered.

Expanding the jurisdiction of the district court to hear tort claims under the relaxed small claims rules will increase the number of claims that are filed in court and decrease the number of claims settled administratively, resulting in a corresponding increase in state costs. Although the individual value of most claims filed under the bill would be relatively small, the state's tort defense will not change and it will often involve complex government immunity arguments. These are issues that are rarely dealt with in the small claims setting.

As mentioned previously, the bill will encourage additional lawsuits, to a large extent turning an administrative process into a legal fight. This will result in some unmeritorious lawsuits. And, in some instances, the bill will result in nuisance suits when it is understood that in some circumstances it will cost the state more to defend itself in court than the value of the claim, irrespective of a claim's merit. For example, the state receives numerous claims alleging vehicle damage caused by potholes, ranging from a few hundred dollars to a few thousand dollars per claim. The state is generally immune from this type of claim because it cannot repair all potholes at one time, and it must necessarily exercise its discretion in carrying out repairs. However, under the bill the state will have to defend against such claims in court, often at a cost that exceeds the amount being claimed. Most of these claims would otherwise be properly denied under the existing administrative process, at minimal cost to the state.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

Therefore, based on the foregoing estimates of 142 new lawsuits and 33 new appeals, the bill will result in an annual increase of over 6,100 hours of attorney case work for the department. On average, each of the department's tort attorneys produce about 1500 hours annually devoted solely to case work. Consequently, the bill will require the addition of at least four attorneys. Moreover, because these cases could be heard before as many as fifteen different district court judges, scheduling will present some difficulties for these attorneys requiring additional paralegal and clerical support staff. It is therefore our estimate that two attorneys, one paralegal assistant, and one legal secretary will be required in Anchorage, and one attorney each and one legal secretary each will be required in both Fairbanks and Juneau.

COST SUMMARY

<u>Location</u>	<u>Title</u>	<u>Personal Services</u>	<u>Travel</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
Anchorage	Attorney IV	85.0	7.5	20.0	6.0	6.5	125.0
	Attorney III	75.3	7.5	20.0	6.0	6.5	115.3
	Paralegal Asst II	51.3	2.5	6.6	3.3	6.5	70.2
	Legal Secretary I	37.3		4.4	3.3	9.0	54.0
Fairbanks	Attorney IV	96.4	7.5	20.0	6.0	6.5	136.4
	Legal Secretary I	38.6		4.4	3.3	9.0	55.3
Juneau	Attorney IV	85.0	7.5	20.0	6.0	6.5	125.0
	Legal Secretary	37.3		4.4	3.3	9.0	54.0
	TOTAL	<u>506.2</u>	<u>32.5</u>	<u>99.8</u>	<u>37.2</u>	<u>59.5</u>	<u>735.2</u>

FY93 costs are shown above. Costs after FY93 include a three percent inflation factor.

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5-15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		64,056		
Benefits		20,969		
Premium Pay				
Other				
Total Personal Services		85,025		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		125,025		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		125,025		
CIP Receipts 1061				
Other				
Justification This Attorney IV position will be needed to handle part of the increase case load in Southcentral Alaska caused by implementation of SB101. The position will handle some of the new lawsuits in district court and most of the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 93

Page 1 of 1
 Revised Date: _____

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		36,936		
Benefits		14,334		
Premium Pay				
Other				
Total Personal Services		51,270		
Travel		2,500		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		70,170		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		70,170		
CIP Receipts 1061				
Other				
Justification This paralegal assistant will be needed to handle witness scheduling that will be needed by the two attorneys in Anchorage who will handle the new torts caseload caused by the implementation of SB101. The position will also assist and prepare case files and evidence used at trial. These duties are appropriate for a Paralegal Assistant II.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 93

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		25,872		
Benefits		11,435		
Premium Pay				
Other				
Total Personal Services		37,307		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		54,007		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		54,007		
CIP Receipts 1061				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorneys in Anchorage who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 93

Page 1 of 1
 Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17 - 22, 24
TYPE OF EXPENDITURE		Amount		
Salary		73,596		
Benefits		22,789		
Premium Pay				
Other				
Total Personal Services		96,385		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		136,385		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		136,385		
CIP Receipts 1061				
Other				
<p>Justification</p> <p>This Attorney IV position will be needed to handle the increased caseload in Central and Northern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.</p>				

**Request For
New Position**

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

FY 97

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17 - 22, 24
TYPE OF EXPENDITURE		Amount		
Salary		26.904		
Benefits		11.705		
Premium Pay				
Other				
Total Personal Services		38,609		
Travel				
Contractual		4.400		
Commodities		3.300		
Equipment		9.000		
Other				
Total Cost		55.309		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
IA Receipts 1007		55.309		
CIP Receipts 1061				
Other				
<p>Justification</p> <p>The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Fairbanks who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.</p>				

**Request For
New Position**

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

FY 93

Page 1 of 1

Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount	Justification This Attorney IV position will be needed to handle the increased caseload in Southeastern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.	
Salary		64,056		
Benefits		20,969		
Premium Pay				
Other				
Total Personal Services		85,025		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		125,025		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		125,025		
CIP Receipts 1061				
Other				

**Request For
New Position**

AGENCY Department of Law
BRU Legal Services
COMPONENT Operations

FY 93

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount		
Salary		25,872		
Benefits		11,435		
Premium Pay				
Other				
Total Personal Services		37,307		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		54,007		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		54,007		
CIP Receipts 1061				
Other				
Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Juneau who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 93

Page 1 of 1
 Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

"Work Draft"
BILL NO. HCSCSSB 101 (Jud)

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the jurisdiction of the district court." BRU: Legal Services
 Component: Operations
 Sponsor: Senate Judiciary
 Requestor: Governor's Office/OMB COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	486.9	501.5	516.6	532.0	548.0	564.4
TRAVEL	32.5	33.5	34.5	35.5	36.6	37.7
CONTRACTUAL	99.8	102.8	105.9	109.1	112.4	115.8
SUPPLIES	37.2	38.3	39.4	40.6	41.8	43.1
EQUIPMENT	59.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	715.9	676.1	696.3	717.2	738.8	761.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER - IAR	715.9	676.1	696.3	717.2	738.8	761.0
TOTAL						

POSITIONS:

FULL-TIME	8	8	8	8	8	8
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues Director Phone: 465-3672
 Division: Administrative Services Date: May 13, 1991
 Approved by Commissioner: Charles E. Cole Attorney General
 Agency: Department of Law Date: May 13, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

The work draft for HCSCSSB 101 (Jud) changes this bill to reintroduce language that would authorize tort claims against the state to be filed in small claims court. This version of the bill would also authorize forcible entry and detainer actions, with a value of less than \$5,000, to be filed in small claims. This latter change, which involves evictions, will not impact the department, but it may have a substantial impact on the court system.

When this bill was initially considered in its original form, SB101, the Department of Law found that a substantial fiscal impact would result for the department, because of a provision in the bill authorizing tort claims against the state to be filed in small claims court. As a consequence, the Senate Judiciary Committee dropped this provision, and the department's fiscal impact statement was accordingly withdrawn. The reintroduction of the small claims provision in the work draft makes it necessary for the department to request fiscal impact funding. The department's comments on this provision are presented below.

Senate Bill No. 101 amends AS 09.50.250 and AS 22.15.050 to provide that a person or a corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in district court. At the present time, claims against the state, not settled administratively by state agencies, can be filed only in superior court, irrespective of the value of the claim. The superior court normally only adjudicates claims that exceed \$50,000. This bill would act to direct claims of up to \$50,000 to the district court. Claims that exceed \$50,000 would still be heard in superior court if they were not settled administratively.

Most contract claims against the state are handled administratively by the contract remedy process provided in AS 36.30.560 - AS 36.30.695, and AS 44.77.010 - AS 44.77.070. Contract claims that are currently appealed to the superior court after these administrative proceedings usually exceed the \$50,000 threshold for original entry as a superior court appeal, although they need not exceed the threshold to do so. The bill should not cause a substantial fiscal impact for contract appeals because of the comprehensive mandatory administrative remedy process provided in the state's Procurement Code, which must be exhausted before an appeal can be undertaken in court.

Tort claims, however, are an entirely different matter. The number of personal injury claims filed against the state during the past four and one-half years has averaged 700 claims per year and is growing steadily each year. Of this number, about 130 claims now result in lawsuits in superior court. Extending the jurisdiction of the district court to include claims against the state which do not exceed \$50,000 is expected to substantially increase the number of claims that result in lawsuits. This should result in a corresponding increase in the state's cost to defend against tort suits.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

Most tort claims, about 570 of the 700 claims now being filed annually, are settled administratively by the state's contracted insurance adjustor. If resolution fails at the adjustor's level, a claim is settled by the Division of Risk Management. If a claimant is not satisfied with a settlement offer, or if a claim is denied, a claimant currently has the option of bringing a tort action in superior court. During the past four years approximately forty-five percent of the claims handled administratively were denied.

There is no existing requirement, however, that a claimant even contact the state to seek an administrative settlement, and a claimant may bring a lawsuit without ever having sought a settlement from the state's adjustor or the Division of Risk Management.

It is important to note that the state on its own initiative already contacts potential claimants in the course of investigating state agency accident reports and voluntarily offers settlements where it is appropriate to do so. Nevertheless, there are many instances where injuries are alleged in a lawsuit where the state does not have prior notice or knowledge. Indeed, the state does not receive prior notice of about ninety percent of the claims that are filed as lawsuits.

It is unknown to what extent the bill, by itself, will encourage additional claims, but that eventuality seems likely in view of less complex small claims court procedures, and because of the relative ease by which claimants can represent themselves as pro se counsel in small claims court. There is no totally accurate way, and certainly no easy way to forecast the number of new lawsuits that will occur as a result of the enactment of this bill. However, we live in a litigious age where the state is perceived by some, including some of those who make their living prosecuting personal injury suits, as having a deep pocket. Therefore, for the purposes of this analysis, we have attempted to show that there will be an appreciable increase in the state's tort defense, while still employing conservative cost projections.

For example, if twenty-five percent of the 570 claims that do not now result in lawsuits end up in district court, the department would have to defend 142 new suits. Although the state's defense would be under rules that are less formal or strenuous than those required by the superior court, it is anticipated that a minimum of twenty attorney hours would be required to prepare for and present the state's defense in each case. This is an estimate of the minimum time that would be required, and there will be many occasions when a substantially greater effort will be necessary.

Furthermore, some percentage of the outcome of the new cases that will be heard in district court will be appealed to the superior court. Here again, it is difficult to provide an exact estimate, but it is not unreasonable

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

to expect that about twenty-five percent of the district court cases will be appealed to the superior court by either claimant plaintiffs or the defendant state. It is estimated that each appeal of a district court judgment will require a minimum of 100 hours of state attorney time to prepare and litigate in superior court. There will also be numerous times when either side in a district court trial will appeal the court's rulings to the superior court during the course of a trial, in the form of petitions for review.

Apparently one of the anticipated results of this bill is to decrease superior court caseload by directing claims that do not exceed \$50,000 to the district court.

The number of cases now filed in superior court with a value that does not exceed \$50,000 is relatively small, perhaps ten to fifteen percent of the 130 tort cases filed against the state in superior court. Thus the number of cases that would be directed to district court will be easily offset, and very likely be outweighed, by the number of district court appeals to the superior court. Moreover, the superior court will be repeatedly called upon to rule on petitions for review for tort cases being tried in district court. Also, because tort claims filed in district court will automatically have an additional level of appeal (Rule 601), some claims will take one or two years longer to complete before a final judgment is entered.

Aside from the issue of the superior court serving as an appeals court for district court decisions, expanding the jurisdiction of the district court to hear tort claims under the relaxed small claims rules will increase the number of claims that are filed in court and decrease the number of claims settled administratively, resulting in a corresponding increase in state costs. Although the individual value of most claims filed under the bill would be relatively small, the state's tort defense will not change and it will often involve complex government immunity arguments. These are issues that are rarely dealt with in District Court at this time.

As mentioned previously, the bill will encourage additional lawsuits, to a large extent turning an administrative process into a legal fight. This will result in some unmeritorious lawsuits. And, in some instances, the bill will result in nuisance suits when it is understood that in some circumstances it will cost the state more to defend itself in court than the value of the claim, irrespective of a claim's merit. For example, the state receives numerous claims alleging vehicle damage caused by potholes, ranging from a few hundred dollars to a few thousand dollars per claim. The state is generally immune from this type of claim because it cannot repair all potholes at one time, and it must necessarily exercise its discretion in carrying out repairs. However, under the bill the state will have to defend against such claims in court, often at a cost that exceeds the amount being claimed. Most of these claims would otherwise be properly denied under the existing administrative process, at minimal cost to the state.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 101 (Jud) "Work Draft"

Therefore, based on the foregoing estimates of 142 new lawsuits and 33 new appeals, the bill will result in an annual increase of over 6,100 hours of attorney case work for the department. On average, each of the department's tort attorneys produce about 1500 hours annually devoted solely to case work. Consequently, the bill will require the addition of at least four attorneys. Moreover, because these cases could be heard before as many as fifteen different district court judges, scheduling will present some difficulties for these attorneys requiring additional paralegal and clerical support staff. It is therefore our estimate that two attorneys, one paralegal assistant, and one legal secretary will be required in Anchorage, and one attorney each and one legal secretary each will be required in both Fairbanks and Juneau.

COST SUMMARY

<u>Location</u>	<u>Title</u>	<u>Personal Services</u>	<u>Travel</u>	<u>Contractual</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total</u>
Anchorage	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Attorney III	72.4	7.5	20.0	6.0	6.5	112.4
	Paralegal Asst II	49.3	2.5	6.6	3.3	6.5	68.2
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
Fairbanks	Attorney IV	92.6	7.5	20.0	6.0	6.5	132.6
	Legal Secretary I	37.2		4.4	3.3	9.0	53.9
Juneau	Attorney IV	81.8	7.5	20.0	6.0	6.5	121.8
	Legal Secretary I	35.9		4.4	3.3	9.0	52.6
	TOTAL	486.9	32.5	99.8	37.2	59.5	715.9

FY92 costs are shown above. Costs after FY92 include a three percent inflation factor.

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		61,008		
Benefits		20,760		
Premium Pav				
Other				
Total Personal Services		81,768		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		121,768		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
IA Receipts 1007		121,768		
CIP Receipts 1061				
Other				
Justification <p>This Attorney IV position will be needed to handle part of the increased caseload in Southcentral Alaska caused by implementation of SB101. The position will handle some of the new lawsuits in district court and most of the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.</p>				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Attorney III		No. of Positions 1	Range / Step 22 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		53,298		
Benefits		19,092		
Premium Pay				
Other				
Total Personal Services		72,390		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		112,390		
FUNDING SOURCE FOR TOTAL CCST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		112,390		
CIP Receipts 1061				
Other				
Justification				
<p>This Attorney III position will be needed to handle part of the increased caseload in Southcentral Alaska caused by implementation of SB101. The position will handle many of the new lawsuits in district court and a few of the appeals of these cases in superior court. Most of this new work involves court trials and requires personal injury defense experience. Because of the extensive trial work, additional amounts are needed for travel, depositions, expert witnesses, and exhibits. This position requires three or more years of experience of an Attorney III to handle this level of work.</p>				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Paralegal Assistant II		No. of Positions 1	Range / Step 16 A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 5 - 15, 23 - 27
TYPE OF EXPENDITURE		Amount		
Salary		35,166		
Benefits		14,110		
Premium Pay				
Other				
Total Personal Services		49,276		
Travel		2,500		
Contractual		6,600		
Commodities		3,300		
Equipment		6,500		
Other				
Total Cost		68,176		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		68,176		
CIP Receipts 1061				
Other				
Justification This paralegal assistant will be needed to handle witness scheduling that will be needed by the two attorneys in Anchorage who will handle the new torts caseload caused by the implementation of SB101. The position will also assist and prepare case files and evidence used at trial. These duties are appropriate for a Paralegal Assistant II.				

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title		Legal Secretary I	No. of Positions	1	Range / Step	10 B	Barg. Unit	GG
Time Status	PFT	Staff Months	12	Location	Anchorage	Election District	5 - 15, 23 - 27	
TYPE OF EXPENDITURE			Amount	Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorneys in Anchorage who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. Allocation of the position to the Legal Secretary I level is therefore appropriate.				
Salary			24,636					
Benefits			11,276					
Premium Pay								
Other								
Total Personal Services			35,912					
Travel								
Contractual			4,400					
Commodities			3,300					
Equipment			9,000					
Other								
Total Cost			52,612					
FUNDING SOURCE FOR TOTAL COST								
Federal Receipts 1002								
G.F. Match 1003								
General Fund 1004								
I-A Receipts 1007			52,612					
CIP Receipts 1061								
Other								

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Fairbanks		Election District 17 - 22 - 24
TYPE OF EXPENDITURE		Amount		
Salary		70,092		
Benefits		22,558		
Premium Pay				
Other				
Total Personal Services		92,560		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		132,560		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		132,560		
CIP Receipts 1061				
Other				
Justification <p>This Attorney IV position will be needed to handle the increased caseload in Central and Northern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.</p>				

Request For New Position

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title		Legal Secretary I		No. of Positions	1	Range / Step	10 B	Barg. Unit	GG
Time Status	PFT	Staff Months	12	Location	Fairbanks		Election District	17 - 22, 24	
TYPE OF EXPENDITURE			Amount	Justification The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Fairbanks who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.					
Salary			25,620						
Benefits			11,541						
Premium Pay									
Other									
Total Personal Services			37,161						
Travel									
Contractual			4,400						
Commodities			3,300						
Equipment			9,000						
Other									
Total Cost			53,861						
FUNDING SOURCE FOR TOTAL COST									
Federal Receipts		1002							
G.F. Match		1003							
General Fund		1004							
I-A Receipts		1007	53,861						
CIP Receipts		1061							
Other									

**Request For
New Position**

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1
 Revised Date: _____

Position Title Attorney IV		No. of Positions 1	Range / Step 24 A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount		
Salary		61,008		
Benefits		20,760		
Premium Pay				
Other				
Total Personal Services		81,768		
Travel		7,500		
Contractual		20,000		
Commodities		6,000		
Equipment		6,500		
Other				
Total Cost		121,768		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007	121,768		
CIP Receipts	1061			
Other				
Justification This Attorney IV position will be needed to handle the increased caseload in Southeastern Alaska caused by implementation of SB101. The position will handle the new lawsuits in district court and the appeals of these cases in superior court. Most of this work involves court trials and requires experience in personal injury defense and state immunity defenses. Because of the extensive trial work, additional amounts are required for travel, depositions, expert witnesses, and exhibits. This position requires full journey-level skills as an Attorney IV because of the involvement in appeals.				

Request For New Position

AGENCY Department of Law
 BRU Legal Services
 COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10 B	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Juneau		Election District 1 - 4
TYPE OF EXPENDITURE		Amount		
Salary		24,636		
Benefits		11,276		
Premium Pay				
Other				
Total Personal Services		35,912		
Travel				
Contractual		4,400		
Commodities		3,300		
Equipment		9,000		
Other				
Total Cost		52,612		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004				
I-A Receipts 1007		52,612		
CIP Receipts 1061				
Other				
Justification <p>The Legal Secretary I position will be needed to prepare the trial documents required by the new attorney in Juneau who will handle the additional tort caseload caused by implementation of SB101. Trial work of this sort is paper-intensive, involving extensive motion practice and briefing. In addition, the position will handle witness scheduling in the absence of paralegal support at this location. Allocation of the position to the Legal Secretary I level is therefore appropriate.</p>				

**Request For
New Position**

AGENCY Department of Law

BRU Legal Services

COMPONENT Operations

FY 92

Page 1 of 1

Revised Date: _____

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: April 8, 1991 Department Affected: Department of Law

Title: "...relating to the jurisdiction of the BRU: Legal Services

district court and...to hear actions as small Component: Operations
claims."

Sponsor: Senate Judiciary by Request

Requestor: Senate Judiciary COMPONENT SERIAL NO.

		9	3
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.) The committee substitute for SB 101 changes the original bill by denying access to the relaxed procedures of small claims court if the defendant is the state. This change should eliminate most of the incentive for claimants to bring actions in district court cited in our original fiscal note, thus making fiscal note costs unnecessary.

Prepared By: Richard I. Pegues, (Director) Phone: 465-3672

Division: Administrative Services Date: April 8, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: April 8, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

Bill Version: SB 101
 (S) Publish

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction BRU: Trial Courts
of the district court Components: _____
 Sponsor: Judiciary
 Requestor: Judiciary COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Changes in CS SB 101 (Jud)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.
Mar 27, 91 CR/Said
 date Comte Aide (initial)

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 02/04/91
 Approved by: Arthur H. Snowden, II, Administrative Director Stephanie Cole, for
 Agency: Alaska Court System Date: 02/04/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

02/13/91 12:49:49
(akdefs)

Page A1

A Review of Master Name Indexes
For Calendar Year 1990 to Identify
Cases Where The State of Alaska is a Defendant

Court Location	Name Records For Cases With CI Suffix	Subset of CI Name Records For Defendants	Number of Records In Which SOA or State Agency is Defendant	Estimated % of General Civil Cases Filed in Calendar Year 1990 w/ Defendant=SOA
Anchorage	16,870	9,471	268	2.8
Bethel	321	175	6	3.4
Fairbanks	4,913	2,294	38	1.7
Juneau	1,459	737	34	4.6
Kenai	969	562	34	6.0
Ketchikan	526	271	4	1.5
Kodiak	583	352	5	1.4
Palmer	569	334	30	9.0
Sitka	314	157	5	3.2
Totals	26,524	14,353	424	3.0

Given the results at these selected sites, it is probably safe to assume that there are between 400 and 500 cases filed annually in which the State of Alaska or one of its agencies is the defendant.

Note: All civil cases without a CI suffix on the case number were excluded. Probate, Domestic Relations, Small Claims, etc. omitted.

25-101

7-LS0597P ✓
Gaguine\Finley
5/11/91

HOUSE CS FOR CS FOR SENATE BILL NO. 101 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the jurisdiction of the district court and to the district court's ability
2 to hear actions as small claims; and amending Rule 8 of the Alaska District Court Rules
3 of Civil Procedure."

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

5 * **Section 1.** AS 09.50.250 is amended to read:

6 Sec. 09.50.250. **ACTIONABLE CLAIMS AGAINST THE STATE.** A person or
7 corporation having a contract, quasi-contract, or tort claim against the state may bring an action
8 against the state [IN THE SUPERIOR COURT]. A person who may present the claim under
9 AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A
10 person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under
11 this section except as set out in AS 36.30.685. However, an action may not be brought under
12 this section if the claim

13 (1) is an action for tort, and is based upon an act or omission of an employee of
14 the state, exercising due care, in the execution of a statute or regulation, whether or not the

1 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance
2 or the failure to exercise or perform a discretionary function or duty on the part of a state agency
3 or an employee of the state, whether or not the discretion involved is abused;

4 (2) is for damages caused by the imposition or establishment of a quarantine by
5 the state;

6 (3) arises out of assault, battery, false imprisonment, false arrest, malicious
7 prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with
8 contract rights; or

9 (4) arises out of the use of an ignition interlock device certified under
10 AS 33.05.020(c).

11 * Sec. 2. AS 22.15.040(a) is amended to read:

12 (a) When a claim for relief does not exceed \$5,000 exclusive of costs, interest, and
13 attorney fees, and request is so made, the district judge or magistrate shall hear the action as a
14 small claim unless important or unusual points of law are involved or unless the state is a
15 defendant. The supreme court shall prescribe the procedural rules and standard forms to assure
16 simplicity and the expeditious handling of small claims.

17 * Sec. 3. AS 22.15.040 is amended by adding a new subsection to read:

18 (c) When a claim for possession under AS 22.15.030(a)(6) is made and the value of the
19 arrears and damage to the property does not exceed \$5,000 exclusive of costs, interest, and
20 attorney fees, and when request is so made, the district judge or magistrate shall hear the action
21 as a small claim unless important or unusual points of law are involved.

22 * Sec. 4. AS 22.15.040(c), added by sec. 3 of this Act, has the effect of amending Rule 8 of the
23 Alaska District Court Rules of Civil Procedure by requiring procedures for forcible entry and detainer
24 to apply to certain small claims.

25 * Sec. 5. Alaska District Court Rule of Civil Procedure 8(a) is amended to read:

26 (a) Procedure in small claim actions as defined by AS 22.15.040, is governed by these
27 rules and other rules specifically incorporated herein by reference, when all parties to the action
28 elect to be governed by them. Part I of the District Court Rules of Civil Procedure governs small
29 claim actions when the parties do not elect small claim procedure. However, in cases covered
30 by AS 22.15.040(c), relating to claims for possession of real property, these rules and Alaska
31 Rule of Civil Procedure 85 apply when all parties to the action elect to be governed by

1 them.

2 * **Sec. 6.** Alaska District Court Rule of Civil Procedure 8(c) is amended to read:

3 (c) Actions to foreclose or enforce statutory, common law or possessory liens [AND
4 ACTIONS FOR RECOVERY OF REAL PROPERTY] may not be brought as small claims
5 actions. The court may, on its own motion, order the rules in Part I to apply in any other action
6 when important or difficult questions of fact or law are involved.

7 * **Sec. 7.** Section 3 of this Act takes effect only if sec. 4 of this Act receives the two-thirds vote
8 required by art. IV, sec. 15, Constitution of the State of Alaska. Sections 5 and 6 of this Act take effect
9 only if they receive the two-thirds vote required by art. IV, sec. 15, Constitution of the State of Alaska.

7-LS0597M
Gaguine
5/13/91

HOUSE CS FOR CS FOR SENATE BILL NO. 101 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the jurisdiction of the district court and to the district court's ability
2 to hear actions as small claims; and amending Rule 8 of the Alaska District Court Rules
3 of Civil Procedure."

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

5 * **Section 1.** AS 09.50.250 is amended to read:

6 Sec. 09.50.250. **ACTIONABLE CLAIMS AGAINST THE STATE.** A person or
7 corporation having a contract, quasi-contract, or tort claim against the state may bring an action
8 against the state [IN THE SUPERIOR COURT]. A person who may present the claim under
9 AS 44.77 may not bring an action under this section except as set out in AS 44.77.040(c). A
10 person who may bring an action under AS 36.30.560 - 36.30.695 may not bring an action under
11 this section except as set out in AS 36.30.685. However, an action may not be brought under
12 this section if the claim

13 (1) is an action for tort, and is based upon an act or omission of an employee of
14 the state, exercising due care, in the execution of a statute or regulation, whether or not the

1 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance
2 or the failure to exercise or perform a discretionary function or duty on the part of a state agency
3 or an employee of the state, whether or not the discretion involved is abused;

4 (2) is for damages caused by the imposition or establishment of a quarantine by
5 the state;

6 (3) arises out of assault, battery, false imprisonment, false arrest, malicious
7 prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with
8 contract rights; or

9 (4) arises out of the use of an ignition interlock device certified under
10 AS 33.05.020(c).

11 * Sec. 2. AS 22.15.040 is amended by adding a new subsection to read:

12 (c) When a claim for possession under AS 22.15.030(a)(6) is made and the value of the
13 arrears and damage to the property does not exceed \$5,000 exclusive of costs, interest, and
14 attorney fees, the district judge or magistrate shall hear the action as a small claim unless
15 important or unusual points of law are involved.

16 * Sec. 3. AS 22.15.050 is amended to read:

17 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The jurisdiction of
18 the district courts does not extend to

19 (1) an action in which the title to real property is in question;

20 (2) an action for false imprisonment, libel, slander, malicious prosecution, or
21 actions of an equitable nature, [() except as otherwise provided by law ()], OR ACTIONS IN
22 WHICH THE STATE IS A DEFENDANT].

23 * Sec. 4. AS 22.15.040(c), added by sec. 2 of this Act, has the effect of amending Rule 8 of the
24 Alaska District Court Rules of Civil Procedure by requiring certain claims to be heard as small claims
25 and by requiring procedures for forcible entry and detainer to apply to certain small claims.

26 * Sec. 5. Alaska District Court Rule of Civil Procedure 8(a) is amended to read:

27 (a) Procedure in small claim actions as defined by AS 22.15.040, is governed by these
28 rules and other rules specifically incorporated herein by reference, when all parties to the action
29 elect to be governed by them. Part I of the District Court Rules of Civil Procedure governs small
30 claim actions when the parties do not elect small claim procedure. However, in cases covered
31 by AS 22.15.040(c), relating to claims for possession of real property, these rules and Alaska

1 Rule of Civil Procedure 85 apply even if the parties do not elect to be governed by them.

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1 statute or regulation is valid; or is an action for tort, and based upon the exercise or performance
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3 or an employee of the state, whether or not the discretion involved is abused;

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8 contract rights; or

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10 AS 33.05.020(c).

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12 (a) When a claim for relief does not exceed \$5,000 exclusive of costs, interest, and
13 attorney fees, and request is so made, the district judge or magistrate shall hear the action as a
14 small claim unless important or unusual points of law are involved or unless the state is a
15 defendant. The supreme court shall prescribe the procedural rules and standard forms to assure
16 simplicity and the expeditious handling of small claims.

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18 (c) When a claim for possession under AS 22.15.030(a)(6) is made and the value of the
19 arrears and damage to the property does not exceed \$5,000 exclusive of costs, interest, and
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21 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The jurisdiction of
22 the district courts does not extend to

23 (1) an action in which the title to real property is in question, except for actions
24 under AS 29.45.290 - 29.45.500;

25 (2) an action for false imprisonment, libel, slander, malicious prosecution, or
26 actions of an equitable nature, [() except as otherwise provided by law ()], OR ACTIONS IN
27 WHICH THE STATE IS A DEFENDANT].

28 * Sec. 4. AS 29.45.330(a) is amended to read:

29 (a) A municipality shall

30 (1) annually present a petition for judgment and a certified copy of the foreclosure
31 list for the previous year's delinquent taxes in the [SUPERIOR] court of proper jurisdiction for

1 judgment;

2 (2) publish the foreclosure list for four consecutive weeks in a newspaper of
3 general circulation distributed in the municipality or, if there is no newspaper of general
4 circulation distributed in the municipality, post the list at three public places for at least 30 days;

5 (3) within 10 days after the first publication or posting, mail to the last known
6 owner of each property as the owner's name and address appear on the list a notice advising of
7 the foreclosure proceeding in which a petition for judgment of foreclosure has been filed and
8 describing the property and the amount due as stated on the list.

9 * Sec. 5. AS 29.45.330(b) is amended to read:

- 10 (b) The list shall be arranged in alphabetical order as to the last name and shall include
- 11 (1) the last known owner;
 - 12 (2) the property description as stated on the assessment roll;
 - 13 (3) years and amounts of delinquency;
 - 14 (4) penalty and interest due;
 - 15 (5) a statement that the list is available for public inspection at the clerk's office;
 - 16 (6) a statement that the list has been presented to the [SUPERIOR] court of
17 proper jurisdiction with a petition for judgment and decree.



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

May 10, 1991

The Honorable Dave Donley
Co-Chairman House Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Donely:

I respectfully request that the House Judiciary Committee not amend SEnate Bill 101 as proposed in the May 9 work draft. I believe the proposed amendments, particularly the amendment of Section 2 of the bill, would be detrimental to the efficient administration of the courts.

Some specific objections to the Section 2 amendment are:

- (1) It conflicts with the statute which currently indicates that magistrates do not have jurisdiction over FED actions.
- (2) It would delay eviction proceedings because the small claims rules do not provide for any expedited procedures like those provided for FED's in Civil Rule 85.
- (3) It will be misleading to the public to suggest to them that these proceedings can easily be handled without an attorney and that the court clerks can somehow help them find their way through the various statutes involved in these property disputes.

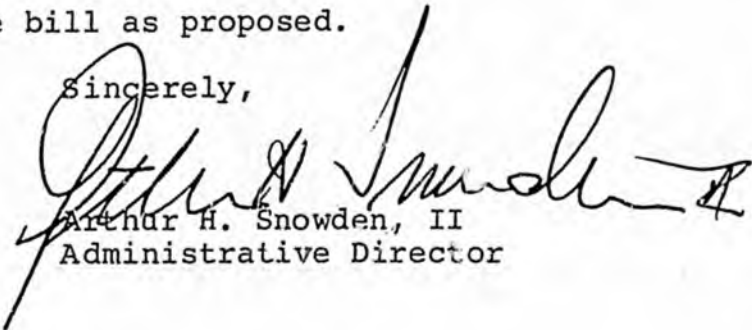
The extra work this amendment would mean for the court system will require us to attach a fiscal note to this bill and probably to oppose the bill.

May 10, 1991
Page Two

The amendments in Sections 3-5 of the bill concerning enforcement of tax liens do not provide as many problems for the courts as the Section 2 amendment. However, these amendments also do not seem to be in the interest of efficient administration of justice. They would seem to require municipalities to file two separate foreclosure lists each year, one in superior court and one in district court (if some properties owe more than \$50,000 in taxes and some owe less). Presumably this will be somewhat more costly for the courts and the municipalities. Additionally, it could easily be more confusing for the public if separate foreclosure lists are published. It seems inconsistent with AS 29.45.360 which appears to require one general foreclosure proceeding.

Please consider not amending the bill as proposed.

Sincerely,



Arthur H. Snowden, II
Administrative Director

Attachment

Alaska State Legislature



Senate Judiciary Committee

March 27, 1991

Senator Kerttula, Co-Chairman
Senator Pourchot, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: CSSB 101 (Judiciary) Relating to the jurisdiction of the
district Court

Dear Co-Chairs,

At the direction of the Senate Judiciary Committee I am sending you this communication concerning CSSB 101 (Judiciary). This bill was heard by Senate Judiciary February 12, February 22 and March 26, 1991. The Department of Law was present at the February 12 hearing.

While it was first thought that the bill would have little or no fiscal impact on the Department of Law, we received on March 20, 1991, a fiscal note for about \$700,000 annually. It is the sense of the committee that this is not in any way a fair appraisal of the fiscal impact of the bill.

Having considered the bill three times, it was passed out of committee with the Department of Law fiscal note but subject to the concerns expressed herein.

Sincerely,

S

Senator Rick Halford
Chair, Senate Judiciary

RH/db

Post Office Box V • Juneau, Alaska 99811

Committee Substitute
Senate Bill No. 43

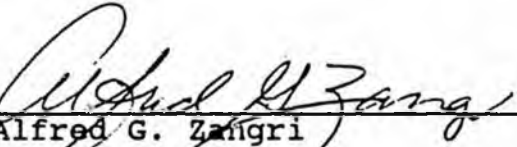
For an Act entitled: "An Act authorizing a registered nurse to determine and pronounce death under certain circumstances."

SB 43 allows Registered Nurses to determine and pronounce death in a specific set of circumstances with written prior approval of finite duration from an attendant physician.

While the Department believes that current statutes and regulations are permissive enough to allow this activity, current practice in many facilities appears to exclude RNs from determining and pronouncing death. This practice, at least in the limited context of SB43, results in unnecessary delays and could result in unnecessary and potentially life-threatening calls to EMTs.

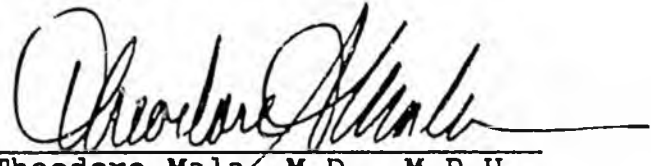
The Department believes that SB 43, as it is currently structured, will have no impact on the Department. Since the bill addresses actual and potential problems, the Department supports its passage.

Recommended:


Alfred G. Zangri
Acting Director
Division of Public Health

Date: 2/1/91

Approved:


Theodore Mala, M.D., M.P.H.
Commissioner
Department of Health
and Social Services

Date: 2/1/91

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 19, 1992

SUBJECT: Jurisdiction of District Court (CSSB 101 (Jud))
TO: Representative Max Gruenberg
FROM: Robert Glennon Casey *RGC 3-19-92*
Legislative Counsel

I. INTRODUCTION

You have asked whether, if sec. 2 of CSSB 101 (Jud) were deleted, the contents of the bill would be adequately described by its title.

II. SUMMARY

Yes. Despite the deletion, the bill would generally widen district court jurisdiction, thereby widening district court small claims jurisdiction.

III. DISCUSSION

In order for the contents of CSSB 101 (Judiciary) to remain adequately described by its title, the bill must affect a district court's ability to hear cases as small claims because the title specifically mentions small claims.

Under present law, only AS 22.15.050(2) prevents district courts from exercising jurisdiction (small claims or otherwise) over cases in which the state is a defendant. No other statute does so. No other court rule does so.

The consequence of the foregoing is that only AS 22.15.020(2) prevents district courts from having small claims jurisdiction over cases against the state. Therefore, a bill that removed this limitation would affect (among other things) "the district court's ability to hear actions as small claims." Meanwhile, the statutory change made in sec. 3 would remove a similar limitation and therefore change district court small claims jurisdiction.

RGC:pl
92-190.plm



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

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

February 8, 1991

The Honorable Rick Halford
Chairman, Senate Judiciary Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Halford:

Thank you for scheduling Senate Bill 101, relating to the jurisdiction of the district court.

Current law provides that the superior court has jurisdiction in civil cases exceeding \$50,000 in value; the district court has jurisdiction over claims not exceeding that amount. However, current law also requires that all actions against the state be brought in superior court, regardless of the size of the claim. This has resulted in situations like one which took place recently in Fairbanks, when the superior court was used to try a \$2000 claim against the state. Not only is \$2000 significantly less than the maximum amount of the district court's jurisdiction, it is significantly less than the maximum amount of a small claims case (\$5,000).

This restriction on district court jurisdiction was enacted at the time of statehood, when district court judges were not required to be attorneys. The prevailing view was that cases in which the state was a defendant should not be decided by a court presided over by a person who was not learned in the law. Today, however, this distinction is an anachronism, since a district court judge must be licensed to practice law in Alaska, and is subject to the same appointive and retention election processes as are judges of the superior court.

SB 101 proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.