

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7258 HOUSE STATE AFFAIRS

PAGE: 2

CARE PROVIDERS, PHARMACIES, ARCHITECTURE AND ENGINEERING FIRMS AND OTHERS FACE COMPETITION FROM STATE AND LOCAL GOVERNMENT.

WE RECEIVE NUMEROUS COMPLAINTS FROM OUR MEMBERS ABOUT GOVERNMENT COMPETITION. BUT, NO ONE HAS COLLECTED A SPECIFIC LIST OF THE TYPES OF BUSINESSES THE STATE IS ENGAGED IN, THAT CAN BE PROVIDED BY THE PRIVATE SECTOR. HB 300 WILL ACCOMPLISH THIS EXAMINATION OF THE ISSUE.

THIS IS A MAJOR ISSUE NATIONWIDE. ATTACHED IS A COPY OF THE MODEL STATE UNFAIR COMPETITION BILL DEVELOPED BY THE BUSINESS COALITION FOR FAIR COMPETITION. ALSO, ATTACHED ARE THE LAWS ARIZONA AND COLORADO HAVE PASSED AND SEVERAL ARTICLES ON THE ISSUE.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY IN FAVOR OF THIS VERY IMPORTANT BILL.



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 8, 1991

PLACE: Capitol, Rm 102

SUBJECT OF MEETING:  
*HB 300*

| NAME              | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS | ZIP          | (H) PHONE      | (W) PHONE | DO YOU WANT TO TESTIFY?            |                         | WHAT SUBJECT/ WHICH BILL? |
|-------------------|--------------|-----------------------------------|--------------|----------------|-----------|------------------------------------|-------------------------|---------------------------|
| <i>Russ Jurek</i> | <i>NFIB</i>  | <i>9159 Skywood</i>               | <i>99801</i> | <i>89-4278</i> |           | <input checked="" type="radio"/> Y | <input type="radio"/> N | <i>HB 300</i>             |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |              |                |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |

HB

301




**REPRESENTATIVE LOREN LEMAN** West Anchorage

5111 C Street Anchorage, AK 99503 461-7614 During Session P.O. Box V Juneau, AK 99811 465-2095

JAN 31 1992

**M E M O R A N D U M**

**DATE:** January 30, 1992  
**TO:** Members of the State Affairs Committee  
**FROM:** Representative Loren Leman   
**SUBJECT:** HB 301--A Bill to Change the Beginning Day of Regular Session

-----  
I have attached my April 16, 1991 memo to Representative Donley on the topic of the beginning day of the regular session.

Please use this during your discussion of HB 301.



Official Business

# Representative Loren Lemman

## Alaska State Legislature

3110 Street  
Suite 420  
Anchorage, Alaska 99503  
501-251-1111

During Session

PO Box V  
Juneau, Alaska 99801  
465-2095

### MEMORANDUM

TO: Representative Dave Donley

FROM: Representative Loren Lemman *Loren*

SUBJECT: Starting Day for Legislative Session

DATE: April 16, 1991

=====

Thank you for your inquiry regarding my opinions about the appropriate starting day for the legislative session.

I agree that a later starting date reduces some of the conflicts with the Christmas and New Year's post-holiday" syndrome. However, establishing the starting date as the fourth Monday of January causes even greater conflicts with seasonal employment if the legislative session lasts the full 121 days.

I suggest that the fourth Monday in January is an appropriate starting date only if the legislative session length can be reduced to 90 days. HJR 6, which I introduced earlier this session, proposes this reduction. If the session length is not reduced, I prefer to leave the starting dates as they are now, with a possible revision that the starting day be the third Monday in January (following non-gubernatorial years) if the first day in January is a Sunday or Monday.

ALASKA STATE LEGISLATURE

Representative Georgianna Lincoln

HESS Committee, Co-Chair  
Resources Committee, Vice-Chair

Budget Subcommittees  
Health and Social Services  
Revenue



P.O. Box V  
Juneau, Alaska 99811

Phone: (907) 465-3732  
FAX: (907) 465-2652

- Alatna
- Allakaket
- Aniak
- Anvik
- Arctic Village
- Beaver
- Bettles
- Birch Creek
- Chalkyitsik
- Chuathbaluk
- Crooked Creek
- Evansville
- Fort Yukon
- Galena
- Grayling
- Holy Cross
- Hughes
- Huslia
- Kalskag
- Kaltag
- Poyukuk
- Lake Minchumina
- Lime Village
- Lower Kalskag
- Manley Hot Springs
- Marshall
- McGrath
- Minto
- Mountain Village
- Nikolai
- Nulato
- Pilot Station
- Pitkas Point
- Rampart
- Red Devil
- Ruby
- Russian Mission
- Shageluk
- Sleetmute
- St. Mary's
- Stevens Village
- Stony River
- Talotna
- Tanana
- Telida
- Tuluksak
- Tyonek
- Venetie
- Wiseman

M E M O R A N D U M

TO: Representative Dave Donley, Chair  
House Judiciary Committee

FROM: Representative Georgianna Lincoln  
House District 24

DATE: February 3, 1992

RE: HB 301

\*\*\*\*\*

I polled my staff in regards to HB 301, with the result being an overwhelming support for a later start date for the very reasons you stated in your memo dated January 16, 1992. Since I am "driven" by my wonderful staff, my vote too is a later start date.

Thank you for allowing all to have a say in this important suggested change.

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO: HB 301

Revision Date: \_\_\_\_\_  
Title: "An Act relating to regular sessions  
of the legislature."  
Sponsor: House Judiciary  
Requestor: House State Affairs

Department Affected: Legislative Affairs Agency  
BRU: All  
Component: \_\_\_\_\_

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING           | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|---------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES   | 0     | 0     | 0     | 0     | 0     | 0     |
| TRAVEL              | 0     | 0     | 0     | 0     | 0     | 0     |
| CONTRACTUAL         | 0     | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES            | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT           | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES   |       |       |       |       |       |       |
| GRANTS, CLAIMS      |       |       |       |       |       |       |
| MISCELLANEOUS       |       |       |       |       |       |       |
| TOTAL OPERATING     | 0     | 0     | 0     | 0     | 0     | 0     |
| CAPITAL             | 0     | 0     | 0     | 0     | 0     | 0     |
| REVENUE FUND SOURCE | 0     | 0     | 0     | 0     | 0     | 0     |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Pamela A. Stoops, Director  
Division: Administrative Services

*Pamela A. Stoops*

Phone: 465-3850  
Date: 1/23/92

Approved By: Warren W. Endicott, Executive Director  
Agency: Legislative Affairs Agency

*Warren W. Endicott*

Date: 1/23/92

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

HOUSE BILL NO. 301  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 4/26/91  
Referred: State Affairs, Judiciary, Rules

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to regular sessions of the legislature."

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

3 \* Section 1. AS 24.05.090 is amended to read:

4           Sec. 24.05.090. LEGISLATIVE [REGULAR] SESSIONS. The legislature shall convene  
5 at the capital each year on the third [SECOND] Monday in January at 10:00 a.m. Each [  
6 HOWEVER, FOLLOWING A GUBERNATORIAL ELECTION YEAR THE LEGISLATURE  
7 SHALL CONVENE ON THE THIRD MONDAY IN JANUARY AT 10:00 A.M. EXCEPT AS  
8 PROVIDED IN THIS SECTION, EACH] legislature shall have a duration of two years and shall  
9 consist of a "First Regular Session" that [WHICH] shall meet in the odd-numbered years and  
10 a "Second Regular Session" that [WHICH] shall meet in the even-numbered years and any  
11 special session or sessions that [WHICH] the governor or legislature may find necessary to call.

# REPRESENTATIVE DAVE DONLEY


ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN  
SEAT A

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR  
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WINDEMERE • WOODLAND PARK

3111 "C" STREET, SUITE 450  
ANCHORAGE, ALASKA 99503  
(907) 561-7629 (FAX) 562-4376



## MEMORANDUM

TO: All members of the House of Representatives  
FROM: Representative Dave Donley   
RE: HB 301  
A bill to change the beginning day  
of regular legislative sessions

DATE: January 16, 1992

CHAIRMAN  
JUDICIARY COMMITTEE  
VICE CHAIRMAN  
REGULATION REVIEW COMMITTEE  
MEMBER  
RULES COMMITTEE  
LABOR AND COMMERCE COMMITTEE

JAN 17 1992

This bill, changing the starting date of regular legislative sessions from the second to the third Monday of January, is currently before the House State Affairs Committee.

HB 301, if passed, would resolve a number of conflicts currently faced by legislators and legislative staff. The 18th session of the Alaska Legislature, for example, is scheduled under existing law, AS 24.05.090, to begin on January 11, 1993, at 10 a.m. This early starting date requires that staff must be in legislative offices by January 4th. Those who must travel to Juneau will face the burden of travelling over the New Year holiday, after having had to prepare for the trip in the midst of hectic December holiday schedules.

By pushing back the starting date, legislators will have more in-session time after receiving March revenue forecasts. And we will have less in-session time during Juneau's most dark and dismal winter weather.

Moreover, by returning to a later starting date, we will be more closely in line with the original intent of those who forged Alaska's constitution. They established from the outset a beginning date of the fourth Monday in January. Conflicts with long sessions interfering with fishing seasons led to the change to an earlier starting date. When the 120-day session limit was established, those conflicts were eliminated.

Your support and comments on HB 301 are welcome. Please make your feelings on the bill known to the State Affairs committee, as well as to my staff and myself. Thank you.

DD:jls

JUNEAU OFFICE

(During Legislative Session January through May)

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3892 (FAX) 463-5661



# HOUSE COMMITTEE REPORT

(7)  
Date Referred: April 29, 1992

FURTHER REFERRALS:

Rules

Date of Committee Action: 3/9/92

The STATE AFFAIRS Committee considered:

HB 301

HOUSE BILL NO. 301

REGULAR LEGISLATIVE SESSIONS

"An Act relating to regular sessions of the legislature."

**RECOMMENDATIONS:**

be replaced with CS HB 301 (RLS)  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) LAT 1/23/92

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

| SIGNING <u>DO</u> PASS | DP | OTHER RECOMMENDATIONS   | DNP                                 | NR                                  | AM |
|------------------------|----|-------------------------|-------------------------------------|-------------------------------------|----|
|                        |    | <i>Eugene G. Kubera</i> |                                     | <input checked="" type="checkbox"/> |    |
|                        |    | <i>Tommye</i>           | <input checked="" type="checkbox"/> |                                     |    |
|                        |    | <i>[Signature]</i>      |                                     | <input type="checkbox"/>            |    |
|                        |    | <i>[Signature]</i>      |                                     | <input type="checkbox"/>            |    |
|                        |    | <i>[Signature]</i>      |                                     | <input type="checkbox"/>            |    |
|                        |    |                         |                                     |                                     |    |
|                        |    |                         |                                     |                                     |    |
|                        |    |                         |                                     |                                     |    |
|                        |    |                         |                                     |                                     |    |
|                        |    |                         |                                     |                                     |    |

*Eugene G. Kubera*  
CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 26, 1991

FURTHER REFERRALS:

Judiciary  
Rules

Date of Committee Action: 2/5/92

The STATE AFFAIRS Committee considered:

HB 301

HOUSE BILL NO. 301

REGULAR LEGISLATIVE SESSIONS

"An Act relating to regular sessions of the legislature."

RECOMMENDATIONS:

be replaced with CS HB 301 (STA)  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 LAA

zero fiscal note(s) \_\_\_\_\_

| SIGNING DO PASS         | DP                                  | OTHER RECOMMENDATIONS | DNP | NR                                  | AM |
|-------------------------|-------------------------------------|-----------------------|-----|-------------------------------------|----|
| <i>Eugene A. Kubera</i> | <input checked="" type="checkbox"/> | <i>Tom Meyer</i>      |     | <input checked="" type="checkbox"/> |    |
| <i>E. Suedman</i>       | <input type="checkbox"/>            | <i>James Baker</i>    |     | <input checked="" type="checkbox"/> |    |
| <i>Max Huenke</i>       | <input checked="" type="checkbox"/> | <i>Walter Miller</i>  |     | <input checked="" type="checkbox"/> |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |
|                         |                                     |                       |     |                                     |    |

*Eugene A. Kubera*  
CHAIRMAN'S SIGNATURE



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: January 27, 1992

PLACE: Capitol Room 102

SUBJECT OF MEETING:  
 \*HJR 2<sup>1</sup> Relating to Halt Testing of Nuclear Weapons

| NAME              | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY?            |                         | WHAT SUBJECT/ WHICH BILL? |
|-------------------|--------------|-----------------------------------|-------|-----------|-----------|------------------------------------|-------------------------|---------------------------|
| REP. TERRY MARTIN |              |                                   |       |           |           | <input checked="" type="radio"/> Y | <input type="radio"/> N | HB 901                    |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
| James E Fisher    | Self         | 633 Harris St                     | 99501 | 532-9101  | 336-6425  | <input checked="" type="radio"/> Y | <input type="radio"/> N | HJR 51                    |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                   |              |                                   |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: February 5, 1992

PLACE: Capitol Room 102

**SUBJECT OF MEETING:**  
 HCR 16 - Relating to Bone Marrow Donor Week  
 HB 327 - Relating to Primary Elections  
 HB 301 - Relating to Regular Legislative Sessions  
 HB 328 - Relating to Public Comment on Proposed Regulations

| NAME              | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | WHAT SUBJECT/ WHICH BILL?   |
|-------------------|--------------|-----------------------------------|-------|-----------|-----------|-------------------------|-----------------------------|
| Elizabeth Ziegler | Elections    |                                   |       |           |           | (Y) N                   | HB 404                      |
| Deborah Behr      | Law          | Dept of LAW<br>P.O. Box K, JUNEAU | 99801 | 7         | 465-3600  | (Y) N                   | HB 329                      |
| Terry Martin      | Legis.       |                                   |       |           |           | (Y) N                   | HB 301                      |
| Ann Bondreant     | occ.<br>LIC. | Commerce                          |       |           |           | Y (N)                   |                             |
| JUAN GARDINE      | LAW          | PO BOX K JUNO                     | 99801 |           | 465-3600  | IF ASKED (Y) N          | <del>HB 327</del><br>HB 327 |
| Bob Casey         | Leg. Affairs | P.O. Box Y<br>JUNEAU              | 99811 |           | 2450      | (Y) N                   | HB 327                      |
|                   |              |                                   |       |           |           | (Y) N                   |                             |
|                   |              |                                   |       |           |           | Y N                     |                             |
|                   |              |                                   |       |           |           | Y N                     |                             |
|                   |              |                                   |       |           |           | Y N                     |                             |
|                   |              |                                   |       |           |           | Y N                     |                             |

H B

3 0 8



FISCAL NOTE

No. 1

Version: HB 308

(H) Publish Date: 4/29/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: 4/17/91 Department Affected: Fish and Game

Title: Timely notice for emergency BRU: All divisions  
regulations Component: All divisions

Sponsor: \_\_\_\_\_

Requestor: Governor COMPONENT SERIAL NO. 

|   |   |   |
|---|---|---|
| 4 | 7 | 7 |
|---|---|---|

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          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0     | 0     | 0     | 0     | 0     | 0     |

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

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

FUNDING: (Thousands of Dollars)

|               |   |   |   |   |   |   |
|---------------|---|---|---|---|---|---|
| GENERAL FUND  | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER         | 0 | 0 | 0 | 0 | 0 | 0 |
| <b>TOTAL</b>  | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

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

Estimate of current year impact: No current year impact

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: McKie Campbell Phone: 465-4100

Division: Commissioner's Office Date: 4/17/91

Approved by Commissioner: RON SOMETWILLIE (signature) Date: 4/17/91

Agency: Fish and Game

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

FISCAL NOTE

No. 2  
 Bill Version: HB 308  
 (H) Publish Date: 4/29/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to notice of  
adoption of emergency regulations..." BRU: Legal Services  
 Component: Operations  
 Sponsor: By request of the Governor  
 Requestor: Governor's Office 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.)

Please see the attached analysis.

Prepared By: Richard L. PERNER, Director Phone: 465-3672  
 Division: Administrative Services Date: April 18, 1991  
 Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law Date: April 18, 1991

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

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. \_\_\_\_\_

This bill amends AS 42.62.250 by changing the notice requirements for the adoption of emergency regulation to require that notice of adoption shall be made within five days after filing by the lieutenant governor, instead of within five days after adoption of emergency regulations. This change validates longstanding practice, and it is needed to conform to a recent court decision in Shepard v. State. Approval of the bill will not have a fiscal impact on the Department of Law.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

MEMORANDUM

TO: All Commissioners  
FROM: Walter J. Hickel *Walter Hickel*  
Governor  
DATE: April 1, 1991  
SUBJECT: Procedure after adopting regulations

-----  
Currently, after your agencies adopt regulations, the regulations are sent to the Department of Law for a legal review. I would now like adopted regulations to be submitted to the Lieutenant Governor, who will submit the regulation project to the Department of Law for the legal review.

A control file will be set up in the Lieutenant Governor's office and during the time that the Department of Law is preparing their opinion, the Lieutenant Governor will be reviewing the regulations to make sure they meet the following requirements that our administration wishes to implement:

1. Are the regulations procedural. Policy belongs in statutes not regulations.
2. Are they positive not negative. A "can-do" attitude.
3. Are they readable. Regulations should be clear, concise and drafted in lay language so people can understand them.
4. Was the public input taken into account in the final adopted version of the regulations.
5. Was the legislative intent followed through to the regulatory process.
6. Are they necessary. Can government operate just as well without them.
7. Are they consistent with statutes and other regulations.

This change in procedure will allow us to carry out our agenda to be a responsive Administration and to implement our regulatory review program.

Please consider this procedural change effective immediately.

# MEMORANDUM

State of Alaska  
Department of Law

TO: All Civil Attorneys  
Juneau, Anchorage, Fairbanks;  
and Chief Prosecutor's Office

DATE: April 11, 1991

FILE NO:

TEL NO: 465-3600

SUBJECT: New procedure for  
adoption of regulations

FROM:

  
Jeffrey W. Bush  
Assistant Attorney General  
and Regulations Attorney

RECEIVED

APR 12 1991

Effective immediately, there is a new procedure for the adoption, amendment or repeal of administrative regulations, to provide for the review and approval of all regulations projects by the Lieutenant Governor's Office prior to their taking effect. Sara Fisher, an assistant to Mr. Coghill, will be in charge of reviewing all regulations for the Lieutenant Governor. Governor Hickel has directed Mr. Coghill to review all proposed regulations to ensure that they meet the following requirements:

1. Are the regulations procedural. Policy belongs in statutes not regulations.
- \* 2. Are they positive not negative. A "can-do" attitude.
3. Are they readable. Regulations should be clear, concise and drafted in lay language so people can understand them.
4. Was the public input taken into account in the final adopted version of the regulations.
5. Was the legislative intent followed through to the regulatory process.
- \* 6. Are they necessary. Can government operate just as well without them.
7. Are they consistent with statutes and other regulations.

Memorandum from Governor Hickel to all commissioners, dated April 1, 1991.

To implement the Governor's directive, the following procedure will be used:

1. At the time a regulations project is first opened in our office, a copy of the file opening memorandum will be sent to the Lieutenant Governor's Office, and they will maintain a separate file on each project.

2. Final regulations packages, including public notices and adoption orders, should be sent by the adopting agency directly to the Lieutenant Governor's Office. That office will then make a copy of each package before forwarding the original documents on to us. If you receive a final package directly from an agency, please immediately send it to me; I will then deliver it to the Lieutenant Governor's Office, they will copy it and send it back, and I will then get it back to you.

3. When the final package comes to the Lieutenant Governor's Office, they will begin their review, in conjunction with our legal review. Sara Fisher will contact the assigned attorney and work closely with the attorney in their review. If at any time the Lieutenant Governor's Office determines that a particular regulation or set of regulations should not be adopted, Sara will immediately contact the assigned attorney so that he or she can stop working on the file. Please feel free to contact Sara at any time with questions or comments.

4. Before any regulations project is forwarded to me for final technical review and filing with the Lieutenant Governor, the assigned attorney must get approval for the project from the Lieutenant Governor's Office. The cover memo to me forwarding the file must clearly state that the project has been approved for adoption by Sara Fisher. Absent this statement, the file will be immediately returned to the assigned attorney.

Please contact me if you have any questions.

JWB:cl

cc: Lt. Gov. John B. (Jack) Coghill



JOHN B. COGHILL  
LIEUTENANT GOVERNOR

STATE OF ALASKA  
P. O. BOX 44  
JUNEAU 99811-0111  
(907) 465-3880

MEMORANDUM

TO: All Commissioners  
FROM: John B. Coghill  
Lieutenant Governor  
DATE: April 11, 1991  
SUBJECT: Procedure after adopting regulations

.....

Since the Governor has given his directive to have all agencies submit adopted regulations to my office, I would like to inform you how this will happen.

When adopted regulations are received by my office, we will set up a control file. A copy the regulation project will be kept in my office and the original project will be sent to the Department of Law for legal review. After we receive the project we will notify you of the date it was transmitted to Law. The Department of Law will carry out their normal legal review, while my office will conduct the review as outlined in Governor Hickel's directive (see attached).

The Department of Law has advised me that adopted regulations were sent to them either by mail or courier. I would like to request a department courier deliver all regulation projects to my office. The courier should hand the project directly to Sara Fisher, my special assistant in charge of the regulatory review. If Sara is not available the project should be left with Dennis Burns, the Administrative Code Coordinator. This will ensure the regulation project was properly received by my office.

Your cooperation to start implementing these changes by Monday April 15, 1991 is appreciated. Please contact Sara Fisher if you have any questions.

# Coghill receives new regulatory powers

THE ASSOCIATED PRESS

**ANCHORAGE** - Gov. Walter J. Hickel has given Lt. Gov. Jack Coghill sweeping new powers to block proposed state regulations or order them rewritten.

Lawmakers said the action probably is unconstitutional and will allow special interests to influence Coghill to block laws written by the Legislature.

But Hickel wrote: "This change will allow us to carry out our agenda to be a responsive administration and to implement our regulatory review program."

Hickel made the move unannounced in an April 1 memo sent to his cabinet officers, according to his press secretary, Eric Rehmann.

The memo laid out rules requiring regulations to be positive and to exhibit a "can-do attitude."

It elevates Coghill over commis-

sioners, who previously oversaw regulation-writing.

A regulatory review team will be formed in Coghill's office, Rehmann said.

"I guess Coghill's a regulatory czar now," said Rep. Cliff Davidson, D-Kodiak. "I think the special interests gain and the public process loses."

Coghill will be able to reject or revamp state regulations dealing with oil and gas taxes and royalties, environmental safeguards, and fish and game management, said Davidson, co-chair of the House Resources Committee.

"Only the commissioner of an agency has statutory authority to implement regulations, not the lieutenant governor," said Rep. Fran Ulmer, a Juneau Democrat and attorney. "There isn't a lieutenant gover-

Please turn to Coghill Page 8

## Coghill...

Continued from Page 1

nor in the Lower 48 who has this kind of power."

But Hickel maintains he holds executive authority to designate the final arbiter of state regulations, Rehmann said.

"Jack's a statewide elected official and the governor sees this as adding greater democracy to the process," Rehmann said.

Coghill made expansion of the lieutenant governor's power a key plank in his 1990 election campaign.

Some regulations have been mired in the review process for up to three years by commissioners who delegate rule-writing to underlings, Coghill said. Industry and interest groups frequently complain about regulations that unfairly implement new laws, he said.

"It's kind of crazy that you have middle management bureaucracy dictating regulations," Coghill said. "That's why it's important the lieutenant governor be the conscience of the regulatory process."

Coghill said he already has rejected rules written by the Department of Transportation and Public Facilities that would have further restricted travel of long double-trailer

trucks on the Kenai Peninsula. Transportation Commissioner Frank Turpin said the rule would have limited travel of the 110-foot-long trucks to between 7 p.m. and 7 a.m. on weekdays on the Sterling and Seward Highways.

Although the trailer trucks occasionally slow traffic, they did not prompt widespread criticism from Kenai Peninsula legislators and residents, confirming Coghill's action, Turpin said.

"He was right," Turpin said. "We just didn't get a lot of support for the tighter regulations."

Administration sources said Coghill gained his newfound authority after a showdown with Hickel's chief of staff, Max Hodel, in a meeting with Hickel.

Hodel reportedly defended commissioners' rule-writing authority. He could not be reached for comment. Coghill declined to comment but made it clear he now holds the power.

"That's the signature of the governor," Coghill said pointing to the April 1 Hickel memo. "I'll let you be the judge of that."

A regulation is a rule or order springing from one of 13 executive agencies in state government. Regulations are adopted under authority

of statutes, or laws, passed by the Legislature.

Commissioners typically write or oversee the rule-writing process. The rules are then sent to the Department of Law for technical review and then to the lieutenant governor for signature, typically a formality.

The Administrative Procedures Act, which lays out the rules for regulation writing, makes no express provision for the lieutenant governor to assume the authority, said Tam Cook, an attorney for the Legislature.

However, it appears the governor may shift responsibility within the executive branch from the Department of Law to the governor by executive order, which is subject to legislative approval, she said.

Attorney General Charles Cole did not return several phone calls for comment on Hickel's action. Legislators said there has been no executive order from Hickel shifting rule-making responsibility.

In 1989, an attorney general's opinion described the lieutenant governor's regulatory role as largely ceremonial and confined to rule-signing. Then-Lt. Gov. Stephen McAlpine blocked regulations restricting a lottery organization by refusing to sign the rules.

# Czar

Continued from page A1

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"Only the commissioner of an agency has statutory authority to implement regulations, not the lieutenant governor," said Rep. Fran Ulmer, a Juneau Democrat and attorney. "There isn't a lieutenant governor in the Lower 48 who has this kind of power."

But Hickel maintains he holds executive authority to designate the final arbiter of state regulations, Rehmann said.

"The governor has full authority to delegate to Jack the oversight on this," Rehmann said. "Jack's a statewide elected official and the governor sees this as adding greater democracy to the process."

Coghill made expansion of the lieutenant governor's power a key plank in his 1990 election campaign.

Some regulations have been mired in the review process for up to three years by commissioners who delegate rule-writing to their underlings, Coghill said. Industry and interest groups frequently complain about regulations that unfairly implement newly passed laws, he said.

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— Rep. Cliff Davidson,  
D-Kodiak

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# Coghill wins regulatory 'czar' powers

## Hickel decision fires up lawmakers

By DAVE PATRICK

TIMES CAPITAL BUREAU

JUNEAU — Gov. Walter J. Hickel has given Lt. Gov. Jack Coghill sweeping new powers to block proposed state regulations or order them rewritten, Eric Rehmann, Hickel's press secretary, confirmed Friday.

Hickel's action elevates Coghill over commissioners who previously oversaw regulation-writing and occurred unannounced in an April 1 memo signed by the governor and sent to his Cabinet officers.

"This change will allow us to carry out our agenda to be a responsive administration and to implement our regulatory review program," Hickel wrote. The memo laid out rules requiring regulations to be positive and to exhibit a "can-do attitude."

A regulatory review team will be formed in Coghill's office.

■ Gov. Hickel opposes state funding of abortions A14

Rehmann said.

Lawmakers said the action is likely unconstitutional and will allow special interests to influence Coghill to blunt laws written by the Legislature.

"I guess Coghill's a regulatory czar now," said Rep. Cliff Davidson, D-Kodiak.

"Coghill thinks the special interests gain and the public process loses."

Coghill will now be able to reject or revamp an array of state regulations that deal with oil and gas taxes and royalties, environmental safeguards, and fish and

See Czar, back page

Times 4-13-91

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

April 19, 1991

**SUBJECT:** Gubernatorial delegation of regulatory review power to the lieutenant governor (Work Order No. 7-LS1225)

**TO:** Senator Arliss Sturgulewski

**FROM:** Theresa L. Bannister *TB*  
Legislative Counsel

You have asked whether the governor can delegate to the lieutenant governor the power to review regulations<sup>1/</sup> as he has done in his April 1, 1991 memo.<sup>2/</sup>

**SHORT ANSWER.** In my opinion the governor cannot delegate the power to review regulations to the lieutenant governor as he has done in his April 1, 1991 memo, unless he uses an executive order.

**DISCUSSION.** This delegation inserts additional steps into the regulation adoption process. At the present time, proposed regulations that have gone through the basic procedures for adoption are sent to the Department of Law ("department") for final legal approval before being submitted to the lieutenant governor for filing under AS 44.62.040. AS 44.62.060. The filing of the lieutenant governor is basically a technical act.<sup>3/</sup>

However, under the delegation the agencies must submit the regulations they have adopted to the lieutenant governor for his review before sending them to the department for its final review. The lieutenant governor then transmits the regulations to the department. Under the delegation, the approval of the lieutenant governor must be obtained before the department issues its final legal approval.

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<sup>1/</sup>In this memo a reference to "regulations" includes orders of repeal.

<sup>2/</sup> The scope of the delegation can be more completely understood by reviewing the April 11, 1991, Department of Law memo on this subject.

<sup>3/</sup>The statutes do not give the lieutenant governor any review power over the regulations that are submitted to him.

Under art. III, sec. 23, of the state constitution the governor is authorized to make changes in the organization of the executive branch or in the assignment of functions among its units that he considers necessary for efficient administration.<sup>4/</sup> However, if the change requires the force of law, he must use an executive order.

At first glance, the extra steps could be characterized as merely an internal reassignment of executive branch regulation review functions inherent in the regulatory process, a reassignment that does not require more than the memo that was used.

However, the delegation actually conflicts with the statutes governing the adoption of regulations, and the delegation appears to significantly alter the present statutory plan for adopting regulations by adding these particular steps.

The delegation conflicts with AS 44.62.250, which establishes the procedures for adopting emergency regulations. Under that section, the adopting agency is directed to immediately submit a copy of an emergency regulation to the lieutenant governor for filing. Under the delegation, adopted regulations are required to be submitted to the lieutenant governor for his review, not for filing by him.

The delegation also contradicts the responsibilities given to the Department of Law under AS 44.62.125. The lieutenant governor essentially controls when the regulations are transmitted to the department. He also controls whether or not the department can perform its final review of the regulations. Because the lieutenant governor controls when and if the department reviews regulations, it contradicts the affirmative requirement in AS 44.62.125 that the department review regulations.

The scope of the lieutenant governor's review both enlarges and conflicts with the statutory plan. Under the delegation, the lieutenant governor is to review the regulations for such items as being positive, not negative, and for a "can-do" attitude. These criteria are not usually required for the adoption of regulations. If the lieutenant governor bases his disapproval on these items, the disapproval may be

---

<sup>4/</sup> This section reads as follows:

Section 23. Reorganization. The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

Senator Arliss Sturgulewski

April 19, 1991

Page 3

considered to conflict with the present statutory plan because it imposes new requirements on regulations beyond those already required.

During the review, the lieutenant governor also must consider whether "public input" has been taken into account in the final adopted version of the regulations. The present statutory plan addresses public review by establishing certain notice and hearing requirements (e.g. AS 44.62.190 and 44.62.210). Once these are satisfied under the present statutory plan, the regulation should be considered to have satisfied any "public input" requirements. Disapproval based on this point may conflict with the statutory plan because it requires more than is required by the statutory plan governing the adoption of regulations.

The timing and potential of the review appear to be significant. Under the present statutory process, by the time the regulation is ready for the final Department of Law approval, the regulation has gone through all of the requirements for the regulation under the statutory system, except for the final department review and submission to the lieutenant governor for technical filing. At that point the regulations have essentially been "adopted" by the agency, but have not become "effective". The addition of the lieutenant governor's general review with the potential for disapproving the regulation at that point appears to alter the established statutory plan for adopting regulations.

Because of these conflicts and alterations force of law is required to make these changes and the governor must use an executive order. Since the adoption of regulations is basically a legislative function delegated to the executive branch, a court is more likely (than when examining traditional executive functions) to hold that the governor cannot make these changes without an executive order. The delegation from the legislature would be more narrowly construed, and the court could more easily find that the changes require the force of law.

In conclusion, although the outcome of a court review cannot be predicted in this situation, it is my opinion that the governor cannot delegate the power to review regulations to the lieutenant governor as he has done in his April 1, 1991 memo, unless he uses an executive order.

If I may be of further assistance, please advise.

TLB:pl

91-279.plm

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

April 22, 1991

**SUBJECT:** Executive orders

**TO:** Representative Max Gruenberg, Jr.

**FROM:** Tamara Brandt Cook  
Director *TBC*

You have informed me that you have a copy of the memorandum written by Terry Bannister on April 19 addressing the issue of whether the Governor may transfer to the Lieutenant Governor the broad regulation review function that the Lieutenant Governor has indicated he intends to exercise. In that memorandum, Terry Bannister concluded that such a transfer would require changes in statute and, therefore, could probably be accomplished only through a executive order. You have questioned whether, even by utilizing an executive order, the transfer could be accomplished. Article III, Sec. 23 of the state constitution provides:

The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

I have found only one case discussing this section of the constitution and it is not particularly on point. (Suber v. Alaska State Bond Committee, 414 P.2d 546 (Alaska 1966) holding the section not implicated where the Commissioner of Commerce created an executive agency to carry out the provisions of legislation when the legislation gave him specific authority to hire staff) However, the section is discussed in the Alaska Constitutional Convention Proceedings (pages 2226-2229) and it appears clear that the delegates viewed this section as providing the Governor the power, as an administrative matter, to reorganize the functions of the executive branch, but not particularly, to enlarge, diminish, or otherwise alter those functions.

Representative Max Gruenberg, Jr.

April 22, 1991

Page 2

**NORDALE:** I just perhaps could amplify the Committee's thinking a bit on this. We were thinking primarily of laws setting up boards and sort of sloppy administration, as we have at the present time. Now then, when the governor sees there are too many departments set up functioning by themselves or functioning under boards and there isn't any coordination, he has the right to suggest a reorganization and a different assignment of functions. . . .

**LONDBORG:** Mr. President, just another word along that line, and I think Mrs. Nordale brought it out quite clear, now the other way would be if the governor wanted some reorganization he would have to go to the legislature and have a bill introduced by somebody or on his own request and that bill would be acted upon to make this necessary change. For instance, deleting a certain board or ceasing its functions and putting it under the single department head or something of that nature, whatever major change he would want he would have to depend upon the legislature to pass that bill and get it into operation. Doing it this way, he sets forth an executive order but it does not become effective until it slips through the next session of the legislature without being voted out by the legislature. I suppose you could call it reverse legislation. The governor makes a new law and if the legislature does not want it done away with, well, then they can let it go through, but I think it runs in line with the strong executive we have where he can set forth his changes and the legislature by being silent on it, in that way they approve of the order. (Constitutional Convention Proceedings, Part III, Page 2229)

So, it appears quite clear that the Governor could move responsibilities regarding the review of regulations from the Department of Law to the Lieutenant Governor through an executive order that would be subject to legislative disapproval. However, what has been proposed in the current situation, involving extensive review of existing regulations as well as a two-tiered review of new regulations involving both the Lieutenant Governor's office the Department of Law, appears to go beyond what may be accomplished through an executive order. Legislation may well be required to accomplish all that is proposed.

TBC:mi

91-074.mai

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSSB 131 (FINANCE) am

Page 3, following line 20:

Insert a new bill section to read:

\*\* Sec. 7. AS 44.62.190 is amended by adding a new subsection to read:

(d) In addition to other information required to be included, each published notice must contain a statement that the lieutenant governor

(1) does not have authority to address the content of regulations submitted under AS 44.62.040;

(2) may only refuse to file a regulation or order of repeal required to be submitted under AS 44.62.040 if

(A) a certified original and one duplicate copy are not provided; or

(B) the regulation or order of repeal is not accompanied by the written statement of approval by the Department of Law required under AS 44.62.060(c)."

Renumber the following bill section accordingly.

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 29, 1991

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

Dear Speaker Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the notice required for adoption of emergency regulations. This legislation is necessary as a result of a recent court decision, Shepherd v. State, 4FA-90-1514 Civil (March 19, 1991), which held that the process the state has utilized for the adoption of emergency regulations for several years is invalid. The purpose of this legislation is to validate longstanding practice, thereby permitting the state to continue using present practice.

Under AS 44.62.180, an emergency regulation adopted by an agency is submitted to the lieutenant governor, and takes effect upon filing by the lieutenant governor. AS 44.62.250 currently requires notice of the adoption of an emergency regulation to be published within 10 days after "adoption" of the regulation. If notice is not published within that time, the regulation is automatically repealed. The Department of Law has always taken the position that the term "adoption" in this section really refers to the regulation's "effective date," since there would be no point in publishing notice of an emergency regulation that was not in effect and might never take effect. Furthermore, the practical realities of the situation are that it is often impossible to finalize and file an emergency regulation, and ensure that notice of that action is published, within 10 days of a board's action on it.

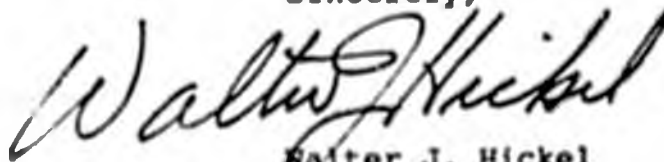
Nevertheless, the superior court held that irrespective of longstanding state practice, the time limits in AS 44.62.250

The Honorable Ben Grussendorf - 2 -

begin running immediately upon a board's taking a vote approving the adoption of an emergency regulation. This decision will cause serious problems for several boards, such as the Boards of Fish and Game, that frequently adopt emergency regulations.

This bill will validate existing practice and longstanding interpretations of the Department of Law with respect to the notice requirement for emergency regulations. I urge your support of this measure.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel  
Governor



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 13, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**  
 \*HB 42 - Relating to Health Benefits for Part-Time St. Employees  
 \*HB 273 - Relating to Payment for Medicare Premium Charges  
 \*HB 308 - Relating to Adoption of Emergency Regulations

| NAME          | REPRESENTING    | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | WHAT SUBJECT/ WHICH BILL? |
|---------------|-----------------|-----------------------------------|-------|-----------|-----------|-------------------------|---------------------------|
| BOB STALNAKER | RETIREMENT      | P.O. Box 6 R                      |       |           | 4470      | Y (N)                   | IF NEEDED<br>HB 273       |
| JEFF BUSH     | A.G.'s Off.     | P.O. Box K, Juneau                | 99811 |           | 465-3600  | (Y) N                   | HB 308                    |
| DAVID OTTO    | Admin Personnel | PO C-0201                         | 99811 |           | 4430      | (Y) N                   | HB 42                     |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |
|               |                 |                                   |       |           |           | Y N                     |                           |



# House State Affairs Committee

## Representative Gene Kubina, Chair

SUBJECT OF MEETING:  
 HB 198  
 HB 308  
 HB 155

DATE: May 10, 1991

PLACE: Capitol Room 02

| NAME            | REPRESENTING         | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY?            | WHAT SUBJECT/ WHICH BILL? |
|-----------------|----------------------|-----------------------------------|-------|-----------|-----------|------------------------------------|---------------------------|
| ✓ David Katzack | Self                 | 6590 Glacier Hwy #124             | 99801 | 780-6698  | 462-4844  | <input checked="" type="radio"/> N | 198                       |
| JEFF BUSH       | Dipl. of Law         | Box K, Juneau                     | 99811 |           | 465-3100  | <input checked="" type="radio"/> N | HB 308                    |
| Bob Loescher    | Sealaska Corporation | One Sealaska Plaza Juneau         | 99801 | 586-1512  |           | <input checked="" type="radio"/> N | HB 198                    |
| ✓ Tom Garrett   | Juneau City          | 360 S. FRANKLIN #201              | 99807 |           | 586-1732  | <input checked="" type="radio"/> N | HB 198                    |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |
|                 |                      |                                   |       |           |           | <input type="radio"/> N            |                           |



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 15, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

- HB 155 - Relating to Barrier-Free Remodeling Fund
- HB 157 - Relating to Approp: Barrier Free Facility Fund
- \*HB 289 - Relating to Change of Interexchange Carrier

| NAME            | REPRESENTING   | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY?          |   | WHAT SUBJECT/ WHICH BILL? |
|-----------------|----------------|-----------------------------------|-------|-----------|-----------|----------------------------------|---|---------------------------|
| Jeff Bush       | Dept. of Law   | P.O. Box K, Juneau                | 99811 |           | 465-3600  | <input checked="" type="radio"/> | N | HB 308                    |
| Virginia Kasper | Dept. of Labor | Box 3-7000 Juneau                 | 99803 |           | 465-4531  | <input checked="" type="radio"/> | N | HB 155                    |
| ✓ Rod Wilson    | DOT/SPF        | P.O. Box 2 Juneau                 | 99811 |           | 465-2960  | <input checked="" type="radio"/> | N | HB 155                    |
| CHRISTIE HARMER | self           | 7364 LAKEVIEW CT Juneau           | 99801 | 789-5492  |           | <input checked="" type="radio"/> | N | HB 155                    |
| Judy Knight     | DOL            | P.O. Box 3-7000                   | 99803 |           | 465-2711  | <input checked="" type="radio"/> | N | HB 155                    |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |
|                 |                |                                   |       |           |           | <input type="radio"/>            | N |                           |



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: May 17, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**  
 HB 251 - Relating to Debt Retirement Fund  
 HB 252 - Relating to Approp: Debt Retirement Fund  
 SB 44 - Relating to Construction and Operation of State House

| NAME             | REPRESENTING     | BUSINESS/PERSONAL MAILING ADDRESS | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | WHAT SUBJECT/ WHICH BILL? |
|------------------|------------------|-----------------------------------|-------|-----------|-----------|-------------------------|---------------------------|
| Jeff Morrison    | DMVA             | P.O. Box L Juneau 99811           |       |           | 465-4600  | Y (N)                   | SB 44                     |
| Paula Scavera    | Leg Research     | P.O. Box 1                        |       |           | 465-3991  | Y (N)                   | SB 44                     |
| Harlan Knudson   | Hospital Nursing | House 319 Juneau                  |       |           | 5-1790    | (Y) N                   | SB 44                     |
| SHELBY STASTNY   | OMB              | Box A                             |       |           | 5-3568    | (Y) N                   | AB 251/252                |
| JACK KREINBERGER | OMB              | " "                               |       |           | "         | (Y) N                   | HB 251/252                |
| MILTON KOLLE     | DoAd.            | Box C                             |       |           |           | (Y) N                   | HB 251                    |
| T.C. CARROLL     | DMVA             | P.O. Box L Juneau 99811           |       |           | 465-4600  | (Y) N                   | SB 44 / SJR 1             |
| JEFF BUSH        | Dept of Law      | P.O. Box K, Juneau                | 99811 |           | 465-3600  | (Y) N                   | HB 308                    |
|                  |                  |                                   |       |           |           | Y N                     |                           |
|                  |                  |                                   |       |           |           | Y N                     |                           |
|                  |                  |                                   |       |           |           | Y N                     |                           |

HB

322

2-5-92

# HOUSE COMMITTEE REPORT

(7)  
Date Referred: May 8, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/3/92

The STATE AFFAIRS Committee considered:

HB 322

HOUSE BILL NO. 322

WHISTLEBLOWER PROTECTION

"An Act relating to protection of whistleblowers; and relating to the personnel board."

### RECOMMENDATIONS:

be replaced with CS HB 322 (STA)  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 Admin

fiscal note(s) \_\_\_\_\_

zero fiscal note Court System

zero fiscal note(s) \_\_\_\_\_

| SIGNING DQ PASS         | DP                                  | OTHER RECOMMENDATIONS | DNP | NR                                  | AM                                  |
|-------------------------|-------------------------------------|-----------------------|-----|-------------------------------------|-------------------------------------|
| <i>Eugene G. Kubera</i> |                                     | <i>Mr. Stuenkel</i>   |     |                                     | <input checked="" type="checkbox"/> |
| <i>John Stuenkel</i>    |                                     | <i>John Stuenkel</i>  |     | <input checked="" type="checkbox"/> |                                     |
| <i>E. (unclear)</i>     |                                     | <i>John Stuenkel</i>  |     |                                     | <input checked="" type="checkbox"/> |
| <i>Tom Mayhew</i>       | <input checked="" type="checkbox"/> |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |
|                         |                                     |                       |     |                                     |                                     |

*Eugene G. Kubera*  
CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

**STATE OF ALASKA**  
**1992 LEGISLATIVE SESSION**

Bill No. HB 322

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to protection of BRU: Trial Courts  
whistleblowers... Components: \_\_\_\_\_  
 Sponsor: Ulmer  
 Requestor: Ulmer COMPONENT SERIAL NO. 

|           |           |
|-----------|-----------|
| 000   000 | 000   788 |
|-----------|-----------|

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

| OPERATING              | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS & CLAIMS        |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| <b>CAPITAL</b>         |       |       |       |       |       |       |
| <b>REVENUE</b>         |       |       |       |       |       |       |

**FUNDING: (Thousands of Dollars)**

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUNDS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| <b>TOTAL</b>  | 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.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 01/28/92

Approved by: Arthur H. Snowden, II, Administrative Director *AS*  
 Agency: Alaska Court System Date: 01/28/92

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

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 322

Revision Date: \_\_\_\_\_  
Tide: Protection of Whistleblowers  
Sponsor: Ulmer  
Requestor: House State Affairs

Department Affected: Administration  
BRU: Personnel/OEEO  
Component: Personnel/OEEO

COMPONENT SERIAL NO. 

|  |  |   |   |
|--|--|---|---|
|  |  | 5 | 6 |
|--|--|---|---|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING              | FY 93        | FY 94        | FY 95        | FY 96        | FY 97        | FY 98        |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES      | 68.5         | 68.5         | 68.5         | 68.5         | 68.5         | 68.5         |
| TRAVEL                 | 20.0         | 20.0         | 20.0         | 20.0         | 20.0         | 20.0         |
| CONTRACTUAL            | 15.0         | 15.0         | 15.0         | 15.0         | 15.0         | 15.0         |
| SUPPLIES               | .6           | .3           | .3           | .3           | .3           | .3           |
| EQUIPMENT              | 6.0          |              |              |              |              |              |
| LAND & STRUCTURES      |              |              |              |              |              |              |
| GRANTS, CLAIMS         |              |              |              |              |              |              |
| MISCELLANEOUS          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>110.1</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> |

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

|                      |   |   |   |   |   |   |
|----------------------|---|---|---|---|---|---|
| REVENUE FUND SOURCE: | 0 | 0 | 0 | 0 | 0 | 0 |
|----------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

|                    |              |              |              |              |              |              |
|--------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| GENERAL FUND       | 110.1        | 103.8        | 103.8        | 103.8        | 103.8        | 103.8        |
| FEDERAL FUNDS      |              |              |              |              |              |              |
| OTHER FUND SOURCE: |              |              |              |              |              |              |
| <b>TOTAL</b>       | <b>110.1</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> | <b>103.8</b> |

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
See Attached.

Prepared by: R. H. King, Director *R.H. King 1/27/92*  
Division: Personnel/OEEO

Phone: 465-4430  
Date: January 27, 1992

Approved by Commissioner: Nancy Bear Usery  
Agency: Administration

Date: \_\_\_\_\_

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

## FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HB 322

### ANALYSIS: (continued)

HB 322 provides that a person who alleges a violation of the whistleblower statute may file an allegation with the personnel board. This filing may be instead of or in addition to a civil action. This fiscal note assumes that allegation will be filed with the personnel board in order to avoid the risk of lost attorney's fees and to insure faster action than typically available in court.

If the allegation appears to be within the jurisdiction of the board, it shall immediately appoint a hearing officer to investigate and report on the allegation. The hearing officer shall investigate the allegation to determine if reasonable grounds exist to determine that a violation has occurred. The hearing officer must make numerous determinations in this process.

Each factual condition in AS 39.90.100, 110, 160, 170 and 180 would need to be investigated.

If reasonable grounds are found, the personnel board may order a stay of any action against an employee. The board may accept, amend, or reject a report of the hearing officer or may return a report for further proceedings. If the hearing officer petitions the board for corrective action, the board must provide a review process that can result in an order for corrective action. The board may also order discipline up to and including dismissal of a public employer for violation of AS 39.90.100.

A public employer or employee adversely affected by a final order or decision of the board may appeal to the superior court.

The above description of the process is meant to highlight the similarity of the proposed legislation to the process of the Executive Branch Ethics Act, AS 39.52. A whistleblowers complaint would have the following costs:

- public notice, travel, and per diem for a meeting of the board and its secretary for a determination that a complaint appears to be within its jurisdiction, and the appointment of a hearing officer;

- expenses of the hearing officer;

- expenses of the legal counsel for the board;

- public notice, travel and per diem expenses for the review hearing;

- legal expenses in defense of appeals to the superior court.

We assume the board would employ a permanent hearing officer to whom they would assign cases. We also assume the regulations would provide for the authority to issue a stay under AS 39.90.180 without a formal meeting.

Estimated costs are for a hearing officer at range 21. First year costs include initial office equipment. Costs also cover board meeting expenses and legal counsel, and travel funds to investigate in any potential subdivision of the State. No estimate is provided to defend cases appealed to superior court.



Alaska Public  
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 588-2334

FEDERATION OF STATE EMPLOYEES/AFT/AFL-CIO

May 7, 1991

The Honorable Fran Ulmer  
Alaska State House of Representatives  
P.O. Box V  
Juneau, AK 99811

*FRAN*

Dear Representative Ulmer:

I have reviewed your proposed legislation, "An Act relating to protection of whistleblowers; and relating to the personnel board."

The Addition of the language of AS 39.90.160-240 to the existing AS 39.90.100-150, including an administrative remedy for the "Alaska Whistleblowers Act," provides a desirable alternative to the option of civil court action contained in AS 39.90.100-150.

Using the hearing officer investigative structure strikes the right note of relationship between the Personnel Board, the employee and the agency. If the qualifications of a hearing officer are not addressed in statute or administrative code, they should be clarified through definition or some other appropriate method. The investigative process appears well-outlined under the "Investigation by Hearing Officer," and the "Investigation Procedures" Sections. The "Subpoena Powers" could be extremely useful in collecting information, and the "Stay of Personnel Action" gives additional time to conduct fact-finding and to make a report, hoping to assure that some action is not taken in the name of the State that might later bring legal action.

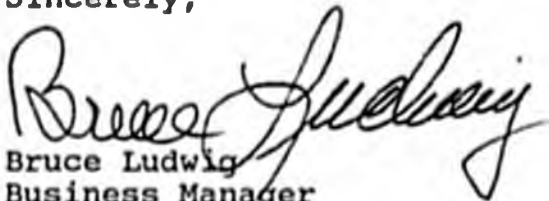
The "Decision by Personnel Board" Section allows the impacted parties to participate in the decision-making process and also provides for remedies to be implemented, including corrective action and penalties to be assessed against other public employees involved. Finally, the "Judicial Review" aspect allows for an appeal of Personnel Board action.

From my perspective as an Association Business Manager, I can see a benefit to some relationship between the proposed Act and the public employees' associations. I realize the Personnel Board functions autonomously, but its responsibilities relate to those

of the associations. For example, both the Board and APEA could be involved in a "Whistleblower's Act" situation--APEA, through the grievance process and, the Board through the existing and proposed legislation. All parties might realize mutual benefits if any new legislation addressed those processes already established to address potential violation of employee rights.

I have no clear idea how this coordination of effort could be accomplished, but I'm open to discussing the possibility further. Thank you for the opportunity to review and comment.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Ludwig". The signature is written in black ink and is positioned above the typed name and title.

Bruce Ludwig  
Business Manager



State of Alaska  
ombudsman

Duncan C. Fowler

May 21, 1991

Representative Fran Ulmer  
Alaska House of Representatives  
Post Office Box V  
Juneau, Alaska 99811-3100

RE: HB-322

Dear Representative  Ulmer:

Thank you for introducing this amendment to the Alaska Whistleblower Act. *I believe it is a significant improvement to the act.* It offers assistance and protection to those who come forward to expose improprieties in government and have been personally harmed as a result.

You asked for comments regarding this bill:

- (1) I believe the Personnel Board is a good vehicle for resolving public employee allegations of harm. I was pleased to note that existing statutes make it clear that members of the Personnel Board do not serve at the will of the governor but may only be removed for cause.
- (2) Currently, the bill provides that non public employees who have been harmed by actions covered under the Alaska Whistleblowers Act may also pursue redress for harm by using the state personnel board. Consideration might be given to have the Office of Public Advocacy be able to represent that group of Alaskans.
- (3) I had some concerns that the subpoena provisions of the bill might authorize an executive branch agency to be able to access our confidential files. I have been assured by staff from Legislative Legal Affairs that this is not an issue. The provisions of AS 24.55.160 (b) would continue to allow the ombudsman to make determinations as to whether or not the disclosure would enable the office to carry out its duties and support recommendations.

Again, I do appreciate your interest in this area. As I had mentioned, there has been an increase in calls to my office asking for advice and information relating to whistleblowers issues these past few months. Please let me know if I can be of further assistance.

Sincerely,

  
Duncan C. Fowler  
Ombudsman

Reply to:

P.O. Box 102638  
Anchorage, AK 99510-2638  
(907) 277-8848  
(800) 478-2624

P.O. Box WO  
Juneau, AK 99811-3000  
(907) 465-4970  
(800) 478-4970

P.O. Box 74358  
Fairbanks, AK 99707-4358  
(907) 452-4001  
(800) 478-257

DCF:pjc

**PUBLIC  
EMPLOYEES**



**DON VALESKO**  
BUSINESS MANAGER

**VALERIE K. BAFFONE**  
SECRETARY/TREASURER

**HEADQUARTERS**

2510 Arctic Blvd.  
Anchorage, Alaska 99503

208 Wendell, Room 205  
Fairbanks, Alaska 99701

710 W. 9th Street  
Juneau, Alaska 99801



May 13, 1991

Representative Fran Ulmer  
Rm. 421, Capitol  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Ulmer:

Thank you for your April 30, 1991 letter requesting my opinion on your proposed "whistle blower" bill.

I have reviewed the legislation and reviewed it with staff and counsel for additional input.

It is our collective opinion that this looks like a good bill resulting in improved protection for State employees.

The option of a hearing before the personnel board, is a more practical option verses legal action considering the prohibitive cost of attorney and court fees.

Sincerely,

Don Valesko  
Business Manager

DV/ni

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

April 26, 1991

**SUBJECT:** Whistleblower legislation (W.O. 7LS-1204VA, dated 4/26/91)

**TO:** Representative Fran Ulmer

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

Enclosed is the draft bill you requested, providing administrative protection for whistleblowers. Most of the provisions are based on language in the federal Merit System Protection Board and Special Counsel statutes (5 U.S.C. 1201 - 1222). The investigation procedures (Sec. 36.90.190), subpoena powers (Sec. 39.90.200), and report requirement (Sec. 39.90.240) are taken from the Ombudsman statutes (AS 24.55.160, 24.55.170, and 24.55.230). The Administrative Procedure Act (Sec. 39.90.230) section began with the Ombudsman statute (AS 24.55.090), but I added the exemption from administrative adjudications.

There are several provisions that you should review.

1. Under Sec. 39.60.160, the administrative procedure may be in addition to the currently provided civil action. However, if a court has issued a final determination, that issue may not be retried in the administrative setting.
2. Sec. 39.60.180 provides for stays of personnel actions.
3. Sec. 39.90.210 provides for decisions by the personnel board. Subsection (c) includes the remedies the board may order, including dismissal of an employee who has violated the whistleblower protection laws and reinstatement and back pay for a person harmed by the violation.
4. Sec. 39.90.230 provides that regulations must be adopted under the Administrative Procedure Act but that hearings are exempt from that Act. The exemption seemed warranted because of the confidentiality requirements established in Sec. 39.90.190(b).

Representative Fran Ulmer  
April 26, 1991  
Page 2

Please let me know whether this draft is headed in the direction you intended and whether (and what) changes you would like me to make.

TC:lmb  
91-141.lmb

Enclosure

## SECTIONAL ANALYSIS

HB 322, "An Act relating to protection of whistleblowers; and relating to the personnel board."

### Section 1.

- Page 2, line 1. Technical, updates word usage.
- Page 2, lines 3 and 4. Expands the specific powers of the State Personnel Board to administer oaths, subpoena witnesses, and compel the production of documents to include matters involving "whistleblowers."
- Page 2, lines 13 and 14. Adds a new section to expand the broad duties and powers of the personnel board to include "whistleblower" issues.

### Section 2.

- Page 2, line 16. Technical, to include in the Whistleblower Act statute sections added by this bill.

### Section 3.

- Page 2, line 27. Technical, to include in the Whistleblower Act statute sections added by this bill.

### Section 4.

- Page 2, lines 29 and 30. Technical, same as above.

### Section 5.

- Page 3, lines 4 and 5. Technical, same as above.

### Section 6.

- Page 3, lines 11 and 13-14. Technical, same as above.

### Section 7.

- Page 3, line 17. Technical to ensure that definitions apply to the new statute sections established by this bill.
- Page 4, line 2. Adds a definition of the term "prohibited practice." For purposes of this statute, a prohibited practice is any violation of AS 39.90.100, which sets out the persons protected by the whistleblower act.

### Section 8.

- Page 4, line 14. Technical, to include in the Whistleblower Act, statute sections added by this bill.

### Section 9.

- Page 4, lines 16-25. Adds a new provision, AS 39.90.160. This provision establishes an administrative remedy for the person who alleges a violation of the Alaska Whistleblower Act. It provides that in addition to or instead of bringing a civil court action, the person may file an allegation with the personnel board. If the issue is within the jurisdiction of the board, and a court has not issued a final resolution, the board is to appoint a hearing officer to investigate and report on the allegation.

- Page 4, lines 26-31; page 5, line 1. Adds new sections, AS 39.90.170 (a), (b), (c) and (d).

(a) This section establishes the authority of the hearing officer to investigate an allegation and to determine if there are reasonable grounds to believe that a prohibited practice has occurred, is occurring, or is about to occur. It provides for notice to the person making the allegation that an investigation will occur.

(b) Provision is made that the hearing officer, after an investigation, report findings and a determination to the personnel board, the agency and agency head involved. The report may include recommendations for corrective action.

(c) Provides that if a prohibited practice has not been corrected in a reasonable amount of time, the hearing officer may petition the personnel board for corrective action. It also provides that if corrective action, satisfactory to the complainant, is taken, the hearing officer is to notice the personnel board.

(d) Provides that if, after the investigation, the hearing officer believes that criminal action has occurred, the hearing officer is to report that to the attorney general, the head of the public employer involved and to the personnel board.

- Page 5, lines 15-28. Adds new sections, AS 39.90.180 (a), (b), and (c).

(a) This sub-section provides that the hearing officer can request the personnel board to order a 45 day stay of any personnel action against the person making the allegation (whistleblower), and states that the board will act on such a request within three days of receipt.

(b) Provides that the personnel board allow the public employer who is the subject of a stay, to comment and request amendment. It also provides that the board may terminate a stay.

- Page 5, lines 29-31, page 6, lines 1-13. Adds new sections, AS 39.90.190 (a) and (b).

(a) This subsection sets out the power of the hearing officer, in the course of an investigation, to make inquiries, enter the premises of a public employer without notice, hold hearings that are closed to the public and to access records. It provides that the personnel board may only compel the production of sealed court records by subpoena, and may not obtain records in an ongoing criminal investigation and records that could lead to the identity of confidential police informants.

(b) Requires the hearing officer and the personnel board to maintain confidentiality in all matters, except as necessary for the board to do its duties. It provides that a confidential record from an agency may not be disclosed.

- Page 6, lines 14-25. Adds new sections, AS 39.90.200 (a) and (b).

(a) This sub-section provides that the personnel board, on its own or at the request of the hearing officer compel the appearance and testimony of a person or a record or an object if such relates to the matter under investigation.

(b) Establishes that a superior court may take the same type of action for non compliance with a subpoena issued under this statute, as the court make take when there is disobedience of a court issued subpoena.

- Page 6, lines 26-31 and page 7, lines 1-12. Adds new sections, AS 39.90.210 (a), (b) and (c).

(a) This ub-section sets out that upon receipt of a report from the hearing officer, the board may accept, amend, reject or return the report for further work.

(b) Provides that when the hearing officer recommends corrective action, the board shall provide for comments by the hearing officer, the involved agency and the individual complainant.

(c) This sub-section provides for the personnel board to take corrective action in the event that a complainant is subjected to negative action resulting from reporting a prohibited action.

\* For a public employee who has been harmed, the board may order reinstatement, promotion, transfer, back pay and benefits, or other personnel actions

\* If a public employee, other than an elected official or an employee confirmed by the legislative body, has committed a violation, the board may order discipline, including suspension or dismissal.

- Page 7, lines 13-15. Adds a new section, AS 39.90.220 which provides that a final order or decision of the personnel board may be appealed to the superior court.

- Page 7, lines 16-21. Adds a new section, AS 39.90.230 which provides that the personnel board shall adopt regulations for processing allegations, conducting investigations, reporting findings and recommendations and making decisions on them.

- Page 7, lines 22-23. Adds a new section which provides that the personnel board prepare an annual report.

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

### MEMORANDUM

January 17, 1992

To: Representative Gene Kubina, Chair  
House State Affairs Committee

From: Representative Fran Ulmer

Subject: HB 322, "An Act relating to protection of  
whistleblowers; and relating to the personnel  
board."

This is to request a hearing for HB 322 which amends the current "whistleblower" law to provide administrative protection for persons who have engaged in whistleblower activities. Current law provides that a person who alleges discrimination due to whistleblowing activities may seek remedy through civil court action, very often a slow and expensive process. HB 322 empowers the State Personnel Board to review and investigate allegations as well as to make findings and establish appropriate remedies.

Most of the provisions in the bill are based on the federal Merit System Protection Board and Special Counsel statutes (5 U.S.C. 1201-1222).

This is an approach to providing practical protections for employees who risk a great deal by reporting on matters of public concern. It supports the whistleblower by providing an alternative to the personal expense involved in a civil court action.

The bill is supported by public employee labor organizations as well as the Office of the Ombudsman.

Thank you for prompt scheduling before the House State Affairs Committee.

CS FOR HOUSE BILL NO. 322 (STATE AFFAIRS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE: STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Brown

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to protection of whistleblowers; and relating to the personnel board."

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

3 • Section 1. AS 39.25.070 is amended to read:

4           Sec. 39.25.070. POWERS AND DUTIES OF PERSONNEL BOARD. In addition to the  
5 other duties imposed by this chapter, the personnel board shall

6                   (1) approve or disapprove amendments to the personnel rules in accordance with  
7 AS 39.25.140;

8                   (2) consider and act upon recommendations for the extension of the partially  
9 exempt service and the classified service as provided in AS 39.25.130;

10                   (3) hear and determine appeals by employees in the classified service as provided  
11 in AS 39.25.170;

12                   (4) establish its own rules of procedure; two members constitute a quorum for the  
13 transaction of business and two affirmative votes are required for final action on matters acted  
14 upon by the board;

- 1 (5) elect a chair [CHAIRMAN] from its membership;
- 2 (6) have the power to administer oaths, subpoena witnesses, and compel the
- 3 production of books and papers pertinent to a hearing authorized by this chapter or by
- 4 AS 39.90.100 - 39.90.250;
- 5 (7) employ staff members, who shall be in the classified service;
- 6 (8) retain independent counsel in accordance with AS 39.52.310(c);
- 7 (9) appoint, and review the findings, conclusions, and recommendations of,
- 8 hearing officers in accordance with AS 39.52.350(c), 39.52.360, and 39.52.370;
- 9 (10) issue findings, conclusions, and decisions regarding violations of the code
- 10 of ethics in AS 39.52.110 - 39.52.190; [AND]
- 11 (11) impose the penalties described in AS 39.52.410, 39.52.440, and 39.52.450;
- 12 and
- 13 (12) carry out the powers and duties assigned to it under AS 39.90.100 -
- 14 39.90.250.

15 • Sec. 2. AS 39.90.100(c) is amended to read:

16 (c) The provisions of AS 39.90.100 - 39.90.250 [AS 39.90.100 - 39.90.150] do not

17 (1) require an employer to compensate an employee for participation in a court

18 action or in an investigation, hearing, or inquiry by a public body;

19 (2) prohibit an employer from compensating an employee for participation in a

20 court action or in an investigation, hearing, or inquiry by a public body;

21 (3) authorize the disclosure of information that is legally required to be kept

22 confidential; or

23 (4) diminish or impair the rights of an employee under a collective bargaining

24 agreement

25 • Sec. 3. AS 39.90.100(d) is amended to read:

26 (d) An employer shall post notices and use other appropriate means to inform employees

27 of their protections and obligations under AS 39.90.100 - 39.90.250 [AS 39.90.100 - 39.90.150].

28 • Sec. 4. AS 39.90.110(a) is amended to read:

29 (a) A person is not entitled to the protections under AS 39.90.100 - 39.90.250

30 [AS 39.90.100 - 39.90.150] unless the person

31 (1) reasonably believes that the information reported is or is about to become a

1 matter of public concern; and

2 (2) reports the information in good faith.

3 \* Sec. 5. AS 39.90.110(b) is amended to read:

4 (b) A person is entitled to the protections under AS 39.90.100 - 39.90.250  
5 [AS 39.90.100 - 39.90.150] only if the matter of public concern

6 (1) is not the result of conduct by the person seeking protection; or

7 (2) is the result of conduct by the person that was required by the person's  
8 employer.

9 \* Sec. 6. AS 39.90.130 is amended to read:

10 Sec. 39.90.130. EXEMPTION FOR MUNICIPALITIES. A municipality is not required  
11 to comply with the provisions of AS 39.90.100 - 39.90.250 [AS 39.90.100 - 39.90.150] if the  
12 municipality has adopted an ordinance that provides protections for its employees and other  
13 persons that are substantially similar to the protections under AS 39.90.100 - 39.90.250  
14 [AS 39.90.100 - 39.90.150]. Notwithstanding AS 29.25.070, the ordinance may provide for a  
15 civil penalty for violation of the ordinance not to exceed \$10,000.

16 \* Sec. 7. AS 39.90.140 is amended to read:

17 Sec. 39.90.140. DEFINITIONS. In AS 39.90.100 - 39.90.250 [AS 39.90.100 - 39.90.150]

18 (1) "employee" or "public employee" means a person who performs a service for  
19 wages or other remuneration under a contract of hire, written or oral, express or implied, for a  
20 public employer;

21 (2) "employer" or "public employer" includes the state, a public or quasi-public  
22 corporation or authority established by state law, the University of Alaska, and a political  
23 subdivision of the state including a municipality, school district, and rural educational attendance  
24 area;

25 (3) "matter of public concern" means

26 (A) a violation of a state, federal, or municipal law, regulation, or  
27 ordinance;

28 (B) a danger to public health or safety;

29 (C) gross mismanagement, a substantial waste of funds, or a clear abuse  
30 of authority; or

31 (D) a matter accepted for investigation by the office of the ombudsman

- 1 under AS 24.55.100 or 24.55.320;
- 2 (4) "prohibited practice" means a violation of AS 39.90.100;
- 3 (5) "public body" includes an officer or agency of
- 4 (A) the federal government;
- 5 (B) the state;
- 6 (C) a political subdivision of the state including
- 7 (i) a municipality;
- 8 (ii) a school district; and
- 9 (iii) a rural educational attendance area;
- 10 (D) a public or quasi-public corporation or authority established by state
- 11 law including the Alaska Railroad Corporation; and
- 12 (E) the University of Alaska.

13 • Sec. 8. AS 39.90.150 is amended to read:

14 Sec. 39.90.150. SHORT TITLE. AS 39.90.100 - 39.90.250 [AS 39.90.100 - 39.90.150]  
15 may be cited as the Alaska Whistleblower Act.

16 • Sec. 9. AS 39.90 is amended by adding new sections to read:

17 Sec. 39.90.160. ADMINISTRATIVE REMEDY. Instead of bringing a civil action under  
18 AS 39.90.120, a person who alleges a violation of AS 39.90.100 may, within one year after the  
19 date the person reasonably should have known of the violation, file an allegation with the  
20 personnel board. However, if a court of competent jurisdiction either has issued a final  
21 determination resolving some or all of the issues raised by the allegation or has a matter under  
22 consideration that will require resolution of some or all of the issues, the personnel board may  
23 not accept or shall discontinue investigation of the allegation as to those issues. If the allegation  
24 relates to a matter that is outside the jurisdiction of the personnel board under AS 39.90.100 -  
25 39.90.250, the board may not accept the allegation but may refer the person to other appropriate  
26 agencies. If the matter appears to be within the jurisdiction of the board, the board shall  
27 immediately appoint a hearing officer to investigate and report on the allegation.

28 Sec. 39.90.170. INVESTIGATION BY HEARING OFFICER. (a) The hearing officer  
29 shall investigate an allegation referred by the personnel board to determine whether there are  
30 reasonable grounds to believe that a prohibited practice has occurred, is occurring, or is about  
31 to occur. Within 10 days after appointment, the hearing officer shall provide written notice to

1 the person who made the allegation that the hearing officer has received and will investigate the  
2 allegation. The notice must include the name of the person who will serve as a contact with the  
3 person making the allegation.

4 (b) If, after investigation, the hearing officer determines that there are reasonable grounds  
5 to believe that a prohibited practice that requires corrective action has occurred, is occurring, or  
6 is about to occur, the hearing officer shall report the findings and determination to the personnel  
7 board, the agency involved, and the elected or appointed head of the agency. The report may  
8 include recommendations for corrective action.

9 (c) If, after a reasonable time, the public employer does not act to correct the prohibited  
10 practice, the hearing officer may petition the personnel board for corrective action. If the hearing  
11 officer finds, after consulting with the individual subject to the prohibited practice, that the  
12 employer has acted to correct the prohibited practice, the hearing officer shall file the finding  
13 with the board, together with any written comments provided by the individual and the employer.

14 (d) If, after investigation, the hearing officer determines that there is reasonable cause  
15 to believe that a criminal violation has occurred, the hearing officer shall report the determination  
16 to the attorney general, the head of the public employer involved, and the personnel board.

17 Sec. 39.90.180. STAY OF PERSONNEL ACTION. (a) If the hearing officer determines  
18 that there are reasonable grounds to believe that a violation of AS 39.90.100 has occurred, the  
19 hearing officer may request the personnel board or a member of the board to stay any personnel  
20 action against the person making the allegation or against another person. Unless the board or  
21 board member finds that the stay would not be appropriate, the board or board member shall  
22 order a stay, valid for no more than 45 days. The board or board member shall act within three  
23 working days of receiving a request for a stay.

24 (b) If the stay or an extension of a stay is granted, the board shall allow the public  
25 employer that is the subject of a stay to comment on the stay and to request an amendment to  
26 it. The board may terminate the stay at any time after notice and opportunity for oral or written  
27 comments are provided to the hearing officer and the individual on whose behalf the stay was  
28 ordered.

29 (c) The board may extend the period of a stay granted under this section for any period  
30 that the board considers appropriate.

31 Sec. 39.90.190. INVESTIGATION PROCEDURES. (a) In an investigation, the hearing

1 officer may

2 (1) make inquiries and obtain information considered necessary;

3 (2) enter without notice to inspect the premises of a public employer, but only  
4 when agency personnel are present;

5 (3) hold hearings that are closed to the public notwithstanding AS 44.62.310; and

6 (4) notwithstanding other provisions of law, have access at all times to records  
7 of every public employer, including confidential records; however, the personnel board may only  
8 compel the production of sealed court records by subpoena and may not compel production of  
9 records of active criminal investigations and records that could lead to the identity of confidential  
10 police informants.

11 (b) The hearing officer and the personnel board shall maintain confidentiality with respect  
12 to all matters and the identities of the complainants or witnesses coming before the officer or the  
13 board except insofar as disclosures may be necessary to enable the officer or the board to carry  
14 out their duties and to support recommendations. However, the officer or the board may not  
15 disclose a confidential record obtained from an agency.

16 Sec. 39.90.200. SUBPOENA POWERS. (a) Subject to the privileges that witnesses have  
17 in the courts of this state, the personnel board may, at the request of the hearing officer or on its  
18 own request, compel by subpoena, at a specified time and place, the

19 (1) appearance and sworn testimony of a person who the personnel board or the  
20 hearing officer reasonably believes may be able to give information relating to a matter under  
21 investigation; and

22 (2) production by a person of a record or object that the personnel board or  
23 hearing officer reasonably believes may relate to the matter under investigation.

24 (b) If a person refuses to comply with a subpoena issued under (a) of this section, the  
25 superior court may, on application of the personnel board, compel obedience by proceedings for  
26 contempt in the same manner as in the case of disobedience to the requirements of a subpoena  
27 issued by the court or refusal to testify in the court.

28 Sec. 39.90.210. DECISION BY PERSONNEL BOARD. (a) After receipt of a report  
29 from the hearing officer, the personnel board may accept, amend, or reject the report or return  
30 the report to the hearing officer for further proceedings.

31 (b) When the hearing officer petitions the personnel board for corrective action under

1 AS 39.90.170(c), the board shall provide an opportunity for

2 (1) oral or written comments by the hearing officer and the agency involved; and

3 (2) written comments by any individual who alleges to be the subject of the  
4 prohibited practice.

5 (c) If, after review, the personnel board determines that the hearing officer has  
6 demonstrated that a violation of AS 39.90.100 was a contributing factor in a personnel action that  
7 was taken or is to be taken against the individual, the board shall order the corrective action the  
8 board considers appropriate. For a public employee who has been harmed by a prohibited  
9 practice, the board may order reinstatement to a previous position, promotion, transfer, the award  
10 of back pay and benefits, or other personnel actions. If the board finds that a public employee,  
11 other than an elected public employee, or an employee confirmed by the legislative body of the  
12 public employer, has violated AS 39.90.100, the board may order discipline, including suspension  
13 or dismissal. The board may require that notice of its findings and determination be placed in  
14 the personnel file of appropriate public employees.

15 Sec. 39.90.220. JUDICIAL REVIEW. A public employer, employee, former employee,  
16 or applicant for employment adversely affected by a final order or decision of the personnel  
17 board under AS 39.90.210 may appeal the decision or order to the superior court.

18 Sec. 39.90.230. REGULATIONS AND PROCEDURES. The personnel board shall adopt  
19 regulations under the Administrative Procedure Act (AS 44.62) to establish procedures for  
20 receiving and processing allegations, conducting investigations and hearings, reporting findings  
21 and recommendations, and making decisions on them. Hearings of the personnel board under  
22 AS 39.90.100 - 39.90.250 are not subject to administrative adjudication procedures under  
23 AS 44.62.330 - 44.62.630.

24 Sec. 39.90.240. ANNUAL REPORT. The personnel board shall submit to the legislature  
25 and the public an annual report of the board's activities under AS 39.90.100 - 39.90.250.

26 Sec. 39.90.250. EXHAUSTION OF REMEDIES NOT REQUIRED. The provisions of  
27 AS 39.90.100 - 39.90.250 do not require exhaustion of administrative, contractual, or other  
28 remedies, including those provided by AS 39.90.100 - 39.90.250, before a person alleging a  
29 violation may file a civil action. The personnel board may not refuse to accept an allegation that  
30 is filed with the board because of a civil action that was terminated without resolution on the  
31 merits of the issues raised by the allegation.

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: HB 322

BY REPRESENTATIVE ULMER

Page 2, line 4:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 2, lines 13 -14:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 2, line 16:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 2, line 27:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 2, line 29:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 3, line 4:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 3, line 11:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 3, line 13:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 3, line 17:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 4, line 14:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 4, line 17:

Delete "In addition to or instead"

Insert "Instead"

Page 4, line 18, after "may":

Insert ", within one year after the date the person reasonably should have known of the violation,"

Page 4, line 19:

Delete "If"

Insert "However, if"

After "jurisdiction":

Insert "either"

Page 4, line 20, after "allegation":

Insert "or has a matter under consideration that will require resolution of some or all of the issues"

Page 4, line 21, after "accept":

Insert "or shall discontinue investigation of"

Page 4, line 22:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 7, line 20:

Delete "AS 39.90.100 - 39.90.240"

Insert "AS 39.90.100 - 39.90.250"

Page 7, after line 23:

Insert a new section to read:

"Sec. 39.90.250. EXHAUSTION OF REMEDIES NOT REQUIRED. The provisions of AS 39.90.100 - 39.90.250 do not require exhaustion of administrative, contractual, or other remedies, including those provided by AS 39.90.100 - 39.90.250, before a person alleging a violation may file a civil action. The personnel board may not refuse to accept an allegation that is filed with the board because of a civil action that was terminated without resolution on the merits of the issues raised by the allegation."

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ULMER

TO: HB 322

Page 6, line ~~8~~<sup>7</sup> after "employer":

Insert "other than the records of the office of the ombudsman"

Page 6, line ~~10~~<sup>10</sup> after "informants":

Insert "; as to the records of the office of the ombudsman, the personnel board may only require that the office confirm or deny that it has accepted a complaint for investigation"

AMENDMENT

OFFERED IN THE HOUSE  
TO: HB 322

BY REPRESENTATIVE ULMER

Page 6, line 5, after "employer":

Insert "other than the records of the office of the ombudsman"

Page 6, line 8, after "informants":

Insert "; as to the records of the office of the ombudsman, the personnel board may only require that the office confirm or deny that it has accepted a complaint for investigation"



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: February 3, 1992

PLACE: Capitol Room 102

**SUBJECT OF MEETING:**

- \*HB 428 - Relating to Residency for Permanent Fund Dividends
- HB 322 - Relating to Whistleblower Protection
- \*SCR 19 - Relating to Age-Related Discrimination in Alaska
- HCR 16 - Relating to Bone Marrow Donor Week

| NAME          | REPRESENTING           | BUSINESS/PERSONAL MAILING ADDRESS   | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | WHAT SUBJECT/ WHICH BILL? |
|---------------|------------------------|-------------------------------------|-------|-----------|-----------|-------------------------|---------------------------|
| Tom Williams  | Revenue                | PFD Division P.O. Box 110460 Juneau | 99811 |           | 465-2323  | (Y) N                   | HB 428                    |
| Paula Terrel  | Sen Keritula           |                                     |       |           | 465-1200  | (Y) N                   | SCR 19 & SCR 24 ✓         |
| Mike McMillan | Dept. of Public Safety | Juneau, AK 99801                    | 99811 |           | 465-4620  | (Y) N                   | F. Scott Miller HB 322    |
| Margaret Pugh | Rep. Ulman             | Room 421                            |       | 479       | 4747      | (Y) N                   | HB 322                    |
| Ron Clarke    | Rep. Koponen           | CAP 503                             |       |           | 4772      | (Y) N                   | HJR 51                    |
|               |                        |                                     |       |           |           | Y N                     |                           |
|               |                        |                                     |       |           |           | Y N                     |                           |
|               |                        |                                     |       |           |           | Y N                     |                           |
|               |                        |                                     |       |           |           | Y N                     |                           |
|               |                        |                                     |       |           |           | Y N                     |                           |
|               |                        |                                     |       |           |           | Y N                     |                           |

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# House State Affairs Committee

## Representative Gene Kubina, Chair

SUBJECT OF MEETING:

DATE:

PLACE:

| NAME                   | REPRESENTING  | BUSINESS/PERSONAL MAILING ADDRESS | ZIP | (H) PHONE | (W) PHONE   | DO YOU WANT TO TESTIFY?             |                          | WHAT SUBJECT/ WHICH BILL? |
|------------------------|---------------|-----------------------------------|-----|-----------|-------------|-------------------------------------|--------------------------|---------------------------|
| <i>Jennifer Foubie</i> | <i>Coburn</i> | <i>1507 W. ...</i>                |     |           | <i>4970</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <i>HB 322</i>             |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |
|                        |               |                                   |     |           |             | <input type="checkbox"/>            | <input type="checkbox"/> |                           |

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# House State Affairs Committee

## Representative Gene Kubina, Chair

**SUBJECT OF MEETING:**  
 HB 195 - Relating to Campaign Finance Reform  
 \*HB 322 - Relating to Reporting/Campaign Finance Reform

**DATE:** February 7, 1992

**PLACE:** Capitol Room 102

| NAME                        | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS      | ZIP   | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY?            |                         | WHAT SUBJECT/ WHICH BILL? |
|-----------------------------|--------------|--|-------|-----------|-----------|------------------------------------|-------------------------|---------------------------|
| Scott Burgess               | AMU          |  |       |           | 6-1325    | <input checked="" type="radio"/> Y | <input type="radio"/> N | HB 195                    |
| Karee Boorman<br>(Pearson)  | APOC         | 2221 E. Northern Lights<br>Anch. 99508 | 99508 |           | 970-4176  | <input checked="" type="radio"/> Y | <input type="radio"/> N | HB 195<br>HB 322          |
| Denton Pearson<br>(Bursink) | APOC         | P.O. Box 98<br>S.H.C. AK 99835         |       | 747-5347  | 747-3256  | <input checked="" type="radio"/> Y | <input type="radio"/> N | HB 322                    |
| Winston Burchard            | APOC         | 711 CAFFREY RD.<br>FISKE, AK           |       |           | 452-2211  | <input checked="" type="radio"/> Y | <input type="radio"/> N | HB 195<br>HB 322          |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |
|                             |              |  |       |           |           | <input type="radio"/> Y            | <input type="radio"/> N |                           |

C.



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: January 29, 1992

PLACE: Capitol Room 102

**SUBJECT OF MEETING:**

- \*HB 301 - Relating to Regular Legislative Sessions
- \*HB 322 - Relating to Whistleblower Protection
- \*HB 385 - Relating to State Employee VDT Safety
- \*SCR 19 - Relating to Age-Related Discrimination in Alaska

| NAME            | REPRESENTING,  | BUSINESS/PERSONAL MAILING ADDRESS  | ZIP   | (H) PHONE          | (W) PHONE | DO YOU WANT TO TESTIFY?               | WHAT SUBJECT/ WHICH BILL? |
|-----------------|----------------|------------------------------------|-------|--------------------|-----------|---------------------------------------|---------------------------|
| Juan Foster     | Oak Harbor     | Box 113000 June                    | 99801 |                    | 4970      | (Y) N                                 | HB 322                    |
| James A. Wilson | AK DEPT. LABOR |                                    |       |                    | 4520      | (Y) <sup>IF you have a notice</sup> N | HB 385 ←                  |
| Gran Island     | OAC            | Box 110209                         | 99801 |                    |           | Y (N)                                 | SCR 19                    |
| Debra Knutson   | AK DOP/ASEA    | 5875 Glac. Hwy #4                  | 99801 |                    | 2218      | (Y) N                                 | HB 385 ✓                  |
| George Imbsey   | ASEA           | 4113 Unalaska<br>641 W. Willoughby | 99801 | 3642242<br>4634949 | 4652915   | (Y) N                                 | HB 385 ✓                  |
| BRUCE LUDWIG    | APEA/AFT       | 340 N. FRANKLIN ST                 | 99801 | 6-6936             | 6-2324    | (Y) N                                 | HB 322, 385 ✓             |
| Mary M. ...     | TOA            |                                    |       |                    |           | Y N                                   |                           |
|                 |                |                                    |       |                    |           | Y N                                   |                           |
|                 |                |                                    |       |                    |           | Y N                                   |                           |
|                 |                |                                    |       |                    |           | Y N                                   |                           |
|                 |                |                                    |       |                    |           | Y N                                   |                           |

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 8, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/10/92

The STATE AFFAIRS Committee considered:

HB 323

HOUSE BILL NO. 323

PERS CREDIT FOR BIA SERVICE

"An Act relating to credited service in the public employees' retirement system for certain employment with the Alaska Bureau of Indian Affairs."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same 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 Admin ALL STATE

zero fiscal note(s) \_\_\_\_\_

|         | SIGNING DO PASS         | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|---------|-------------------------|----|-----------------------|-----|----|----|
|         | <i>Eugene G. Kukina</i> | X  |                       |     |    |    |
| Mayer   | <i>Tom Lower</i>        | X  |                       |     |    |    |
| Brook   | <i>E. Bunch</i>         | ✓  |                       |     |    |    |
| Baker   | <i>Tom Walker</i>       | ✓  |                       |     |    |    |
| Miller  | <i>Mike Hillier</i>     | ✓  |                       |     |    |    |
| Clayton | <i>David ...</i>        | ✓  |                       |     |    |    |
|         |                         |    |                       |     |    |    |
|         |                         |    |                       |     |    |    |
|         |                         |    |                       |     |    |    |
|         |                         |    |                       |     |    |    |

*Eugene G. Kukina*  
CHAIRMAN'S SIGNATURE

FISCAL NOTE

BILL NO. HB 323

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: ALLSTATE

Title: An act relating to credited service in the PERS for employment with the BIA.

BRU: ALLSTATE

Component: ALLSTATE

Sponsor: Grussendorf

COMPONENT SERIAL NO. \_\_\_\_\_

Requestor: House State Affairs Committee

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING         | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 | FY 98 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | 0     | 0     | 0     | 0     | 0     | 0     |
| TRAVEL            | 0     | 0     | 0     | 0     | 0     | 0     |
| CONTRACTUAL       | 0     | 0     | 0     | 0     | 0     | 0     |
| SUPPLIES          | 0     | 0     | 0     | 0     | 0     | 0     |
| EQUIPMENT         | 0     | 0     | 0     | 0     | 0     | 0     |
| LAND & STRUCTURES | 0     | 0     | 0     | 0     | 0     | 0     |
| GRANTS, CLAIMS    | 0     | 0     | 0     | 0     | 0     | 0     |
| MISCELLANEOUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

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

|                         |   |   |   |   |   |   |
|-------------------------|---|---|---|---|---|---|
| REVENUE<br>FUND SOURCE: | 0 | 0 | 0 | 0 | 0 | 0 |
|-------------------------|---|---|---|---|---|---|

FUNDING: (Thousands of dollars)

|                      |   |   |   |   |   |   |
|----------------------|---|---|---|---|---|---|
| GENERAL FUND         | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS        | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER<br>FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL                | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS

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

Estimate of current year impact: \$0

ANALYSIS: (attach a separate page if necessary.) We expect that this bill will advantage less than ten people, so there will be no measurable impact to the employer's PERS contribution rate with the passage of this bill.

Prepared By: Gary Bader *Gary M. Bader*  
Division: Retirement and Benefits

Phone: 465-4460  
Date: January 31, 1992

Approved by Commissioner: Nancy Bear Usery  
Agency: Department of Administration

Date: 2/6/92

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

Albert W. Wilson  
P. O. Box 597  
Sitka, Alaska 99835

February 27, 1990

Rec'd  
3-1-90

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

Dear Mr. Grussendorf:

Thank you for working to submit a bill that would allow former Bureau of Indian Affairs non-teaching staff to claim credited service for time worked at a BIA school.

When Mt. Edgecumbe School was being closed by the BIA we were aware that teachers entering the state system from the BIA were entitled to this credited service. We were also aware that HCS CSSB (469), at the time, was being worked through the legislature and had the belief this bill would allow non-teaching staff the same entitlements. For myself, I was offered a different job by the BIA and also to continue on in the same job with the State. I elected to go with the state in essence betting the legislation in process would treat us fairly. You can imagine our disappointment when the end result of the legislation was watered down to the point no one here would receive any benefit from it. I attribute this to a more effective lobby effort by the teachers than any intentional disregard for the merits of our jobs by the legislature. Nonetheless it was a severe setback for everyone here.

The state picked up several highly qualified mid-career employees when this school transferred from the BIA. When these persons are eligible to retire from the state it will be ten years before they can receive any annuity from Civil Service. The majority will not be able to afford to do this and will work for the additional ten years. From a management standpoint, this is less than desirable considering most of these employees work in the labor, trades and crafts industry. Additionally, much has been said about Mt. Edgecumbe School becoming a separate REAA. One of the attractions of becoming a separate school district is to opt out of the expensive state employee system. Where would that leave us then? Although we have committed our careers to one job we would have a patchwork retirement program that hasn't been allowed to reach the full benefits of maturity in any one system. Whether Mt. Edgecumbe School becomes a separate REAA or not, the passage of this bill would do much to allay the uncertainties of our position.

At the time Mt. Edgecumbe School was transferred to the state, the utilities systems to the school also provided water, sewer, electricity and road service to the Public Health Service Hospital, U.S. Coast Guard, Sitka Telephone Company, Shee Atika Corporation, Sitka Community Association with all of the residential units on Charcoal and Alice Island, Sitka Council on Alcohol and Other Drug Abuse, Sitka School District and City and Borough of Sitka's waste water treatment plant and airport. As the facility manager here, I can attest that it would not have been possible to operate these World War II utility systems with all of their peculiarities with anyone other than the persons selected to do the job slated to be done by the state. It would not have been possible to

The Honorable Ben Grussendorf

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February 27, 1990

terminate the BIA employees one day and hire a totally new crew and operate the systems the next without jeopardizing or interrupting critical services provided by other agencies, not to mention the safety of the school facilities themselves. These same persons were essential to the design and orderly transition of the newly constructed utility systems that followed which could then be operated by any standard crews found in similar industry. Moreover, the congressional legislation providing for the total upgrade of the Mt. Edgecumbe School facility carried with it an almost impossible deadline to open the doors for operating the school. It would not have been possible to make this deadline working with anyone that did not already have a thorough and complete knowledge of the entire complex.

For sure, on October 1, 1983, after the BIA closed this school we were glad to have jobs, however, this was a two way street as we were essential to the operation of this facility and certainly equally as important to this facility as would be the teaching staff. We are merely requesting similar treatment.

Thank you again for addressing this matter.

Sincerely, .



Albert W. Wilson

February 27, 1990

Statement from Roger L. Howard, Sr., Carpenter and Locksmith, concerning the inclusion of BIA years of employment to the State of Alaska Retirement System.

I feel that the years I worked for the BIA Mt. Edgecumbe School should be credited towards my State retirement.

Legislation allowed the teachers to buy back their BIA retirement time, but didn't allow me to. My BIA employment time is 12 years, enough to be vested but not enough to be of monetary value, so I am one of the many who was recommended to cash out of the retirement system.

It would seem unfair to work at the same job and school for 32 years, yet only have 20 years credited to me. Our positions were important to keep the school ready in case the State did start up the school again. There was absolutely no break in service from the time that I worked for the BIA and the time I began working for the State of Alaska

*Roger L. Howard Sr.*

STATEMENT FROM HARVEY KITKA, ELECTRICIAN  
CONCERNING THE INCLUSION OF BIA RETIREMENT TIME  
TO THE STATE RETIREMENT SYSTEM

I feel very strongly that my BIA time should be added to my State retirement time for the following reasons:

1. The rules should be the same for me as for the teachers. The first bills allowed some people to buy back their retirement time, but did not allow me to. My BIA time was 8 years--enough time to be vested but not enough to be of monetary value, so I was recommended to cash out of the retirement system.
2. It is unfair to work at the same job and school for 28 years and yet only have 20 years credited to me. Our jobs are just as important and necessary as the teachers who were given their BIA time to add to their State time.
3. The State of Alaska benefited by keeping us on the job. We kept the building and equipment in working order. There was a deadline to meet which could not have been met if it were not for us.

Harvey Kitka

MT Edgcumbe school

DATE: February 27, 1990

PROM: ROBERT OZAWA, Groundskeeper, Glassman, Painter and  
other jobs.

CONCERNING: INCLUSION OF MY BIA RETIREMENT TIME TO THE STATE RETIREMENT  
SYSTEM

The reasons I strongly believe that my BIA time should be added to my State  
retirement time are as follows:

1. The teachers were able to have their BIA service added to their State  
service. I should have this same opportunity. Up to the time the  
State took over the school, I had 13 years in. I was forced to  
take reduction in force and cash out of the BIA retirement system.
2. If I am unable to get credit for these 13 years, I will have worked  
at the same employment in the same location for 33 years and yet be  
credited only for 20 years.
3. We stayed on the job even when it was very uncertain that the school  
would continue and kept everything in good working condition and were  
there when the contractors needed to have information.

*Robert Ozawa*

P.O. Box 1144  
Sitka, Alaska 99835

February 13, 1990

The Honorable Ben Grussendorf  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Representative Grussendorf:

I would like to thank you for the work you have done on the bill concerning credited service in the public employees' retirement system for certain employment with the Alaska Bureau of Indian Affairs.

This bill would affect all BIA transfers in the State. I was very concerned when it seemed we were to be left out again. Some of us were told we didn't have enough time in Federal service to leave the money in their retirement system. Their Personnel Department was not very helpful; they seemed more interested in closing the Mt. Edgecumbe School.

For this reason, I thank you for all your help.

Sincerely,

*Harvey Kitka*

Harvey Kitka

*shop steward*