

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7355 SENATE COMMUNITY & REGIONAL AFFAIRS

setnets in that portion of the Upper Subdistrict south of the Kasilof River for the 12-hour regular fishing period on Friday July 7, 1989, because of presence of oil on the beaches. All other setnet fisheries and fishing periods were managed according to run strength.

The commercial salmon fisheries in Upper Cook Inlet closed in early September 1989.

Lower Cook Inlet

Pot shrimp (Outer District). This fishery was closed at noon April 30 because of the presence of oil. It reopened at noon on July 7, 1989.

Miscellaneous shellfish. On April 24, 1989, it was announced that no miscellaneous shellfish permits would be issued to harvest these species in the Outer and Eastern Districts until the danger of oil contamination had passed. To date no requests have been received for permits to harvest miscellaneous shellfish from these two districts. All shellfish fisheries in the remaining districts of Cook Inlet are managed according to abundance, effort, and existing regulations.

Groundfish (Outer and Eastern Districts). This fishery was closed at noon on April 30, 1989 because of oil. It reopened to all species except sablefish, June 12 in conjunction with the 24-hour halibut period. Sablefish was not reopened in 1989 because the Gulf of Alaska sablefish quota had been filled.

Smelt Smelt was closed along with groundfish in the Outer and Eastern Districts at noon on April 30, 1989. When groundfish reopened, smelt fishing remained closed.

Herring Sac Roe (Outer and Eastern Districts). These fisheries did not open for the 1989 season because of the presence of oil. This was announced April 15, 1989, prior to the anticipated opening date of April 20.

Salmon. Kamishak District commercial salmon fishery. This seine fishery opened by regulation June 1, 1989 and was closed by emergency order on June 9 because of oil. Portions of the Kamishak District north of Contact Point were opened after July 20 based on run strength. The Tutka Bay Subdistrict north of the HEA powerlines was closed to seining at 6 a.m., July 10. It was reopened at noon the same day after further assessment showed the commercial fishery would not be impacted. The commercial salmon season in Lower Cook Inlet closed August 26, 1989.

Kodiak

Herring Sac Roe. Approximately 34 of 56 management units closed

during the duration of the fishing season, because of oil impacts. The 1989 Kodiak sac roe GHL was approximately 2,415 short tons.

Salmon. The commercial season was scheduled to get underway June 9, 1989. The fisheries were postponed until June 19, when only the setnet fishery in the Alitak District opened; there were approximately 114 days fished in this setnet fishery by 87 fishermen. The only other commercial opening to occur during the 1989 salmon season was a two day seine opening in Karluk Lagoon, on the westside of Kodiak Island, in mid-September. About five seiners took part in that fishery, netting fewer than 5,000 salmon. The entire Kodiak Management Area closed to commercial salmon fishing at the conclusion of the Lagoon fishery.

Chignik

Salmon The Chignik fishery opened on Monday June 12, 1989 at 11:00 a.m. However, portions of the Eastern District were closed due to the presence or close proximity of oil in the Kilokak Rocks area, and in Imuya and Wide Bays. The Department announced a 24-hour fishing period beginning at 9:00 a.m. June 26 for a portion of the Chignik Bay District. The area was limited to a small portion of this district due to the presence of oil in surrounding areas. The documented presence of mousse and sheen in Chignik Bay near Anguvik Island, coupled with a minimal monitoring effort, justified the closure of the commercial salmon fishery effective 10:00 p.m., Monday, June 26 for the remainder of the announced period. Because of the presence of oil contaminants within Chignik Lagoon in sufficient quantities to pose a risk of contaminating gear and/or product, the commercial salmon fishing periods scheduled for Thursday, July 27 and Sunday, August 5 were canceled. Commercial fishing opportunities remained restricted to Chignik Lagoon of the Chignik Bay District. Fisheries were held when sockeye escapements into the system justified them.

SUBSISTENCE/PERSONAL USE

Prince William Sound

Much of the Southwestern District and the western shoreline of Green Island was closed to subsistence fishing June 6, 1989. The only areas remaining open to subsistence fishing for those residents domiciled in the Southwest District are Eshamy Lagoon, Jackpot Bay, and inside Sawmill and Crab Bays.

Cook Inlet, Kodiak, and Chignik

There have been no closures to subsistence fisheries because of oil. Subsistence fishermen have been cautioned to select fishing areas that show no signs of oil impact.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB240

Revision Date: _____
Title: Appropriation for the Fisheries
Tax Refund Program
Sponsor: Senator Zharoff
Requestor: _____

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 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						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	(4500.0)	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	(4500.0)	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(4500.0)	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: Attach a separate page for analysis.

SEE ATTACHED

Prepared By: Carl Meyer *Carl Meyer* Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: 4/19/91

Approved by Commissioner: Lee E. Fisher *Lee E. Fisher*
Agency: Department of Revenue Date: 4-19-91

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



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P. O. BOX 405, KODIAK, ALASKA 99615 (907) 486-6250

DURING SESSION:

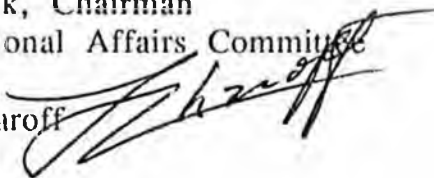
P. O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PIEDMONT ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Steve Frank, Chairman
Community & Regional Affairs Committee

FROM: Senator Fred F. Zharoff 

DATE: April 16, 1991

SUBJ: Hearing Request for SB 240

The purpose of this memo is to request scheduling of SB 240, "An Act making an appropriation to the Department of Revenue for the fisheries tax refund program based on the harvest of fish; and providing for an effective date."

The purpose of this bill is to reimburse communities for lost fish tax revenue as a result of the Exxon Valdez oil spill. The bill as currently structured would appropriate \$4.5 million to the Department of Revenue to allocate to municipalities that suffered loss of fish tax revenue due to the spill. In addition, the bill would require the municipalities to reimburse the state should the municipality recover fish tax revenue as a result of litigation with Exxon.

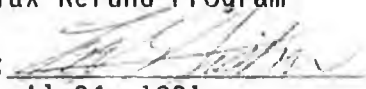
A similar version of this bill was before the Senate last session (SB 461), and was in Senate Finance when the legislature adjourned.

There will be mayors of some of the communities this bill would impact in Juneau next week. Therefore, I respectfully request scheduling of this bill for Tuesday, April 23 in order for those mayors to testify.

A fiscal note and position paper have been requested from the Department of Revenue by my staff and should be forthcoming. Additional back-up information will be provided to your office in the next few days.

Thank you for your consideration of this request

DEPARTMENT OF REVENUE
BILL NO: SB 240
TITLE: Appropriation for the Fisheries
Tax Refund Program

APPROVED: 
DATE: April 24, 1991

POSITION PAPER

The Department of Revenue has reviewed HB 276 and the Senate companion SB 240 and with minor amendment supports the legislation.

As a result of the Exxon Valdez oil spill of March 25, 1989 many Prince William Sound and Gulf of Alaska communities suffered a substantial loss of fish tax revenues. These bills intend to use the state's general fund to assist those communities who can demonstrate actual financial losses as a direct result of the spill. We estimate these losses to total approximately 3.5 million dollars. The department will carefully review claims from individual communities including detailed back-up to substantiate the claims and to determine the amount to be paid from this bill. The municipalities will continue to pursue their claims with Exxon, and before receiving proceeds from this legislation will agree to reimburse the State up to the amount paid from this bill if they prevail in court or through settlement. The State will cooperate with the municipalities in pursuit of their claims to Exxon.

There appears to be no question that the communities lost these revenues as a result of the spill. Last year it appeared that a settlement with the municipalities would be paid by Exxon; the largest questions were entitlements which have now been documented. It is our understanding that Exxon has been seeking a broader settlement with the municipalities, and refuses to pay the fish tax claims separately. For many communities the fish tax revenue is a major part of their operating revenues (20-50%). The municipalities have all the data necessary, including estimated potential catch and actual prices necessary to prepare and submit detailed claims for reimbursement of lost revenues.

Since the State of Alaska collects the fish tax and pays 50% to the municipalities, there is some question as to the strength of the municipalities legal position to collect the raw fish tax loss from Exxon since the municipalities are beneficiaries but not legal collectors of raw fish tax. In addition, the spill settlement by the State places the municipalities at a further disadvantage in pursuit of their claims. For these reasons, we support payment of these claims by the State of Alaska to make the municipalities whole from the Oil Spill. The municipalities have suffered large loss and should not be expected to absorb the loss of the raw fish tax revenue as well. Because of receiving these funds the municipalities will be better able to afford the pursuit of their claims against Exxon for fish tax and other major impacts. The amendment we suggest at this time is a reduction of the amount in section #2 from \$4.5 million to \$3.5 million.

This Position Paper supplements the fiscal note analysis prepared on April 19, 1991. The comments in that document relate, properly, to the mechanical functions in DOR relative to this legislation. This Position Paper addresses the philosophical position of whether it is right or wrong for the State to make this appropriation.

April 19, 1991

SB 240
FISCAL NOTE ANALYSIS
DEPARTMENT OF REVENUE

SB 240 appropriates \$4,500,000 to the Department of Revenue to be allocated and paid to municipalities that suffered, as a result of the Exxon Valdez oil spill, reductions in the amount of fiscal year 1990 revenue sharing under the Fisheries Business Tax provisions (specifically AS 43.75.130) from what the municipalities would otherwise have received absent the spill. The bill would require the municipalities to enter into agreements with the Department to reimburse the state up to the amount of the allocation for any subsequent recovery from another person for lost fish tax revenues.

The major concern the Department has with this legislation is that it does not provide any mechanism to determine which municipalities suffered reductions in revenue sharing as a result of the spill nor to determine the extent of the reductions. Presumably, we might expect that such a factual determination would be both disputed and controversial. Nevertheless, the Department simply is not in a position to make that kind of determination.

Therefore, if this legislation is enacted the Department will use information from other sources to identify the oil-spill impacted municipalities and will then implement an arbitrary but objective mechanism to make the allocation of the \$4,500,000 to those municipalities. Specifically, that will be a two step process. The first step will compare FY 90 revenue sharing to FY 89 revenue sharing. Refunds will be allocated to each identified municipality that has suffered a reduction in FY 90 from FY 89. The second step will involve allocating the remainder of the appropriation to those identified municipalities that suffered reductions after total refunds and actual FY 90 revenue sharing are subtracted from "projected" FY 90 revenue sharing levels.

The "projected" revenue sharing levels have been taken from an interim report prepared by a private consulting firm on behalf of a subcommittee of the Alaska Conference of Mayors. Oil spill impacted communities have also been identified from this report and a March 13, 1990 discussion paper regarding Raw Fish Tax Revenue Sharing addressed to Senator Szymanski from Bob LeResche, the Oil Spill Coordinator. The Department does not necessarily endorse and expresses no opinion on the validity of the data, conclusions or assumptions upon which this aspect of the fiscal note has been prepared.

The allocation of the \$4,500,000 will be made to the municipalities as shown on the next page.

<u>Municipality</u>	<u>1st Allocation</u>	<u>2nd Allocation</u>	<u>Total Allocation</u>
Kodiak Island	\$ 962,090	14,629	\$ 976,719
Cordova	445,609	569,875	1,015,484
Kodiak	368,755	5,029	373,784
Seldovia	35,526	274	35,800
Seward	62,967	115,840	178,807
Valdez	0	106,240	106,240
Whittier	51,897	25,600	77,497
Larsen Bay	0	76,800	76,800
Kenai Peninsula	895,362	0	895,362
Chignik	334,097	0	334,097
Homer	143,623	0	143,623
Kenai	284,474	0	284,474
Port Lyons	296	0	296
Soldotna	<u>1,017</u>	<u>0</u>	<u>1,017</u>
	\$3,585,713	914,287	\$4,500,000



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

April 18, 1991

In Support of SB 240 - Making an appropriation to the Department of Revenue for the fisheries tax refund program

The Alaska Municipal League supports SB 240, which will allow for the allocation of funds to municipalities that lost revenue from the fisheries business tax as a result of the *Exxon Valdez* oil spill. The League urges rapid consideration and passage of this legislation.

Fisheries business tax revenue is critical to the financial stability of many Alaskan communities. Providing these funds now, with the stipulation that municipalities must agree to reimburse the state for up to the amount of the allocation if, and to the extent that, the municipality receives compensation for these lost revenues from another source, will enable affected municipalities to provide basic services to their citizens without further interruption as a result of the oil spill.

RECEIVED APR 22 1991

FINAL REPORT

**Economic, Social, and Psychological
Impact Assessment of the
Exxon Valdez Oil Spill**

Prepared for:

**Oiled Mayors Subcommittee
Alaska Conference of Mayors**

Prepared by:

Impact Assessment, Inc.

2160 Avenida de la Playa, Suite A
La Jolla, California 92037

911 West 8th Avenue, Suite 402
Anchorage, Alaska 99501

November 15, 1990

Revenue Impacts

Fiscal impacts were differentially distributed among the communities according to variations in preexisting revenues and expenditure patterns.

The importance of this finding is that the unique circumstances of each community's pattern of revenues and expenditures must be understood to assess total impacts from this event. For example, within the four revenue sources cited above, there were several types of losses communities experienced, according to the prominence of these sources for specific communities, including:

- Sales Tax losses varied among the communities according to whether or not the community had a sales tax, the rate of taxation, damage to local industries that were affected by the spill, and other such factors. Sales tax losses were reported for the following reasons:
 - Loss due to fishery closures.
 - Retail business losses.
 - Boat rentals.
 - Exxon's failure to pay on rentals.

It is important to note that payments to individuals in communities, even in excess of typical earnings, do not necessarily translate into equivalent levels of sales and use tax revenues prior to the spill.

- Transient Occupancy Tax losses are attributable to the spill through shifts in types of persons residing in communities. In one instance spill workers became semipermanent residents in transient quarters, and local ordinances exempted these individuals from this tax, thus resulting in a net loss of revenue to the city.

• Raw Fish Tax revenues are a significant source of intergovernmental revenues to 15 cities and three boroughs in the affected region. Fish tax is calculated on the basis of the value of fish processed, with the normal method of allocation being 50% to the state and 50% local (with 25% to the borough and 25% to the city within a borough in those instances). Data for FY 1990 indicate that in each of these jurisdictions, with the exception of Valdez, there were decreases in fish taxes resulting from a combination of closed fisheries

and decreased fish prices, which were affected by the oil spill. (It should be noted that while raw fish tax revenues provide an important springboard for the discussion of impacts and general recommendations, there has been no fine-grained workup to date of raw fish tax levels for close analysis.)

- Harbor Revenues impacts occurred in most coastal communities. The principal cause of depressed revenues was from boats giving up berths while working for Exxon. (It should also be noted that in some communities that saw heavy harbor utilization for the cleanup process, revenues did not increase significantly, as harbor facilities are typically used to capacity during the summer. But they experienced substantial increases in operations and maintenance costs through increased volume demands. Harbor use trends were highly variable from community to community.)
- Rents and Leases were generally sources of income for communities, but the smaller Group B and Village communities received reimbursements from Exxon or VECO for services rendered, whereas larger communities generally did not experience these same problems. Similarly, these smaller communities often agreed "on a hand shake" to certain rates for reimbursements only to have the billings at these rates reduced. As noted elsewhere, a common tactic employed by Exxon or VECO was the use of verbal contracts and agreements with community representatives for many kinds of services. When, after a period of days, weeks, or months that industry contact person would be "reassigned," the basis for, conditions of, or express understandings achieved in that relationship would, effectively, be dissolved. This was particularly problematic in the smaller communities where such violations of personal trust left a residue of unreimbursed expenses and a lingering sense of betrayal.

While these types of issues address fiscal impacts from the event, preparation for any future disaster needs to assess community-specific revenues and expenditures and plans need to be developed that address how impacts can be mitigated or prevented.

Expenditure and Cost Impacts (Unreimbursed)

Local governments were not reimbursed for many costs associated with the Exxon Valdez oil spill and cleanup.

Interviews with department heads and key administrative staff in communities indicated that expenditure and revenue data from the fiscal templates completed by the communities do

	Initials	Date
Prepared By		
Approved By		

		(1) FY 89	(2) % of Total	(3) FY 90	(4) Reduction from FY 89
1	Kenai Peninsula	19750.01	.233835	1079639	895362
2	Kodiak Island	2044867	.242108	1082779	962090
3	Chignik	472467	.055939	138370	334097
4	Cordova	1294703	.153290	849094	445609
5	Homer	240153	.028434	96530	143623
6	Kenai	583068	.069034	298594	284474
7	Kodiak	1167693	.138252	798938	368755
8	Old Harbor	0	0	0	0
9	Port Lynn	296	.000035	0	296
10	Seldovia	45116	.005342	9590	35526
11	Seward	270699	.032050	207732	62967
12	Soldotna	1806	.000214	789	1017
13	Valdez	294381	.034854	338346	-0-
14	Whittier	55864	.006614	3967	51897
15					
16		\$8445116	1.000001	\$4904368	\$3585713
17					
18		1989 Projected	Actual	Reduction	Reduction
19	(DWP)	Mail Tax	FY 89	from Projected	from FY 89
20		Revenues	Revenues	Revenues	
21					
22	Kenai Peninsula	748889	1079639	-0-	895362
23	Kodiak Island	2094675	1082779	1001896	962090
24	Chignik	347110	138370	208740	334097
25	Cordova	2841210	849094	1992116	445609
26	Homer	200170	96530	103640	143623
27	Kenai	223695	298594	-0-	284474
28	Kodiak	1181316	798938	382378	368755
29	Old Harbor	-	0	-0-	0
30	Port Lynn	-	0	-0-	296
31	Seldovia	46100	9590	36510	35526
32	Seward	584957	207732	37722.5	62967
33	Soldotna	-	789	-0-	1017
34	Valdez	626737	338346	288391	0
35	Whittier	125347	3967	121380	51897
36	Larson Bay	208468	-0-	208468	-
37		\$9218674	\$4904368	4720744	\$3585713
38					
39					
40					

Burroughs
 Form 554 Buff - Form G554 Green
 Hadley

	Initials	Date
Prepared By		
Approved By		

Burroughs
 Form H554 Buff - Form G554 Green

	(1)	(2)	(3)	(4)	
1	Appropriation	\$ 4500000			
2	Less Direct Allocation	\$ 3585713			
3	Ant. to Appropriation	\$ 9114287			
4		Reduction in Proposed #	Direct Allocation	Difference	
5				Appropriation %	
6	Kodiak Island	1001896	962090	59806	.0160
7	Cordova	1992116	445609	1546507	.6233
8	Kodiak	382378	368755	13623	.0055
9	Seldovia	36510	35526	984	.0003
10	Seward	377225	62967	314258	.1267
11	Valdez	288391	-0-	288391	.1162
12	Whittier	121380	51897	69483	.0280
13	Lassen Bay	208468	-0-	208468	.0240
14				\$ 2481520	1.0000
15		Appropriation	Direct	Total	
16		Revenue	Allocation	Distributable	
17	Kodiak Island	114629	962090	976719	
18	Cordova	569875	445609	1015484	
19	Kodiak	5029	368755	373784	
20	Seldovia	274	35526	35800	
21	Seward	115840	62967	178807	
22	Valdez	106240	-0-	106240	
23	Whittier	25600	51897	77497	
24	Lassen Bay	76800	-0-	76800	
25		\$ 9114287			
26	Kenai Peninsula		895362	895362	
27	Chignik		334097	334097	
28	Homer		143623	143623	
29	Kenai		284474	284474	
30	Port Lyons		296	296	
31	Soldotna		1017	1017	
32		\$ 9114287	\$ 3585713	\$ 4500000	
33					
34					
35					
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AN ESTIMATE OF THE 1989 CHIGNIK MANAGEMENT AREA
SALMON CATCH AND ESCAPEMENT NUMBERS
HAD THERE BEEN A NORMAL FISHERY
WITHOUT THE EXXON VALDEZ OIL SPILL

By:

Bruce M. Barrett

Regional Information Report¹ 4K90-28

Alaska Department of Fish and Game
Division of Commercial Fisheries
211 Mission Road
Kodiak, Alaska 99615

August 1990

¹The Regional Information Report Series was established in 1987 to provide an information access system for all unpublished division reports. These reports frequently serve diverse ad hoc informational purposes or archive basic uninterpreted data. To accommodate timely reporting of recently collected information, reports in this series undergo only limited internal review and may contain preliminary data; this information may be subsequently finalized and published in the formal literature. Consequently, these reports should not be cited without prior approval of the author or the Division of Commercial Fisheries.

Table 1. Catch and escapement numbers of salmon by species returning to the Chignik Management Area and the estimated catch and escapement distribution of these fish if the Exxon Valdez spill had not occurred, 1989.

Species	Estimated Distribution If No Spill Had Occurred			Actual		
	Escapement	Catch ^{a,b}	Run	Escapement	Catch	Run
Sockeye	653,419	1,453,147	2,106,566	949,689	1,156,877	2,106,566
Pink	700,000	762,510	1,462,510	1,434,798	27,712	1,462,510
Chum	71,934	66,091	138,025	136,405	1,620	138,025
Coho	-	85,621	-	-	66,641	-
Chinook	-	4,550	-	-	3,542	-

^a The sockeye catch number includes an estimated 4,880 Chignik River sockeye salmon which would have been caught in the Kodiak Cape Igvak fishery pre-July 26.

^b The catch numbers do not include any interception fish which may have been harvested in the course of normal Chignik Management Area fisheries.

AN ESTIMATE OF THE 1989 KODIAK MANAGEMENT AREA
SALMON CATCH, ESCAPEMENT, AND RUN NUMBERS
HAD THERE BEEN A NORMAL FISHERY
WITHOUT THE EXXON VALDEZ OIL SPILL

Post-It™ brand fax transmittal memo 7871		# of pages ▶	
To	<i>Rick Soler</i>	From	<i>Dave Prokopowich</i>
Co.		Co.	<i>ADFGS Commercial Fishery</i>
Dept.		Phone #	<i>KODIAK</i>
Fax #		Fax #	

By:

Bruce M. Barrett
Charles O. Swanton
and
Patricia A. Roche

Regional Information Report' 4K90-35

Alaska Department of Fish and Game
Division of Commercial Fisheries
211 Mission Road
Kodiak, Alaska 99615

September 1990

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Table 4. The 1989 salmon escapement, catch, and run numbers by species of fish returning to the Kodiak Management Area spawning systems, and the estimated distribution of these fish without the fisheries restrictions caused by the M/V Exxon Valdez spill in Prince William Sound.

Species	Actual Distribution			Estimated Distribution Without the Oil Spill		
	Escapement	Catch	Run	Escapement	Catch ^{ab}	Run
Sockeye	3,170,482	1,289,538	4,460,018	1,931,000	2,529,018	4,460,018
Pink	21,084,539	183,236	21,287,775	4,870,506	16,597,269	21,287,775
Chum	1,530,148	19,972	1,550,120	784,440	785,680	1,550,120
Coho	317,448	2,599	320,047	178,614	141,433	320,047
Chinook	26,077	108	26,183	21,333	4,850	26,183

^a The sockeye catch number does not include an additional 4,880 Chignik River sockeye salmon which would have been caught in the Cape Ivak fishery pre-July 26 or any other interception fish which may have been harvested in the course of conducting normal Kodiak Management Area fisheries.

^b The pink salmon catch number does not include the Kitoi Bay catch of approximately 6,437,666 hatchery fish.

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To: Rick Soler	From: Dave Prokopowich	
Co.	Co. ADPMS Commercial Dept	
Dept.	Phone # KODIAK	
Fax #	Fax #	

7-LS1094D
Cramer
5/7/91

CS FOR SENATE BILL NO. 240 (CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered

Referred:

Funding Information:	General Fund	\$3,500,000
	Other Funds	<u>-0-</u>
		\$3,500,000

Sponsor(s): **SENATOR ZHAROFF**

A BILL

FOR AN ACT ENTITLED

1 "An Act making an appropriation to the Department of Revenue for the fisheries tax
2 refund program for payments based on the harvest of fish; and providing for an effective
3 date."

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

5 * Section 1. PURPOSE. To hold harmless municipalities whose tax receipts were affected by
6 reduction of payments of the fisheries business tax, it is the purpose of this Act to provide additional
7 refunds payable to municipalities so that the municipalities are compensated for the decrease in the
8 proceeds of the fisheries business tax during fiscal year 1990 caused by the Exxon Valdez oil discharge
9 disaster.

10 * Sec. 2. The sum of \$3,500,000 is appropriated from the general fund to the Department of Revenue
11 to be allocated and paid to municipalities that suffered the loss of fish tax revenue (AS 43.75.130)
12 because of the Exxon Valdez oil spill and have entered into an agreement with the Department of
13 Revenue to reimburse the state for up to the amount of the allocation if, and to the extent that, the
14 municipality receives a recovery from another person or entity as compensation for lost fish tax revenues

1 for fiscal year 1990.

2 * **Sec. 3.** The unexpended and unobligated balance of the appropriation made by this Act lapses into
3 the general fund December 31, 1991.

4 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

S B

284

SENATE COMMITTEE REPORT
JUST COMMITTEE OF REFERRAL

DATE: 5/8/91

FURTHER:

Date of 5-Day Notice: 24 hr.
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 5-10-91

C&RA Committee considered SB 284

Amending ch. 195, SLA 1990, to revise the basis for computing the additional refund due certain municipalities based on fisheries business activities within them; efd.

and recommended:

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

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____
CRA 5/8/91
Revenue 5/9/91

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

William J. Angulo

Paul R. Z. [Signature]

OTHER RECOMMENDATIONS:

[Signature]
Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB284

Revision Date: _____
Title: Revise the basis for computing
additional refund due certain municipalities
Sponsor: Eliason
Requestor: _____

Department Affected: Department of Revenue
BRU: Revenue Operations
Component: Income and Excise Audit

COMPONENT SERIAL NO. | 1 | 1 | 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						
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year impact: None

ANALYSIS: Attach a separate page for analysis.

SEE ATTACHED

Prepared By: Larry E. Meyers *Larry E. Meyers* Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: May 8, 1991

Approved by Commissioner: Lee E. Fisher *Lee E. Fisher*
Agency: Department of Revenue Date: 5-9-91

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

May 9, 1991

SB 284
FISCAL NOTE ANALYSIS
DEPARTMENT OF REVENUE

SB 284 would revise the basis for computing additional refunds to communities from fisheries business taxes not previously subject to sharing by the Department of Revenue. This bill is being introduced as a technical amendment to AS 43.75.137 to be consistent with the original intent of Chapter 195, SLA 1990.

Under SB 284, additional refunds would be based on floating and shore based nonmunicipal revenues rather than just floating business nonmunicipal revenues as currently provided under AS 43.75.137.

The Department of Revenue is including a zero fiscal note with this bill because the fiscal impact of this bill was accounted for in a fiscal note prepared by the department last year for CSSHB 456 (Chapter 195, SLA 1990). Last year's fiscal note reflected floating and shore based nonmunicipal revenues, which was consistent with HB 456 as originally introduced.

During the legislative process, a committee substitute was introduced with language which reduced the basis for computing refunds from all nonmunicipal to only floating business nonmunicipal revenues. This was apparently an oversight by the drafter of the committee substitute and was not consistent with the intent of the final bill as passed.

SB 284 would take effect July 1, 1992 which is the effective date of Chapter 195, SLA 1990.



Alaska State Legislature

SENATOR RICHARD I. ELIASON

President of the Senate

P.O. Box V
Juneau, Alaska 99811
(907) 465-3755

SB 284 is a "house-keeping" measure to correct a problem created by the inadvertent addition of the adjective "floating" before the word "processor" in last year's HB 456. The attached fiscal note and background information regarding HB 456 (which upon passage became Chapter 195, SLA 1990) shows that the intent of the bill was clearly to include ALL processors in the unorganized borough, not only "floating processors" in the unorganized borough.

SB 284 simple removes the word "floating" to allow the legislation passed in 1990 to be enacted as the Legislature intended.



STATE OF ALASKA
HOUSE OF REPRESENTATIVES

(1990 Session)

BILL ANALYSIS CESSHB 456 (FIN)

House Bill 456 expands the sharing of fisheries business tax revenues to additional municipalities and increases funds to communities already receiving shared revenues.

The new funds will be derived from currently unshared fish taxes collected from processors located outside municipal boundaries.

Under current law, all processors must pay a fisheries business tax to the state. Taxes collected from firms processing fish inside municipal boundaries are shared 50/50 with the community.

In FY 89, these taxes totalled \$41.3 million.

Of this, \$31.4 million came from fish processed within municipal boundaries, with \$15.7 million shared with those municipalities.

The balance, \$9.9 million, was from fish processed outside municipalities.

Under this bill, half of these remaining revenues would be shared with impacted communities to help mitigate the costs of providing municipal services to fishermen and the fishing industry.

The Department of Community and Regional Affairs would allocate the funds among the fisheries management areas of the state (page 5, line 7).

The formula for apportionment uses the ratio of the weight of fish sold in a management area (production value: page 3, line 11) to the total production value for all management areas.

The department, after allocating the funds to be distributed in a management area, will distribute the funds among the municipalities in that area based on either demonstrated impacts of fisheries business activities (page 2, line 15), based on commercial fishing vessel days (page 2, line 12) or based on both.

The municipality will be responsible for providing the necessary information to the department. The department will have two years to develop the criteria to be used to allocate funds (page 3, line 24).



LAWS OF ALASKA

1990

Source

CSSSHB 456(Fin)

Chapter No.

195

AN ACT

Relating to the fisheries business tax and to the allocation of certain fisheries business tax receipts to certain municipalities by the Department of Community and Regional Affairs; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

Approved by the Governor: June 27, 1990
Actual Effective Date: July 1, 1992

Chapter 195

AN ACT

Relating to the fisheries business tax and to the allocation of certain fisheries business tax receipts to certain municipalities by the Department of Community and Regional Affairs; and providing for an effective date.

* Section 1. AS 29.60 is amended by adding a new section to read:

ARTICLE 6. SHARED FISHERIES BUSINESS TAXES.

Sec. 29.60.450. FISHERIES BUSINESS TAX ALLOCATION. (a) A municipality may receive a fisheries business tax allocation under this section if the municipality demonstrates to the department that the municipality suffered significant effects from fisheries business activities during the base year.

(b) The amount transmitted each fiscal year under AS 47.75.137 shall be apportioned by the department to each management area based on the ratio of the management area's production value to the total production value for all of the management areas. The department shall allocate the amount available for each management area to each municipality in that management area based on the demonstrated effects on the municipality of fisheries business activities, the commercial fishing vessel days in that municipality, or both.

(c) A municipality that receives a tax allocation under this section shall use the tax allocation to help reduce the effect of fisheries business activities on the municipality, which may include

the expenses of any municipal service.

(d) At the request of the department, an applicant or a recipient of a tax allocation shall provide the department with the assistance and information available to the municipality that is necessary for the department to carry out the department's duties under this section relating to that municipality.

(e) The department may adopt regulations necessary to carry out the provisions of this section.

(f) In this section

(1) "base year" means the calendar year that precedes the application deadline for the tax allocation year;

(2) "commercial fishing vessel day" means a day for which a fishing vessel licensed under AS 16.05.490 pays the municipality a moorage, harbor, or docking fee;

(3) "effect" means the result of fisheries business activities on the municipality's

(A) population;

(B) employment;

(C) finances;

(D) air and water quality;

(E) fish and wildlife habitats; and

(F) ability to provide essential public services,

including health care, public safety, education, transportation, marine garbage collection and disposal, solid waste disposal, utilities, and government administration;

(4) "fisheries business activity" means activity related to

(A) fishing, including but not limited to the catching and sale of fisheries resources;

(B) vessel moorage and vessel and gear maintenance;

(C) preparing fisheries resources for transportation; and

(D) processing fisheries resources for sale by freezing, icing, cooking, salting, or other method and includes but is not limited to canneries, cold storages, freezer ships, and processing plants;

(5) "management area" means one of the geographical units designated by the Board of Fisheries by regulation adopted under AS 16.05.251(a)(2) for the management of commercial fisheries of the state;

(6) "production value" means the weight of the fish and shellfish produced by floating fisheries businesses.

* Sec. 2. AS 43.75 is amended by adding a new section to read:

Sec. 43.75.137. ADDITIONAL REFUND. To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080(e) that approval of the office of management and budget is required, an amount equal to 50 percent of the tax revenue that is collected under this chapter from floating fisheries businesses and is not subject to division with a municipality under AS 43.75.130 shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Regional Affairs for disbursement to eligible municipalities under AS 29.60.450.

* Sec. 3. This Act takes effect July 1, 1991.

FISCAL NOTE

REQUEST:

Enactment Date: _____
Title: Fisheries Business Tax Refunds
to Municipalities
Sponsor: Goll
Requestor: Finance

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	<\$4000.>	<\$4000.>	<\$4000.>	<\$4000.>

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Ketter *Steven E. Ketter* Phone: (907) 465-2320
Division: Income and Excise Audit Date: April 30, 1990
Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 30, 1990
Agency: Department of Revenue

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 234

Revision Date: _____ Department Affected: Community & Regional Affairs
Title: "An Act..fisheries business activities..." BRU: _____
Component: _____

Sponsor: Senator Eliason
Requestor: _____ COMPONENT SERIAL NO.

--	--	--	--

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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708

Division: Administrative Services Date: 5/8/91

Approved by Commissioner: Edgar Blatchford

Agency: Community & Regional Affairs Date: 5/8/91

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

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

May 9, 1991

POSITION PAPER

RE: Senate Bill 284

SPONSOR: Senator Eliason

Program Effects of the Bill

The effect of this bill is to correct a technical language problem which inadvertently found its way into a bill, HB 456, passed during the previous legislative session. As passed, the new law provides for an additional sharing with municipalities of 50% of state fisheries business tax collected outside of municipal boundaries, but only such taxes as are collected from floating processors. SB 284 deletes specific references to floating processing, thus expanding the additional tax sharing to 50% of all state fish taxes collected outside municipal boundaries.

Comments

The Department supports the passage of this bill. As passed, HB 456 clearly failed to meet the intent of the additional fish tax sharing program. As explicitly stated by the bill's sponsor in legislative hearings leading to the passage of HB 456,

"(T)he bill essentially provides for additional distribution of fisheries business tax revenues, specifically those revenues collected in areas that are not part of the incorporated borough or part of any municipality." ... "One hundred percent of those revenues collected from floating processors operating outside of corporate limits or land based processors located outside of corporate limits go to the state. The result is that many communities which have boat harbors, house fishing fleets, and provide services and have significant impacts, do not enjoy any of the distributed fisheries business tax revenues."

- House Resource Committee, 3/26/90


and,

Position Paper - SB 284
May 9, 1991
Page two

"HB 456 would address the revenue that the state currently receives for fish processing that occurs outside municipal boundaries but within the state limit."

- House Finance Committee, 4/11/90

However, as passed, HB 456 only addressed those revenues collected outside municipal boundaries from floating processors. SB 284 corrects this oversight, thereby expanding the fish tax sharing program created by HB 456 to account for all fish tax collected outside municipal boundaries, including shore-based operations as was the intent.


Edgar Blatchford, Commissioner.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

May 8, 1991

Position Paper

SB 284 - An Act amending ch. 195, SLA 1990

The Alaska Municipal League supports SB 284, amending Chapter 195, SLA 1990 to revise the basis for computing the additional refund due certain municipalities based on fisheries business activities within them. The legislation brings the statutes into conformance with the stated intent of HB 456, which passed in the Second Session of the Sixteenth Alaska Legislature.

The amendment will clarify that 50 percent of all the fisheries business taxes collected by the state from processors, floating and shore-based, located outside municipal boundaries will be shared with municipalities to help reduce the effect of fisheries business activities on those municipalities. The AML is working with the Department of Community and Regional Affairs on regulations to develop an allocation mechanism. SB 284 creates no additional fiscal impact on the state beyond that approved in the passage of HB 456.

The passage of SB 284 would make a technical correction to Chapter 195, SLA 1990 to allow implementation of the law according to legislative intent. AML urges its quick passage.

91Testimony:S284.fis

S B

2 8 7

Alaska State Legislature

311 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7615

White in Juneau
P.O. BOX V
JUNEAU, ALASKA 99801
(907) 465-3818


SENATOR
ARLISS STURGULEWSKI

Senate

MEMORANDUM

May 14, 1991

TO: Senator Steve Frank, Chairman
Senate Community and Regional Affairs Committee

FROM: Senator Arliss Sturgulewski
Senate District F 

RE: Hearing Request for SB 287 "An Act relating to the office of
municipal clerk."

I respectfully request an early hearing on SB 287 which is a companion bill to Representative Cheri Davis' HB 128 in the House.

I have enclosed a sponsor statement on SB 287 as well as a packet of information that was provided for HB 128. If you have any questions regarding this legislation, please contact me or Betty Hargrave on my staff.

Thank you.

Alaska State Legislature

911 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7615

SENATOR
ARLISS STURGULEWSKI

While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

Sponsor Statement on:

SB 287 "An Act relating to the office of municipal clerk."

I have been contacted by a number of persons associated with local government and asked to introduce a companion bill to Representative Cheri Davis' HB 128 in the House. With the sponsor's approval, I have introduced companion SB 287 in the Senate.

This bill updates Sec. 29.20.380 which lists the duties of the municipal clerk. Enclosed is a letter of support for this legislation from Ketchikan Gateway Borough Clerk Georgianna Zimmerle with attachments showing the changes the section in Title 29 referring to the municipal clerk has gone through since 1970. Ms. Zimmerle states in her April 29, 1991 letter to me that the Alaska Association of Municipal Clerks (AAMC) and the Alaska Municipal League support this legislation. She also states that the bill's only opposition has come from the Ketchikan Gateway Borough and explains their position.

Enclosures

P.O. Box 7022
Ketchikan, AK 99901
April 29, 1991

The Honorable Arliss Sturgulewski
Alaska Senate
P.O. Box V
Juneau, AK 99811

REQUEST TO SPONSOR SENATE BILL RELATING TO THE OFFICE OF
MUNICIPAL CLERK

As one of this State's Senators who promotes excellent rapport with local government officials and who sustains open communication and mutual respect with the municipal clerks of Alaska, it would be a great honor to have you sponsor a companion bill to CSHB 128. I would like to add my voice to those urging your consideration of this request.

You undoubtedly possess the necessary knowledge and understanding of local governments to logically consider the ins and outs of the legislation proposed by CSHB 128. You have received a copy of the Alaska Association of Municipal Clerk's (AAMC) position paper on the bill which is somewhat long and complex; however, I hope you recognize that as a clerk's "positive" trait to be thorough and resplendent with detail.

You will see the committee substitute (proposed and supported by AAMC) has done away with a "mandatory" appointment of municipal clerk which was in the original bill. It is supported in the 1991 Alaska Municipal League Policy Statement, and Executive Director Scott Burgess has testified in support of the legislation.

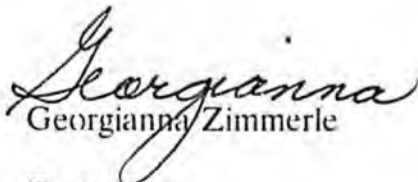
You should be made aware of the fact that the majority of the Ketchikan Gateway Borough Assembly and Manager David Crow are opposed to CSHB 128. Testimony offered by Assemblymember Cheryle Tallman is the only opposition the bill has received thus far. On the other hand, several of Ketchikan's prominent citizens and former elected officials have given positive support to the bill. The most notable perhaps is former Mayor Carroll G. Fader who was the Ketchikan Gateway Borough Mayor from 1975-1984. I have enclosed a copy of his letter in support of CSHB 128 for your review.

The Honorable Arliss Sturgulewski
April 29, 1991 - Page 2

The major objection to the bill seems to be that it tends to infringe upon local government's ability to prescribe the duties of the municipal clerk. This is true. Title 29 does likewise with the duties of the chief administrator. General law municipalities have legislative powers conferred by law. The legislative purpose or intent of Title 29 is "to permit local government to function more effectively."¹ When the time comes for a municipality to function more independently, Title 29 prescribes the means for it to become a home rule municipality which has all legislative powers not prohibited by law or charter. Most general law municipalities consider Title 29 a guide and resource rather than a detriment. (See testimony of C. Thomas Beck, former Mayor of Thorne Bay)

A "laundry list" of municipal clerk's duties has existed in Statute for many years. Enclosed are copies of pages from the Alaska Statutes over the years describing those duties. You can see this section has not changed much in thirty years. It is apparent that these statutes have existed for these many years without problem or concern. I almost prefer the language in the old Title 7, Boroughs, which mandates the appointment of a "person" to serve as a clerk. These duties must be carried out by someone regardless of the title.

Municipal clerks in both general law and home rule municipalities are supporting this legislation. Even though it is not applicable to home rule municipalities, it will become a base line for consideration in future municipal charters, job descriptions and the like. Your support in this pursuit would be wonderful!


Georgianna Zimmerle

Enclosures

c The Honorable Cheri Davis

¹Section 1, ch. 74, SLA 1985

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 8, 1991

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4-10-91

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 128

HOUSE BILL NO. 128

OFFICE OF MUNICIPAL CLK & CLK/TREASURER

"An Act relating to the offices of municipal clerk and clerk-treasurer."

RECOMMENDATIONS:

be replaced with CS HB 128 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 DCRA

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<i>Neil Phillips</i>				
<i>Richard J. Foster</i> FOSTER				
<i>Barry M. Baker</i> BAKER				
<i>Cheri Dawes</i>				
<i>J. P. ...</i> MARRIC				

CS FOR HOUSE BILL NO. 128 ())
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES C.DAVIS, Ellis, Taylor, Koponen, Navarre, Hudson, B.Davis, Davidson, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the office of municipal clerk."

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

3 * Section 1. AS 29.20.380(a) is repealed and reenacted to read:

4 (a) The municipal clerk shall

5 (1) attend meetings of the governing body and its boards and committees as
6 required and keep the journal;

7 (2) have custody of the official municipal seal;

8 (3) assure that notice and other requirements for public meetings are complied
9 with and assure that public records are available for public inspection as required by law;

10 (4) manage municipal records and develop retention schedules and procedures for
11 inventory, storage, and destruction of records as necessary;

12 (5) maintain an indexed file of all permanent municipal records, provide for
13 codification of ordinances, and authenticate or certify records as necessary;

14 (6) prepare agendas and agenda packets as required by the governing body;

- 1 (7) administer all municipal elections;
- 2 (8) assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting
- 3 Rights Act of 1965, as amended);
- 4 (9) take oaths, affirmations, and acknowledgements as necessary;
- 5 (10) act as the parliamentary advisor to the governing body;
- 6 (11) perform other duties required by law or by the governing body.

§ 07.20.050

ALASKA STATUTES

§ 07.20.070

Sec. 07.20.050. Qualifications. A person is eligible to be a member of the assembly if he is a qualified voter of the borough. Additional residency requirements not to exceed three years may be prescribed by ordinance for members of the assembly elected from the area outside first class cities. If a member of the assembly ceases to be a qualified voter of the borough, he shall immediately forfeit his office. If a member elected from the area outside first class cities becomes a resident of a first class city or becomes a resident of a borough election section in the area outside first class cities other than the section from which he was elected, he shall immediately forfeit his office, except that the assembly may by general ordinance provide otherwise, but in no event may a member serve beyond the next general election. (§ 4.05 ch 146 SLA 1961; am § 1 ch 70 SLA 1967)

Effect of amendment. — The 1967 amendment added the second sentence, inserted "of the assembly" near the beginning of the third sentence, and deleted "he may continue to serve only until the next regular election," formerly appearing at the end of the last sentence, adding in lieu thereof all of the language beginning "or becomes a resident."

Sec. 07.20.060. Organization. (a) The assembly shall elect from among its members a presiding officer and a deputy presiding officer, each of whom shall serve at its pleasure. The presiding officer shall preside at assembly meetings. If at any meeting the presiding officer is not present or is unable to act, the deputy presiding officer shall preside.

(b) The assembly shall elect a clerk or appoint the chairman or another administrative officer to serve as the clerk. Under the supervision of the assembly, the clerk shall

(1) give due notice of the time and place of assembly meetings, to assembly members and to the public;

(2) keep the journal of the assembly proceedings;

(3) procure for the assembly any required publication of notices, ordinances, resolutions, and so forth;

(4) maintain and make available for public inspection an indexed file containing copies of the borough code, every adopted ordinance, resolution, rule, regulation, and code of regulations;

(5) perform the duties assigned him by any of the provisions of this title; and

(6) perform such other duties as the assembly may prescribe. (§ 4.06 ch 146 SLA 1961)

Sec. 07.20.070. Procedure. (a) The assembly shall meet regularly at least once every three months at the times and places prescribed by the assembly. Special meetings may be held on the call of the borough chairman, the presiding officer, or of one-fourth or more members, and whenever practicable, upon no less than 24 hours' effective notice to each member.

TITLE 24 OCTOBER 1972

§ 29.23.360

MUNICIPAL GOVERNMENT

§ 29.23.380

municipal corporations owning or operating waterworks, 10 ALR 1432; 18 ALR 946.

Constitutionality of statute or ordinance for protection of water supply, 72 ALR 673.

Power of municipal corporation to sell equipment to consumers as adjunct to utility service furnished, 108 ALR 1464.

62 C.J.S. Municipal Corporations § 699.

Article 7. Other Officers and Employees.

Section

360. Appointment of officers

370. Municipal attorney

380. Municipal clerk

390. Municipal treasurer

395. Intent of §§ 397—401

Section

397. Commission

399 Interns

401. Appointment to municipal boards and commissions

Sec. 29.23.360. Appointment of officers. The municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator or by the assembly or council, as determined by ordinance. Officers serve at the pleasure of the appointing authority, subject to ordinance. Appointments by the chief administrator are subject to confirmation by the governing body. (§ 2 ch 118 SLA 1972)

Sec. 29.23.370. Municipal attorney. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed. (§ 2 ch 118 SLA 1972)

ALR and C.J.S. references. — Attorney's authority to compromise suit for municipality, 66 ALR 119; 30 ALR2d 944.

Attorney's compensation for services in matters involving municipalities, 143 ALR 829; 56 ALR2d 13.

62 C.J.S. Municipal Corporations § 695.

Sec. 29.23.380. Municipal clerk. (a) The municipal clerk shall

(1) give notice of the time and place of meetings to the assembly or the council and to the public;

(2) attend meetings and keep the journal;

(3) arrange publication of notices, ordinances, and resolutions;

(4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;

(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the

§ 29.23.390

ALASKA STATUTES

§ 29.23.397

faithful performance of his duties as clerk-treasurer. (§ 2 ch 118 SLA 1972)

No liability for unintentional error in performing discretionary duty. — When a public officer is charged with duties which call for an exercise of his judgment and discretion, he is not liable for an erroneous per-

of willful, wrong, malice, or corruption. *Churchhill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

C.J.S. reference.—62 C.J.S. Municipal Corporations § 699.

TITLE 24
OCTOBER 1984

§ 29.23.370

ALASKA STATUTES

§ 29.23.390

Collateral references. — 56 Am. Jur. Other Political Subdivisions, §§ 231 to 2d, Municipal Corporations, Counties, and 336.

Sec. 29.23.370. Municipal attorney. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. The municipal attorney represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed. (§ 2 ch 118 SLA 1972)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 282. 62 C.J.S., Municipal Corporations, § 695.

for municipality, 66 ALR 119; 30 ALR2d 944.

Attorney's compensation for services in matters involving municipalities, 143 ALR 829; 56 ALR2d 13.

Attorney's authority to compromise suit

Sec. 29.23.380. Municipal clerk. (a) The municipal clerk shall
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(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The assembly or council may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give a bond to the municipality for the faithful performance of the duties as clerk-treasurer. (§ 2 ch 118 SLA 1972)

NOTES TO DECISIONS

No liability for unintentional error in performing discretionary duty. — When a public officer was charged with duties which called for an exercise of his judgment and discretion, he was not liable for an erroneous performance under a

former, similar provision, unless he had been guilty of willful, wrong, malice, or corruption. *Churchill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

Collateral references. — 62 C.J.S., Municipal Corporations, § 699.

Sec. 29.23.390. Municipal treasurer. (a) The treasurer is the custodian of all municipal funds. The treasurer shall keep an itemized

TITLE 29

SEPTEMBER 1986

§ 29.20.380

MUNICIPAL GOVERNMENT

§ 29.20.390

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 282. 62 C.J.S., Municipal Corporations, § 695.

Attorney's authority to compromise suit

for municipality. 66 ALR 119; 30 ALR2d 944.

Attorney's compensation for services in matters involving municipalities. 143 ALR 829; 56 ALR2d 13.

- Sec. 29.20.380. Municipal clerk.** (a) The municipal clerk shall
- (1) give notice of the time and place of meetings of the governing body to the governing body and to the public;
 - (2) attend meetings of the governing body and keep the journal;
 - (3) arrange publication of notices, ordinances, and resolutions;
 - (4) maintain and make available for public inspection an indexed file containing municipal ordinances, resolutions, rules, regulations, and codes;
 - (5) attest deeds and other documents;
 - (6) perform other duties specified in this title or prescribed by the chief administrator or by the governing body.
- (b) The governing body may combine the office of clerk with that of treasurer. If the offices are combined, the clerk-treasurer shall, as required of the treasurer, give bond to the municipality for the faithful performance of the duties as clerk-treasurer. (§ 7 ch 74 SLA 1985)

NOTES TO DECISIONS

No liability for unintentional error in performing discretionary duty. — When a public officer was charged with duties which called for an exercise of his judgment and discretion, he was not liable

for an erroneous performance under a former, similar provision, unless he had been guilty of willful wrong, malice, or corruption. *Churchhill v. McKay*, 17 Alaska 633, 163 F. Supp. 339 (D. Alaska 1958).

Collateral references. — 62 C.J.S., Municipal Corporations, § 699.

Sec. 29.20.390. Municipal treasurer. (a) Except as provided in AS 14.14.060, the treasurer is the custodian of all municipal funds. The treasurer shall keep an itemized account of money received and disbursed. The treasurer shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum that the governing body directs. (§ 7 ch 74 SLA 1985)

Collateral references. — 62 C.J.S., Municipal Corporations, §§ 697, 1880.

April 3, 1991

The Honorable Cheri Davis
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Davis:

**SUPPORT OF HOUSE BILL 128 RELATING TO THE OFFICES OF MUNICIPAL
CLERK AND CLERK-TREASURER**

It has come to my attention that House Bill 128 introduced by you with support from several of your colleagues is perhaps being questioned as a responsible bill.

I wish to add my unequivocal support to the concept of HB 128. Having served as Ketchikan Gateway Borough Mayor (1975 - 1984), I know for certain clerks are the backbone of every municipal government. It is they who bring continuity to municipal governments wherein a portion of its board of directors change at each annual election.

In a strong management form of government such as we have in the Ketchikan Gateway Borough, clerks preserve the continuity as managers change. During my tenure as mayor, the Ketchikan Gateway Borough had four managers. Only one of those really knew, understood, and could hit the ground running in relation to Title 29. The rest who were "manager capable" by job experience had to start from "left of scratch" to become knowledgeable about Title 29. It was the clerk who held municipality together.

I urge passage of House Bill 128.

Sincerely,



Carroll G. Fader
Formerly KGB Mayor 1975-1984

cc Co-sponsors of HB 128

March 20, 1991

Greetings:

My name is C. Thomas Beck and I would like to speak in favor of House Bill 128. I served on the Thorne Bay City Council for three years and of that time about half was spent as mayor. The first five years of Thorne Bay's history was spent for the most part in a turmoil having to deal with a constant turnover in administrators.

The city clerk provided stability and continuity for our City during those difficult times. This would not have been so if the local governments' "Bible"--Title 29, hadn't been in place to give guidance and a general job description. We also spent many hours on the telephone talking to Community and Regional Affairs and they were very helpful. For small communities and those who are trying to keep their legal costs down these sorts of guidelines are essential.

With the passage of House Bill 128 a firm but flexible job description will be in place to assure city business is completed with a continuity necessary to keep a city moving in the right direction. As a former elected official I can see the real benefit of this legislation to new and small municipalities and urge your support of House Bill 128.

Thank you very much for taking time to listen to a former elected official who has experienced much. ■

C. Thomas Beck
Former Mayor

March 15, 1991

**ALASKA ASSOCIATION OF MUNICIPAL CLERKS
POLICY STATEMENT IN SUPPORT OF HOUSE BILL 128**

Since its inception in 1966, the **Alaska Association of Municipal Clerks (AAMC)** has actively sought to heighten the professional development of its members. Professional development is a process for planned and continued learning and positive imaging.

The profession of municipal clerk extends to biblical times and beyond, and along with tax collector is the oldest of public officials. The Hebrew translation of town clerk literally means the city or town "reminder." The English Bible called the clerk the "recorder," who was "one who caused to remember" or "called to mind." When the early colonists came to America, they set up forms of local government to which they had been accustomed, and thus, the office of clerk was one of the first established. The office of the clerk has been preserved and may be found in virtually every unit of local government in the world.

The office of clerk provides many different and complex services. The role of the clerk can be and many times is beyond the scope of the office's legal mandate because of the very nature of the job. Legally mandated responsibilities set the legal framework of the role of the clerk and in so doing allow this office to be a major source of information to all people in and out of government.

The image of the clerk's office bears on the perception that the public sees. In order to create a better image of the clerk's position, AAMC is undertaking a positive approach to sell...our skills, our caring, our self-esteem, our attitude and continuing education to create an image that is believable and trusted. Updating the "powers and duties of the municipal clerk" or the "legal mandates" of the clerk's office is one step in the process.

The municipal clerk plays a unique role in the balance of powers in local government. As municipal clerks, we believe the office of clerk is a valid and valuable asset to local government, and we would like to convince you of the same.

The governing body/manager form of government as well as the strong mayor form of government is based on a philosophy of separation of powers that establishes separate legislative and administrative branches. The governing body is directly accountable to the citizens for translating needs and expectations into laws and policies. The manager/mayor and staff comprise the administrative branch of local government. The role of the municipal clerk appropriately becomes the link between the legislative and administrative branches. The clerk is responsible for the processes of bringing forth the administration's requests for legislative direction and for recording the governing body's policies and directions. Equally important is the municipal clerk's role in providing public access into the process. In Alaska the positions of both the municipal clerk and the municipal attorney may enjoy a distinctive status in the administrative branch of local government. This approach is taken to guard against abuse by any public official by providing a means of checks and balances. There should be little doubt that clerks have

SUPPORT HB 128
March 15, 1991
Page 2

a significant and critical part in government, and their role should be protected and promoted accordingly.

House Bill 128 does two things. Please refer to your copy of HB128. First, it requires a governing body to appoint a municipal clerk and removes previous ability to "provide otherwise by ordinances;" however, AS29.20.380 is not a limitation of home rule powers--it does not apply to home rule municipalities.

This change was not included in the first draft of the proposal presented to AAMC at its November 13, 1990, meeting. The municipal clerk's representing thirty-seven (37) municipalities around the State (see attached list) discussed the addition of such a requirement and then voted unanimously to include it in our proposal. Our proposal was to require that every municipality have a clerk. The shifting of the section relating to treasurer or combining of offices was done by Legislative Affairs Agency--we don't know why.

It is our understanding that this change causes concern to some of the State's local government officials representing smaller communities and villages.

In defense of our position, consider the value of having the chief administrator, the attorney and the clerk appointed by and directly responsible to the governing body. When each of these people is directly responsible to the governing body, the opportunity for oversight, neglect or misconduct in any of these positions is minimal. This provides a checks and balances system to the governing body. We have all heard the nightmares experiences by some of Alaska's villages and small communities which have had managers and/or administrators leave under less than desirable conditions because they were the sole source of administrative overview for that community.

However, this change was not AAMC's original goal with this legislation, and we would gladly compromise by going back to the previously existing language in order to preserve the rest.

Second, House Bill 128 updates the legal mandates of the municipal clerk. Once again, it does not apply to home rule municipalities. Title 29 is used as a guide as well as a legal mandate. The minor word changes from the former language as presented in the paragraphs of Section 3 of the bill are offered to enhance the reader's understanding of the duties and responsibilities, and they are not intended to be insidious. The additions proposed are appropriate and are not designed to be anarchist.

Section 29.20.380(1)

This language is the same as existing AS 29.20.380(2) with the addition of the words "and its boards and committees." This does not add or subtract in any significant way to what already exists.

Section 29.20.380(2)

Custody of the municipal seal has historically rested with the municipal clerk. The clerk attests deeds and official documents for the municipality and affixes the seal. It is commonly true among the 78 members of AAMC and 7,000 members of IIMC (International Institute of Municipal Clerks) that the clerk has custody of the official municipal seal. This section merely establishes responsibility for the safekeeping of the corporate seal with the corporate secretary. It does not restrict or hinder its legal use.

Section 29.20.380(3)

This paragraph is a combination of existing AS 29.20.380(3) and (4). The intent of the language remains the same and yet it encourages a clerk to become well acquainted with public meeting and public information laws. Current language states "arrange publication of notices..." which does not consider that public notice in today's technology expands beyond "publications." Public records are all covered by Alaska's public information law and yet in existing language there is no mention of such records as "magnetic tape or microfiche," for example.

Section 29.20.380(4)

This is a new section. The records management program in a municipality is vital. Yet, there is often very little interest in developing and maintaining such a tedious program. We view this new language as assigning responsibility rather than usurping authority. Records management is a very common function of the municipal clerks' offices around the world.

AS 40.21.070 prescribes for records management for local records and AS 40.21.080 provides for disposal of public records by a political subdivision. These sections leave "the authority" vested in the local governing body. This new section assigns the responsibility for the records management program to the clerk when the municipality has a clerk and it does not, in conflict with Title 40, place the program within the sole discretion of any official.

Title 40 also states that a municipal program will follow, as far as is practical, the program established for the management of state records. Implementation of such a program would generally be enacted by appropriate resolutions and ordinances adopted by the governing body.

Section 29.20.380(6)

This is new language. Once again, preparation of the agenda and back up material packets is commonly done by the clerk's office in a majority of the country's municipalities. Once again, it is more of an assignment of responsibility for a typical duty which takes up a good amount of the clerk's time.

Section 29.20.380(7)

Election administration is a major function of the clerk's office. Municipal clerks spend many hours in training and research to maintain expertise in this field. Of all the "traditional" or common functions of the clerk's office, this one is perhaps the most deeply rooted. Title 29 refers to the municipal clerk in sections dealing with election contest and appeal and petition requirements under the elections chapter. Title 15, Elections, directs the municipal clerk to provide voter information from the municipality. It is logical to add this new section.

AAMC suggested the following language for this section: "administer all municipal elections and perform related duties." The language was changed by the Legislative Affairs Agency. AAMC suggested language is short and to the point. "Perform related duties" refers to the many election duties municipal clerk's assume for the State of Alaska, such as voter registration, precinct worker training, distributing and accepting absentee ballot requests, etc.

AAMC prefers the original suggested language together with the addition of a new paragraph which was also deleted by Legislative Affairs Agency: "assure that the municipality complies with Section 5 of the Federal Voting Rights Act;"

The State of Alaska and all of its local governments are required to preclear all changes effecting voting before enforcing those changes. It may appear on the surface that such a consideration could be covered under the proposed language "assure that federal and state election laws are complied with," and that may be true. The act, however, also covers changes that

SUPPORT HB 128

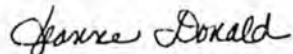
March 15, 1991

Page 5

have the potential to affect voting and/or the election process such as annexations, detachments, incorporation, dissolutions, and procedural changes.

The State Division of Elections approached AAMC several years ago to conduct training on compliance with this act and to encourage all municipalities to comply. Not only does a municipality face serious and expensive legal actions for non-compliance, but also the State cannot "bail out" until it and all its local governments have complied with the requirements of the Voting Rights Act for 10 years.

Respectfully submitted,



Jeanne Donald, CMC
President, AAMC

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Changes from SB 298 to the work draft CS SB 298 (CRA) dated 4/29/92:

1. Section 1 - Work draft adds a new subsection (f) to AS 37.05.315 allowing the Department of Administration to award a grant to another person if the municipality declines to accept a grant made available under this section. This amendment was at the request of AML.
2. Section 1 - Work draft adds a new subsection (g) to AS 37.05.315 allowing the Department of Administration to adopt limited regulations necessary to implement this section. SB 298 repealed and reenacted AS 37.05.318 to provide for this authority.
3. Section 2 - Work draft adds a new subsection (c) to AS 37.05.316 allowing the Office of the Governor to adopt limited regulations to carry out the provisions of this section. SB 298 allowed all departments who have statutory authority to administer grants to adopt regulations under this section.
4. Section 3 - Work draft adds a new subsection (c) to AS 37.05.317 allowing the Department of Community and Regional Affairs to adopt limited regulations to carry out the provisions of this section.
5. Section 4 - Work draft repeals AS 37.05.018.
6. Section 5 - Effective date of July 1, 1992.

CS FOR SENATE BILL NO. 298 (CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to grants to municipalities, named recipients, and unincorporated
2 communities; and providing for an effective date."

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

4 * **Section 1.** AS 37.05.315 is amended by adding new subsections to read:

5 (f) If a municipality declines to accept a grant made available under this section, the
6 Department of Administration may issue a request for proposals from other qualified persons to
7 provide the same goods or services in the same area. After considering the proposals submitted,
8 if the department determines that an award of the grant to a person other than the municipality
9 would serve the public interest, it may award the grant subject to substantially the same terms
10 required under this section for a grant awarded to a municipality. The department shall state the
11 basis of its action in awarding the grant under this subsection at the time the grant is issued and
12 a copy of the written statement shall be sent to the Legislative Budget and Audit Committee.

13 (g) [#]The Department of Administration may adopt regulations necessary to implement this
14 section only if the regulations

- 1 (1) are required by the federal government for participation in a federal program;
2 (2) identify allowable costs, including indirect costs, of a project that may be paid
3 for with grant money;
4 (3) establish site requirements for a project to be paid for with grant money;
5 (4) establish reporting requirements relating to the administration of a grant; or
6 (5) define "substantial, ongoing work" for purposes of (b) of this section.

7 * Sec. 2. AS 37.05.316 is amended by adding a new subsection to read:

8 (c) Only the Office of the Governor may adopt regulations necessary to implement the
9 provisions of this section and only if the regulations

- 10 (1) are required by the federal government for participation in a federal program;
11 (2) identify allowable costs, including indirect costs, of a project that may be paid
12 for with grant money;
13 (3) establish site requirements for a project to be paid for with grant money; or
14 (4) establish reporting requirements relating to the administration of a grant.

15 * Sec. 3. AS 37.05.317 is amended by adding a new subsection to read:

16 (c) The Department of Community and Regional Affairs may adopt regulations necessary
17 to implement this section only if the regulations

- 18 (1) are required by the federal government for participation in a federal program;
19 (2) identify allowable costs, including indirect costs, of a project that may be paid
20 for with grant money;
21 (3) establish site requirements for a project to be paid for with grant money; or
22 (4) establish reporting requirements relating to the administration of a grant.


23 * Sec. 4. AS 37.05.318 is repealed.


24 * Sec. 5. This Act takes effect July 1, 1992.



April 20, 1992

TO: Kevin Brooks, Department of Administration
Sandra Wicks, Department of Community and Regional Affairs

FROM:  Scott A. Burgess, Executive Director

RE:  HB 298 - Authority for regulation of grants to municipalities,
named recipients, and unincorporated communities

Per your discussion with Chrystal Smith last week, and subsequent discussion of the issue by members of the AML Legislative Committee, I would like to offer the following comments on HB 298 and the issues surrounding grants made under AS 37.05. As you know, the League position is not to oppose all regulation, but to ask that the authority to impose regulation on the AS 37.05 grants, specifically those to municipalities under AS 37.05.315, be limited to specific areas. Our position and response to the issues raised by the departments are addressed in the enclosed memorandum from Judith Slajer, Chair, AML Taxation & Finance Subcommittee.

In addition to these issues, there are several other questions about grants made under AS 37.05 that should be dealt with if legislation amending that portion of statute is going to move this session.

Among these are:

- Is it appropriate and desirable to make municipal "pass-through" grants (under AS 37.05.315) to nonprofit corporations and other named recipients and nonprofits?

The League would prefer that grants to named recipients be made directly to those entities to perform specific functions or for specific capital improvements. When a grant is made under AS 37.05.315, the municipality is obligated to covenant that it will operate and maintain the facility for its practical life. In some instances, projects for which grants are made under this section are either low on the list of municipal priorities or even opposed by the municipality, and the municipality may wish to decline the grant.

As the AML position is discussed in the *Policy Statement*: "The League encourages the legislature to make appropriations to nonprofit corporations and other named recipients under the provisions of AS 37.05.316 rather than making such grants to municipalities as 'pass-through' grants under AS 37.05.315." (92 Policy Statement, I.B.6)

Kevin Brooks/Sandra Wicks
April 20, 1992
page 2

- What happens to "pass-through" grants that are rejected by a municipality because of its unwillingness to take responsibility for the project or because it does not have the power to perform the function indicated?

As the *Policy Statement* continues, "The League further encourages the legislature to amend AS 37.05 to permit grants that municipalities reject for lack of power or other reasons to be processed as grants under AS 37.05.316, which would allow the state to make the grants directly to a qualified nonprofit organization." (92 Policy Statement, I.B.6, continued)

Pass-through grants should either be made under AS 37.05.316 or the statutes should be amended to provide a mechanism under AS 37.05.315 that would permit the Department of Administration to convert section .315 grants that are declined by a municipality to section .316 grants. Such a system would increase the efficiency of the grant system because it would eliminate the expenses associated with having to pass such grants through a municipal "middleman" when the grants were, in fact, intended for a nonprofit organization.

As noted, other issues raised by your two departments have been addressed in the enclosed memorandum from Judith Slajer. Please note Ms. Slajer's recommendation that if regulations are to be written to govern grants under AS 37.05.315, .316, and .317, only one set of regulations should be written to provide standard operating procedures and uniform guidance on all of the grants made under this section.

Please call if you have questions or comments on these issues. Senator Frank's staff will be able to have a CS drafted to address the items we agree should be put before the committee for consideration.

Enclosure

cc: Eric Swanson, Department of Administration
Sarah Fischer, Senator Frank's Office

April 16, 1992

TO: Chrystal Smith

Alaska Municipal League
217 Second Street, Suite 200
Juneau, AK. 99801

FROM: Judith Slajer, Chair, AML Taxation & Finance Subcommittee
Fairbanks North Star Borough

RE: SB 298 - Relating to grants to municipalities, named recipients, and unincorporated communities

The following are the Committee recommendations regarding SB 293:

The bill, as written, provides authority to the Department of Administration (DOA) to write regulations for incorporated municipalities. The Department of Community & Regional Affairs (DCRA) is to write regulations for unincorporated communities and any state agency may write regulations for grants to named recipients. Recommendation: One state agency, or the DOA in cooperation with DCRA, should write the regulations for all grants. This would provide uniform guidance on all grants and delete a duplication of efforts.

In regard to specific areas of regulation, we submit the following acceptable limits and suggestions:

Substantial and Ongoing: Regulation would not be required if AS Sec. 37.05.315 (b) was amended. The paragraph regarding "substantial and ongoing work". Alternatively, AS Sec. 37.05.325. "Definitions..." could be amended to include the definition of substantial and ongoing.

Indirect: The regulation should be limited to the State's right to approve the indirect rate charged by the grantee and establish guidelines on acceptable indirect cost allocations. Also a list of allowable indirect costs should be provided. The State's regulations could reference the Federal OMB Circular A-87 "Cost Principles for State and Local Governments" for guidance. Regulations must not be implemented that would be contradictory to the Federal guidelines. The indirect cost to a grant being administered by a large organization would be greater than a grant being administered by a Director and a Clerk. Setting a ceiling limit does not address individual cases.

Offsetting or Withholding Payments: We agree that the State should be able to recover costs that were spent inappropriately against a grant. We do not agree with taking future grant funds to recover these costs. Regulation in this area should be limited to the State's ability to withhold final payments (maybe 10% of the grant) until

compliance can be determined. The proposed regulation should also set up an appeals process for the grantee.

Forgiveness in Hardship Situations: The State's current Administrative procedure sounds like a reasonable due process before writing off a bad debt. If the State is to consider forgiveness, then strict, equitable guidelines would be required.

Financial Reporting Guidelines: The Alaska Administrative Code (AAC) already includes some financial reporting guidelines. Establishing uniform reporting requirements would be acceptable.

Program Reporting Guidelines: Uniform guidelines for grantees program reporting need to be established.

Allowable Cost Guidelines: A list of allowable grant expenditures is recommended. Again, the State's regulations could reference the Federal OMB Circular A-87 "Cost Principles for State and Local Governments" for guidance. Regulations must not be implemented that would be contradictory to the Federal guidelines.

Federal Pass Thru Grants: Regulations providing guidance to the State and the grantee on how the grantee is to show compliance with federal regulation is suggested.

CS FOR SENATE BILL NO. 298 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to grants to municipalities, named recipients, and unincorporated
2 communities; and providing for an effective date."**

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

4 * Section 1. AS 37.05.315 is amended by adding new subsections to read:

**5 (f) If a municipality declines to accept a grant made available under this section, the
6 Department of Administration may issue a request for proposals from other qualified persons to
7 provide the same goods or services in the same area. If the department determines that an award
8 of the grant to a person other than the municipality would serve the public interest, it may award
9 the grant subject to substantially the same terms required under this section for a grant awarded
10 to a municipality. The department shall state the basis of its action in awarding the grant under
11 this subsection at the time the grant is issued and a copy of the written statement shall be sent
12 to the Legislative Budget and Audit Committee.**

**13 (g) The Department of Administration may adopt regulations necessary to implement,
14 interpret, make specific, or otherwise carry out the provisions of this section.**

1 * Sec. 2. AS 37.05.316 is amended by adding a new subsection to read:

2 (c) The Office of the Governor may adopt regulations necessary to implement, interpret,
3 make specific, or otherwise carry out the provisions of this section.

4 * Sec. 3. AS 37.05.317 is amended by adding a new subsection to read:

5 (c) The Department of Community and Regional Affairs may adopt regulations necessary
6 to implement, interpret, make specific, or otherwise carry out the provisions of this section.

7 * Sec. 4. AS 37.05.318 is repealed.

8 * Sec. 5. This Act takes effect July 1, 1992.

Regulations adopted under the authority of this subjection may include, but are not limited to, the following areas:

Indirect costs
Site Control
Administrative and Reporting Requirements
Allowable costs
Recovery of misspent funds

Federal pass through

Forgiveness

Standards & terms used
to grant forgiveness

SENATE BILL 298
REGULATIONS FOR LEGISLATIVE GRANTS

Areas of Possible Regulations

1. A ceiling on the percentage of grant money that may be used to pay for indirect or overhead by the grantee.

eg. Fairbanks Native Assn. 19.3% indirect rate or \$11,454 out of a grant total of \$70,800

eg. Maniilaq Assn. 16.0% indirect rate or \$13,325 out of \$96,600 grant total

Believe that high indirect cost rates take funds away from the program purposes and would rather see such rates limited to allow more money to be used to serve the clients of the grantees.

Might develop a limit on the rates of 10% -15%.

2. Offsetting or withholding of payment by an agency if a grantee improperly spends money or fails to submit required reports.

1982 Attorney General's opinion stated that agencies cannot withhold funds or offset future grants for past debts against municipalities unless specifically allowed by statute or regulation.

Regulation in this area would allow agencies to attempt to recover misappropriated funds from future grants -- probably would have to limit to future grants for similar projects.

3. Establishing criteria for forgiveness in hardship situations.

There are currently no formal procedures for forgiveness of debts of disallowed or undocumented costs. Could result in situations in which a community is penalized through restrictive grant conditions if forgiveness is not made.

Current administrative procedures require sending a series of demand letters for repayment and then requesting involvement of Dept. of Law, before amounts can be formally written off as an Account Receivable.

SENATE BILL 298
REGULATIONS FOR LEGISLATIVE GRANTS

Need for Regulations

1. Would give agencies greater authority for the enforcement of requirements - regulations carry the force and effect of law - regulations would probably have greater weight than grant agreement provisions in any litigation - regulations would also provide greater authority in negotiating grant terms.
2. Would provide some protection to grantees in receiving fair and consistent treatment from agencies - regulation development would have to be consistent between agencies for designated grants.
3. Would provide greater public input into agency policy and procedure making, as regulations must be adopted under the Administrative Procedures Act, which requires public hearings on the contents of the regulations - current grant agreement requirements and administrative procedures are not subject to such public input.

1324F

The Honorable Steve Frank

-2-

April 9, 1992

These are some of the major areas that we have encountered problems with in the past. The department currently does not have regulations drafted that it would propose if this bill becomes law. This bill would allow us more flexibility in dealing with grantees and more clearly define the rules and requirements of the program.

The department recommends that a technical amendment to the bill be made in section 1 (3) by deleting the word "other". This section as currently drafted could restrict the Departments of Administration and Community and Regional Affairs from adopting regulations on named recipient grants under AS 37.05.316.

If you have any questions or require additional information, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Brooks".

Kevin Brooks
Director


cc: Paul Fuhs
Legislative Liaison
Office of the Governor



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325 Fax (907) 463-5480

April 9, 1992

TO: Senator Steve Frank, Chair
and Members, Senate Community and Regional Affairs Committee

FROM:  Scott A. Burgess, Executive Director

RE: SB 298 - Relating to grants to municipalities, named recipients, and unincorporated communities

The Alaska Municipal League has some concerns with the broad authority given by SB 298 to the Departments of Administration and Community and Regional Affairs, as well as other departments, to adopt regulations relating to grants. The League and its members understand that regulation may be necessary to ensure fiscal accountability, but, as stated in the *1992 Alaska Municipal League Policy Statement*, would only support "legislation that would limit the authority to adopt regulations to specific areas, for instance defining 'substantial on-going work' or establishing 'criteria for forgiveness in hardship situations'" (Part I, B.5).

To quote further from the same section of the *Policy Statement*, "The League supports simple and standardized grant and entitlement programs and opposes the addition of special conditions or regulations to grants and entitlement programs by the state when such conditions are not contained in the appropriation or the authorizing legislation for the grant or entitlement program." The imposition of numerous restrictions on grants to municipalities is not only unnecessary but causes municipalities to make wasteful expenditures for unproductive activities that do not contribute to the accomplishment of the purpose of the grant.

As noted above, municipalities understand the need for limited regulations to ensure accountability for the expenditure of state funds, but the provisions of SB 298 give broad authority to adopt regulations that could become burdensome.

c92leg:sb298.409

WALTER J. HICKEL
GOVERNOR



298

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 16, 1991

The Honorable Richard I. Eliason
President of the Senate
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to regulation of grants to municipalities, named recipients, and unincorporated communities.

This bill proposes to repeal and reenact AS 37.05.318, to allow the Department of Administration to adopt regulations governing grants to municipalities under AS 37.05.315, the Department of Community and Regional Affairs to adopt regulations for grants to unincorporated communities under AS 37.05.317, and other departments to adopt regulations for administering grants to named recipients under AS 37.05.316. Currently, AS 37.05.318 prohibits a state agency from adopting regulations or imposing additional requirements or procedures for grants awarded under AS 37.05.315 - 37.05.317 unless required by the federal government for participation in federal programs.

It has been the experience of the state that regulation is needed in the area of grants awarded under AS 37.05.315 - 37.05.317. For example, regulation is needed for municipal grants for construction of public facilities, to define "substantial, ongoing work on the project" under AS 37.05.315, with respect to the potential lapse of grant money for those municipal projects that cannot demonstrate substantial ongoing work in five years. The state also is in need of regulations specifying certain allowable actions, such as establishing a ceiling on the percentage of grant money that may be used to pay for indirect costs or overhead by a grantee; offsetting or withholding of

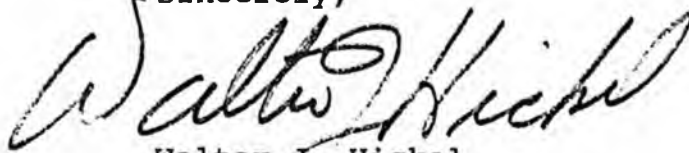
5/16/91 Transmittal letter

The Honorable Richard Eliason - 2 -

payment by an agency if a grantee improperly spends money or fails to submit required reports; and establishing criteria for forgiveness in hardship situations.

The bill provides for an effective date of July 1, 1991. I urge your support.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 298

Revision Date: _____
Title: An act relating to grants to municipalities
Sponsor: Rules
Requestor: Governor

Department Affected: Administration
BRU: Administrative Services
Component: Administrative Services

Expenditures/Revenues: (Thousands of Dollars) COMPONENT SERIAL NO. 0 0 4 6

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONNEL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
No additional costs will be incurred.

Prepared by: Eric Swanson
Division: Administrative Services

Phone: 465-2290
Date: _____

Approved by Commissioner: Nancy Bear User
Agency Administration

Date: 4/6/92

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 298

Revision Date: _____
 Title: "...relating to grants to municipalities, named recipients, and unincorporated communities..."
 Sponsor: (S) Rules by Request of Governor
 Requestor: (S) CRA

Department Affected: Community and Regional Affairs
 BRU: Administration & Support
 Component: Designated Grants

COMPONENT SERIAL NO.

0	6	7	1
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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						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 Regulations, when prepared, will be drafted by existing staff.

Prepared By: Remond Henderson
 Division: Administrative Services Division

Phone: 465-4708
 Date: 4/8/92

Approved by Commissioner: Earl Berman
 Agency: Department of Community and Regional Affairs

Date: 4-8-92

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

Sec. 37.05.280. State insurance catastrophe reserve account.
 (a) There is established in the general fund a state insurance catastrophe reserve account consisting of assets appropriated to it by the legislature and assets allocated to the account by the Department of Administration as provided in (b) of this section. Assets of the account may be used to obtain insurance, to establish reserves for the self-insurance program, and to satisfy claims or judgments arising under the program. Interest earned on money in the account shall be remitted to the Department of Revenue in accordance with AS 37.10.050.

(b) The Department of Administration may allocate to the state insurance catastrophe reserve account, from the appropriations to all state agencies for insurance-related purposes, an amount that the commissioner of administration determines to be necessary to provide an adequate insurance program for the operations of state government. Money remaining in the account at the end of a fiscal year is not a one-year appropriation under AS 37.25.010 and does not lapse, except for amounts determined by the commissioner of administration to be unnecessary to maintain this account at an appropriate level and not to exceed \$5,000,000. If the amount necessary to satisfy claims or judgments for which payment may be due under the state insurance program in a fiscal year exceeds the unexpended balance of the amounts allocated to the account, the department may charge an additional amount from the unencumbered balance of any appropriation that is determined by the commissioner of administration to be available for lapse at the end of the fiscal year. (§ 1 ch 28 SLA 1987)

Sec. 37.05.290. Purpose of chapter. [Repealed, § 67 ch 106 SLA 1986.]

Sec. 37.05.300. [Renumbered as AS 37.05.900.]

Sec. 37.05.305. [Renumbered as AS 37.05.910.]

Sec. 37.05.310. [Renumbered as AS 37.05.920.]

Article 5. Administration of Grants.

Section	Section
315. Grants to municipalities	318. Further regulations prohibited
316. Grants to named recipients	321. Restriction on use
317. Grants to unincorporated communities	325. Definitions for AS 37.05.316 — 37.05.317

Sec. 37.05.315. Grants to municipalities. (a) When an amount is appropriated or allocated as a grant to a municipality, the Department of Administration shall promptly notify the municipality of the availability of the grant. When the Department of Administration receives an agreement executed by the municipality which provides that the municipality (1) will spend the grant for the purposes specified in the appropriation or allocation; (2) will allow, on request, an audit by the state of the uses made of the grant; and (3) assures that, to the extent consistent with the purpose of the appropriation or allocation, the facilities and services provided with the grant will be available for the use of the general public, the Department of Administration shall pay the grant directly to the municipality. The agreement executed by a municipality under this section shall be on a form furnished by the Department of Administration and shall be executed within 60 days after the effective date of the appropriation or allocation.

(b) An appropriation or allocation for a grant to a municipality for construction of a public facility lapses if substantial, ongoing work on the project has not begun within five years after the effective date of the appropriation or allocation.

(c) In accepting a grant of money for construction of a public facility, a municipality covenants with the state that it will operate and maintain the facility for the practical life of the facility and that the municipality will not look to the state to operate or maintain the facility or pay for its operation or maintenance. This requirement does not apply to a grant of money for repair or improvement of an existing facility operated or maintained by the state at the time the grant is accepted if the repair or improvement for which the grant is made will not substantially increase the operating or maintenance costs to the state.

(d) Not less than 20 percent of a grant shall be paid to a municipality within 10 days of the effective date of the agreement under (a) of this section. The remainder of the grant shall be paid either in monthly installments equal to the amount of grant money the municipality expended in the previous month or in a lump sum as determined by the Department of Administration.

(e) The Department of Labor shall require a municipality awarded a grant for a public works project under (a) of this section to comply with the hiring preferences under AS 36.10.150 — 36.10.175 for employment generated by the grant. (§ 1 ch 156 SLA 1980; am § 1 ch 4 SLA 1982; am § 7 ch 33 SLA 1986)

Cross references. — For applicability of subsection (e) to contracts entered into before May 25, 1986, see sec. 10, ch. 33, SLA 1986 in the Temporary and Special Acts. **Effect of amendments.** — The 1986 amendment added subsection (e).

AS 37.05.315 - 37.05.318

NOTES TO DECISIONS

Municipality has no duty to purchase third party's property or liability. — A third party owning property that a municipality expressed an interest in buying is at most an incidental beneficiary of any contract between the municipality and the state, assuming, without deciding, that the contractual concept of third party beneficiary rights can apply in

the legislative grant situation; there is not a statutory duty for the municipality to purchase the property but discretion to spend or not to spend funds within the parameters set by the legislature; and there is no intentional interference with prospective economic advantage. *Ellis v. City of Valdez*, Sup. Ct. Op. No. 2844 (File No. 8-32), 686 P.2d 700 (1984).

Sec. 37.05.316. Grants to named recipients. (a) When an amount is appropriated or allocated to a department as a grant for a named recipient that is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act for which the appropriation or allocation is made. At the same time, the department may issue a request for proposals from other qualified persons to provide the same goods or services in the same area. The department shall award the grant to the named recipient unless the Office of the Governor, with due regard for the local expertise or experience of those making proposals, determines that an award to a different party would better serve the public interest. If the grant is awarded to a party other than that named by the legislature, the basis of that action shall be stated in writing at the time the grant is issued and a copy of the written statement shall be sent to the Legislative Budget and Audit Committee. A grant agreement must be executed within 60 days after the effective date of the appropriation or allocation.

(b) The Department of Labor shall require a recipient awarded a grant for a public works project under (a) of this section to comply with the hiring preferences under AS 36.10.150 — 36.10.175 for employment generated by the grant. (§ 2 ch 4 SLA 1982; am § 8 ch 33 SLA 1986; am § 39 ch 106 SLA 1986)

Cross references. — For applicability of subsection (b) to contracts entered into before May 25, 1986, see sec. 10, ch. 33, SLA 1986 in the Temporary and Special Acts.

Effect of amendments. — The first 1986 amendment added subsection (b).

The second 1986 amendment, in subsection (a), deleted "or both" following "appropriation act" in the first sentence, deleted "or both" following "goods or services" in the second sentence, substituted

"award the grant to" for "contract with" near the beginning of the third sentence, substituted "grant" for "contract" near the beginning of the fourth sentence, substituted "grant agreement must" for "contract shall" near the beginning of the fifth sentence, deleted the former sixth sentence which read, "The purchase of the goods or services, or both, shall be in accordance with AS 37.05.230(1)(D)," and made related grammatical and technical changes.

Sec. 37.05.317. Grants to unincorporated communities. (a) When an amount is appropriated or allocated as a grant under this section to an unincorporated community, it shall be disbursed as follows:

(1) Within 45 days after the effective date of the appropriation or allocation, the Department of Community and Regional Affairs shall notify the governing body of the unincorporated community, if any, that a grant is available.

(2) The Department of Community and Regional Affairs shall determine if there is a qualified incorporated entity in the community area that will agree to receive the grant and administer it, subject to terms generally applicable to private grantees. If there is more than one such entity, the Department of Community and Regional Affairs shall select the most qualified and the grant shall be awarded to that incorporated entity for the purposes specified in the appropriation act. However, the Department of Community and Regional Affairs shall give preference to a nonprofit corporation organized by a community for receipt of the grant.

(3) If there is no incorporated entity qualified to receive the grant, the Department of Community and Regional Affairs shall administer the program as specified in the appropriation act directly or through agents or contractors with whom it may contract in the community area.

(b) The Department of Labor shall require the qualified incorporated entity awarded a grant or agents or contractors with whom the Department of Community and Regional Affairs contracts under (a) of this section to comply with the requirements of AS 36.10.150 — 36.10.175 for employment generated by the grant or contract if the grant or contract is for a public works project. (§ 2 ch 4 SLA 1982; am § 9 ch 33 SLA 1986)

Cross references. — For applicability of subsection (b) to contracts entered into before May 25, 1986, see sec. 10, ch. 33, SLA 1986 in the Temporary and Special Acts.

Effect of amendments. — The 1986 amendment added subsection (b).

Sec. 37.05.318. Further regulations prohibited. Notwithstanding the Administrative Procedure Act (AS 44.62), the Fiscal Procedures Act (AS 37.05), and the Executive Budget Act (AS 37.07), a state agency may not adopt regulations or impose additional requirements or procedures to implement, interpret, make specific, or otherwise carry out the provisions of AS 37.05.315 — 37.05.317 unless required by the federal government for participation in federal programs. (§ 2 ch 4 SLA 1982)

S B

301



Official Business

Alaska State Legislature

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

Letter of intent for CSSS SB 301(CRA), An Act requiring Municipal Fiscal Notes.

By the Senate Community and Regional Affairs Committee

It is the intent of the Senate Community and Regional Affairs Committee that the Senate Finance Committee consider requiring the Legislative Finance Division to produce the municipal fiscal notes described in CSSS SB 301(CRA). The Senate Community and Regional Affairs Committee believes that a municipal fiscal note could be more cost effectively provided by the Legislative finance division.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CS SS SB 301 (CRA)

Revision Date: March 18, 1992
 Title: "An act requiring municipal fiscal notes for bills and resolutions."
 Sponsor: Senator Uehling
 Requestor: Senate C&RA Committee

Department Affected: Community and Regional Affairs
 BRU: Local Government Assistance
 Component: Statewide Assistance

COMPONENT SERIAL NO.

0	6	7	6
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	108.7	110.6	114.2	116.2	119.7	121.9
TRAVEL	3.4	3.4	3.4	3.4	3.4	3.4
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES	2.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	17.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	137.1	121.0	124.6	126.6	130.1	132.3
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	137.1	121.0	124.6	126.6	130.1	132.3
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	137.1	121.0	124.6	126.6	130.1	132.3

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

The Department estimates three new positions, one permanent and two seasonal, would be necessary to perform the duties required by this legislation. A separate page is attached which shows how the above figures were calculated. Also attached are the necessary Request For New Position forms.

Prepared By: Remond Henderson
 Division: Administrative Services Division

Phone: 465-4708
 Date: 5/18/92

Approved by Commissioner: Ed. Berry
 Agency: Department of Community and Regional Affairs

Date: March 18-92

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS SS SB 301 (CRA)

CALCULATION OF COSTS TO THE STATE: Includes one permanent full-time Research Analyst III and two seasonal full-time Research Analysts II, plus operating monies.

Position	Range/Step	Barg Unit	Location	Time Status	Fiscal Year	Sal + Bens	
Research Analyst III	18 A	GGU	Juneau	Permanent Full-time	FY 93	\$41,971	
						<u>\$15,868</u>	
						<u>\$57,839</u>	
	(account for annual merit increases)	18 B	"	"	"	FY 94	\$59,758
		18 C	"	"	"	FY 95	\$61,630
		18 D	"	"	"	FY 96	\$63,596
		18 E	"	"	"	FY 97	\$65,531
	18 F	"	"	"	FY 98	\$67,812	
Research Analyst II	16 A	GGU	Juneau	Seasonal 6 mos.	FY 93	\$18,214	
						<u>\$7,198</u>	
						<u>\$25,412</u>	
	(account for merit increases every other year)	16 A	"	"	"	FY 94	\$25,412
		16 B	"	"	"	FY 95	\$26,285
		16 B	"	"	"	FY 96	\$26,285
		16 C	"	"	"	FY 97	\$27,063
	16 C	"	"	"	FY 98	\$27,063	
Personal Services	1 permanent full-time staff @ R 18 =			\$57,839			
	2 seasonal full-time staff @ R 16 =			<u>\$50,824</u>			
			Total	<u>\$108,663</u>	FY 93		
Travel	2 3-day trips to Anchorage @ \$800 each =			\$1,600			
	2 3-day trips to Fairbanks @ \$900 each =			<u>\$1,800</u>			
			Total	<u>\$3,400</u>	per year		
Contractual Services	Estimate \$3,000 per staff @ full-time =			\$3,000			
	Estimate \$1,500 per staff @ part-time =			<u>\$3,000</u>			
			Total	<u>\$6,000</u>	per year		
Commodities	Estimate \$500 per staff @ full-time =			\$500			
	Estimate \$250 per staff @ part-time =			\$500			
	Plus \$1,000 start-up costs =			<u>\$1,000</u>	FY 93 only		
			Total	<u>\$2,000</u>		subsequently \$1,500 / year	
Equipment	3 personal computers @ \$3,500 each =			\$10,500			
	software			\$3,500			
	1 laser printer			<u>\$3,000</u>			
			Total	<u>\$17,000</u>	FY 93	one-time only	

Position Title Research Analyst III		No. of Positions 1	Range / Step 18A	Barg. Unit GG
Time Status Full-Time	Staff Months 12	Location Juneau		Election District
TYPE OF EXPENDITURE		Amount	Justification The duties of this position would include: analyzing bills for their potential fiscal impact on municipalities; determining the extent of any fiscal impact; consulting with specific municipalities which would be affected by a measure; preparation of the necessary fiscal note stating whether or not there would be a fiscal impact; supervising and directing the work of four Research Analysts II during the legislative session; offering testimony at legislative committee hearings regarding any findings of municipal fiscal impact; performing work on interim activities; and assisting in regular department activities that were rescheduled from the legislative session to the interim. This position would also be responsible for managing and supporting a comprehensive municipal database that would further enhance the department's ability to respond to the Legislature's need for information about municipalities.	
Salary	42.0			
Benefits	15.8			
Premium Pay				
Other				
Total Personal Services	57.8	57.8		
Travel		3.4		
Contractual		3.0		
Commodities		0.8		
Equipment		6.0		
Other				
Total Cost		71.0		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	71.0		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

**REQUEST FOR
NEW POSITION**

AGENCY Community and Regional Affairs

BRU Local Government Assistance

COMPONENT Statewide Assistance

FY 93

Page 3 of 5

Revised Date: