

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8428 SENATE LABOR & COMMERCE

HB

330



Alaska Environmental Lobby, Inc.

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CSHB 330: Fuel State Auto Fleet with Natural Gas

CSHB 330 instructs the Alaska DOT to "convert or purchase vehicles to utilize natural gas whenever practicable" and to participate in joint ventures to "foster the availability of natural gas for all automotive fuel consumers." Natural gas is a cleaner burning and more abundant fuel than petroleum based fuels such as gasoline and diesel.

The Alaska Environmental Lobby supports CSHB 330. This legislation :

- *Fosters improved air quality for Alaskans by promoting cleaner burning natural gas over gasoline and diesel.
- *Promotes a more acceptable alternative to oxy-fuel additives to meet federal vehicle emissions standards, given doubts about the appropriateness of oxy-fuels in the northern climate.
- *Reduces maintenance costs on state run vehicles. Cleaner burning natural gas produces less wear and tear on engines.
- *Conserves natural resources by diverting consumption from less abundant petroleum to more abundant and more widely dispersed natural gas.
- *Encourages the public conversion to cleaner, possibly more efficient, more abundant natural gas by facilitating the availability of the fuel to consumers. In combination with similar initiatives by the federal government, the state provides important leadership in creating markets for natural gas. This would provide an important precedent for encouraging emerging technologies, such as hydrogen fuel.

The Alaska Environmental Lobby acknowledges natural gas as an important bridge fuel pending advancement of cleaner technologies such as fuel cells, hydrogen, and electric vehicle power, and improved overall energy efficiency of the economy. Though no panacea, natural gas technologies already are well developed and can accommodate a gradual addition of hydrogen fuel, the next step toward cleaner fuels. In this context, HB 330 is a significant interim step toward improving the quality of life for Alaskans, conserving natural resources, and developing a sustainable energy policy.

Art Koeningger
4/5/94

Alaska State Legislature

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ECONOMIC TASK FORCE

Representative Joe Green

Sponsor Statement

CSHB 330 (Tra)

Use of Natural Gas as a motor fuel in state vehicles

Natural gas is being used as a vehicle fuel in several states and provinces across the continent. Yet, while supplies of natural gas are abundant, we in Alaska appear to be waiting for an answer to the question "who goes first, the public sector or the private sector"?

Private sector fleet managers have expressed interest in utilizing natural gas, which offers a number of advantages. The state already uses natural gas in a few of its "around-town" cars. The barrier to more widespread use is refueling. Presently, the range of natural gas vehicles (NGV's) is limited, and there are few refueling stations.

HB 330 answers the question "who goes first" by allowing the public and private sectors to go forward together. HB 330 allows DOT to "participate in joint ventures with public or private partners" in an effort to solve the refueling dilemma. With the development of a refueling infrastructure, both private and public sector fleet managers could utilize natural gas.

HB 330 is a first step in the effort to utilize natural gas as a motor vehicle fuel in Alaska.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Phone: (907) 465-5050
Fax: (907) 465-5070

April 1, 1994

The Honorable Joe Green
Alaska State Legislature
Capitol, Room 114
Juneau, Alaska 99801

Dear Representative Green,

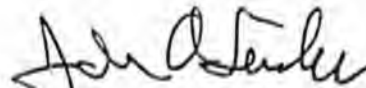
This letter underscores the Department of Environmental Conservation's support for a variety of efforts underway to expand the use of natural gas fueled vehicles in the state. This cheaper, cleaner fuel has great potential to clean our air, reduce spills, reduce costs of electric power generation outside the railbelt, and increase state revenues as much gas is shut in while there is a market for petroleum based fuel elsewhere.

A previous position paper published by the department objected to some of the terms in the original HB 330. We have no objection now to the version which cleared the House.

In Anchorage, where natural gas is available, the air quality plan for attainment speaks to using compressed natural gas (CNG) as a CO reduction strategy. The Clean Air Act of 1990 requires nonattainment areas that have not reached their air pollution goals by 1995 to implement a CNG program for fleets. Now that the State Implementation Plan revision for Air Quality has been approved by the Lieutenant Governor, we are taking the steps necessary to allow federal CMAQ (Congestion Mitigation Air Quality) funds administered by DOT/PF to be used to support a natural gas fueling infrastructure for these fleets.

With best regards,

Sincerely,


John A. Sandor
Commissioner

MT/re (G:\COMM\GREEN.LTR)

cc: The Honorable Bert Sharp, Chairman, Senate Transportation Committee

- LETTER FROM DEC -

FISCAL NOTE

Revision Date:
Title: Fuel State Auto Fleet with Natural Gas

Department Affected: DOT&PF
BRU: STW Administrative Services

Sponsor: Green, Sanders
Requestor:

Component: State Equipment Fleet
Component Serial Number: #539

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL — INFRASTRUCTURE	0	0	0	0	0	0
CAPITAL — CONVERSION	0	0	0	0	0	0

REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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 (FY94) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

This Committee Substitute allows natural gas to proceed as an auto motive fuel on its merits. DOT&PF believes there is a growing appreciation for the fuel's advantages and expect it will rapidly enter the market in the coming years. Recent changes in DEC's State Air Plan will enable the use of federal funds targeted to air quality to be used for refueling infrastructure and vehicle modifications.

Prepared by: Jeffrey C. Ottesen

Phone: 243-7671

Division: Engineering & Operations Standards

Date: March 11, 1994

Approved by Commissioner: *B.A. Campbell*

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: March 11, 1994

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Page 1 of 1

- FISCAL NOTE -

SENATE COMMITTEE REPORT

DATE: 4/6/94

FURTHER:

DATE TURNED INTO OFFICE: 4/14/94

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 330(TRA)

Use of natural gas as a motor vehicle fuel in state-owned vehicles and to the Department of Transportation and Public Facilities' authority to participate in joint ventures related to natural gas."

and recommends:

- replace with _____ CS _____ (_____)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation

individual recommendations

NEW FISCAL NOTES

	Department	Date	Zero	Fiscal
CS	DOT/RF	3/11/94	✓	

PREVIOUS FISCAL NOTES

	Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Bob M. Murray
Judith E. Salo

OTHER RECOMMENDATIONS:

Arthur King No Recommendation
Donna M. ... NR

Tim Kelly - Do Pass
 Chair: Signature and Recommendation

HB

353

4 3 6 5

DIVISION OF LEGAL SERVICES

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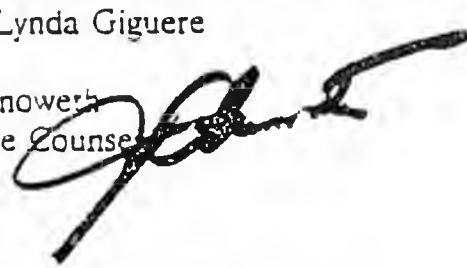
MEMORANDUM

March 9, 1994

SUBJECT: Draft CSHB 353 (L&C) (Work Order No. 3-LS1474J)

TO: Representative Bill Hudson, Chair
House Labor & Commerce Committee
ATTN: Lynda Giguere

FROM: Jack Chenoweth
Legislative Counsel



A brief word of explanation about the enclosed draft.

You asked me to prepare language, in the form of a draft committee substitute, to "level the playing field" with respect to the financial statement reporting requirements applicable to condominium associations. Condominium association activities are principally controlled by two Acts, the Horizontal Property Regimes Act (AS 34.07) and the Uniform Common Interest Ownership Act (AS 34.08).

Requirements under Uniform Common Interest Ownership Act (AS 34.08):

The Uniform Common Interest Ownership Act is the later of the two acts in time. It applies to condo associations operating on and after January 1, 1986. Certain provisions of the Uniform Common Interest Ownership Act may apply to condo associations that were established before that date. ^{1/} For associations now covered

^{1/} See AS 34.08.040:

APPLICABILITY TO PREEXISTING COMMON INTEREST COMMUNITIES. Except as provided in AS 34.08.050, the provisions of AS 34.08.110, 34.08.120, 34.08.290, 34.08.320(a)(1) - (6) and (11) - (16), 34.08.420, 34.08.470, 34.08.490, 34.08.510, 34.08.590, 34.08.670, 34.08.720, 34.08.730, 34.08.740, and 34.08.990, to the extent necessary in construing any of those sections, apply to all common interest communities created in the state before January 1, 1986, except that the sections apply only with respect to events and circumstances occurring after January 1, 1986, and do not

(continued...)

MEMORANDUM FROM LEGAL

by the Uniform Common Interest Ownership Act. AS 34.08.490(a) imposes this requirement on the keeping of financial records:

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with AS 34.08.590.²¹

²¹(...continued)

invalidate existing provisions of the declaration, bylaws, or plats or plans of the common interest communities.

²² The cross-reference to "AS 34.08.590" is a reference to the so-called "resale certificate" requirement, the requirement of AS 34.08.590(a) that the association prepare and provide a resale certificate to a unit seller, when requested. The statute sets out the following as the necessary components of the resale certificate:

(a) . . . [A] unit owner shall furnish to a purchaser before execution of a contract for sale of a unit or before conveyance a copy of the declaration, as amended, the bylaws, the rules or regulations of the association, and a certificate containing a statement disclosing

(1) the effect on the proposed disposition of a right of first refusal or other restraint on the free alienability of the unit;

(2) the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;

(3) any other fee payable by unit owners;

(4) any capital expenditures in excess of \$3,000 approved by the executive board for the current and two next succeeding fiscal years;

(5) the amount of reserves for capital expenditures and of any portions of the reserves designated by the association for a specified project;

(6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(7) the current operating budget of the association;

(8) any unsatisfied judgment against the association and the status of any pending suit in which the association is a defendant or plaintiff;

(9) any insurance coverage provided for the benefit of unit owners;

(10) whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned to the unit violate any provision of the declaration;

(11) whether the executive board has knowledge of any violation of a health or safety, fire, or building code or other law, ordinance, or regulation with respect to the unit, the limited common elements assigned to the unit, or any other portion of the common interest community;

(12) a statement of the remaining term of a leasehold estate affecting the common interest community and the provisions governing an extension or renewal of the lease;

(continued...)

Financial and other records must be made reasonably available for examination by a unit owner and an authorized agent of a unit owner.

There is no separate requirement of an annual or periodic audit of the financial transactions of the associations that are covered by the Uniform Common Interest Ownership Act.

Requirements under Horizontal Property Regimes Act (AS 34.07):

Though it uses the terms "apartment" (in reference to an individual unit) and "association of apartment owners" (in reference to the condo association), the Horizontal Property Regimes Act applies to condominiums and condominium associations. Under AS 34.07.280(b)^{2/}, an annual audit is required of the condominium association, and the duty to make arrangements for one is imposed on the association's manager or its board of directors.

The draft committee substitute makes changes only to AS 34.07.280(b). It (1) eliminates the requirement of an annual audit, (2) substitutes a directive that for the purpose of keeping financial records, if the "association of apartment owners" (using the words of AS 34.07) is subject to AS 34.08, the performance standard be exactly

^{2/}(...continued)

(13) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale, condemnation, casualty loss to the unit or the common interest community, or termination of the common interest community; and

(14) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real estate taxes and interest paid by the association.

^{2/} In this draft committee substitute, I propose to replace the text of AS 34.07.-280(b). So that you may understand the context in which that change would appear, the entire section now reads:

RECEIPTS AND EXPENDITURES RECORDS TO BE KEPT.

(a) The manager or board of directors shall keep detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred.

(b) All books and records shall be kept in accordance with good accounting procedures and shall be audited at least once a year by an auditor outside of the organization.

Representative Bill Hudson

March 9, 1994

Page 4

the same as set out in AS 34.08.490 and, if the "association of apartment owners" is exempt from AS 34.08, for purposes of "leveling the playing field," the standard of performance is that of being able to provide "an accurate balance sheet and accurate income and expense statement of the association,"^{2/} and (3) to avoid any question on the point, authorizes, as the condominium association manager or board of directors may decide, preparation of a formal audit.

JBC:mi

94-052.mai

Enclosure

^{2/} I derive this standard directly from the language of AS 34.08.590(a)(6), the text of which is set out in footnote 2.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

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House of Representatives

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Sponsor Statement

HB 353

February 16, 1994

This legislation will repeal the annual audit requirement for condominium associations. Current law requires an annual external audit of all condominium associations regardless of size. I believe that the audit's financial burden placed on associations is unreasonable. The associations can currently adopt bylaws requiring an audit; hence, the repeal of AS 34.07.280(b) will not adversely impact the associations.

*Amendment
to repeal
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*SLA 1963
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SPONSOR STATEMENT

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exceed \$100, as adjusted under AS 34.08.820, the planned community is subject only to AS 34.08.720 — 34.08.740 unless the declaration provides that the entire chapter is applicable. (§ 1 ch 95 SLA 1985; am § 2 ch 61 SLA 1986)

Effect of amendments. — The 1986 amendment in the catchline deleted "small and" preceding "limited" and substituted "planned" for "common interest," in the first sentence substituted "planned" for "common interest" in two places, "created after January 1, 1986," for "contains no more than 12 units and," and "and" for

"or financing from the Alaska Housing Finance Corporation or" and deleted the former second sentence, which read: "A declarant may not subdivide real property under single ownership into two or more common interest communities to avoid the application of this chapter."

Sec. 34.08.035. Prohibited subdivisions. A declarant may not subdivide real property under single ownership into two or more common interest communities to avoid the application of this chapter. (§ 3 ch 61 SLA 1986)

Sec. 34.08.040. Applicability to preexisting common interest communities. Except as provided in AS 34.08.050, the provisions of AS 34.08.110, 34.08.120, 34.08.290, 34.08.320(a)(1) — (6) and (11) — (16), 34.08.420, 34.08.470, 34.08.490, 34.08.510, 34.08.590, 34.08.670, 34.08.720, 34.08.730, 34.08.740, and 34.08.990, to the extent necessary in construing any of those sections, apply to all common interest communities created in the state before January 1, 1986, except that the sections apply only with respect to events and circumstances occurring after January 1, 1986, and do not invalidate existing provisions of the declaration, bylaws, or plats or plans of the common interest communities. (§ 1 ch 95 SLA 1985; am § 4 ch 61 SLA 1986)

Effect of amendments. — The 1986 amendment inserted "34.08.510," and inserted a comma following "1986" in two places.

Editor's notes. — Section 9, ch. 61, SLA 1986 provides that "in a condomin-

ium or cooperative created after January 1, 1986, and before September 1, 1988, the provisions of AS 34.08.040 apply to events and occurrences concerning the condominium or cooperative occurring after September 1, 1986."

Sec. 34.08.050. Applicability to small preexisting cooperatives and planned communities. If a cooperative or planned community created within the state before January 1, 1986 contains no more than 12 units and is not subject to any development rights, it is subject only to AS 34.08.720 — 34.08.740, unless the declaration is amended in conformity with law and with the procedures and requirements of the declaration to take advantage of the provisions of AS 34.08.060, in which case all the sections enumerated in AS 34.08.040 apply to the cooperative or planned community. (§ 1 ch 95 SLA 1985)

§ 34.08.490

ALASKA STATUTES

§ 34.08.500

(2) whether or not the property of a unit owner is subject to the claims of creditors of the association, other property of a unit owner is not subject to the claims. (§ 1 ch 95 SLA 1985)

Sec. 34.08.490. Association records. (a) The association shall keep financial records sufficiently detailed to enable the association to comply with AS 34.08.590. Financial and other records must be made reasonably available for examination by a unit owner and an authorized agent of a unit owner.

(b) A professional manager, managing agent, accountant, or other person with whom the association has contracted for services shall return all association records within five days of the termination of the contract. If the association records are not returned within five days, the association may sue for their return and for damages. (§ 1 ch 95 SLA 1985)

Sec. 34.08.500. Association as trustee. If a third person deals with the association in the capacity of the association as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee. (§ 1 ch 95 SLA 1985)

Article 4. Protection of Purchasers.

Section

- 510. Applicability
- 520. Liability for public offering statement requirements
- 530. Public offering statements generally
- 540. Common interest communities subject to development rights
- 550. Time shares
- 560. Common interest communities containing conversion property
- 570. Common interest community securities
- 580. Purchaser's right to cancel
- 590. Resales of units
- 600. Escrow of deposits

Section

- 610. Release of liens
- 620. Conversion property
- 630. Express warranties of quality
- 640. Implied warranties of quality
- 650. Exclusion or modification of implied warranties of quality
- 660. Statute of limitations for warranties
- 670. Effect of violations on rights of action
- 680. Labeling of promotional material
- 690. Declarant's obligation to complete and restore
- 700. Substantial completion of units

§ 34.08.510

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Sec. 34.08.700

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Sec. 34.08.5

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Sec. 34.08.590. Resales of units. (a) Except for a sale in which delivery of a public offering statement is required, or unless the sale is exempt under AS 34.08.510(b), a unit owner shall furnish to a purchaser before execution of a contract for sale of a unit or before conveyance a copy of the declaration, as amended, the bylaws, the rules or regulations of the association, and a certificate containing a statement disclosing

- (1) the effect on the proposed disposition of a right of first refusal or other restraint on the free alienability of the unit;
 - (2) the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;
 - (3) any other fee payable by unit owners;
 - (4) any capital expenditures in excess of \$3,000 approved by the executive board for the current and two next succeeding fiscal years;
 - (5) the amount of reserves for capital expenditures and of any portions of the reserves designated by the association for a specified project;
 - (6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;
 - (7) the current operating budget of the association;
 - (8) any unsatisfied judgment against the association and the status of any pending suit in which the association is a defendant or plaintiff;
 - (9) any insurance coverage provided for the benefit of unit owners;
 - (10) whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned to the unit violate any provision of the declaration;
 - (11) whether the executive board has knowledge of any violation of a health or safety, fire, or building code or other law, ordinance, or regulation with respect to the unit, the limited common elements assigned to the unit, or any other portion of the common interest community;
 - (12) a statement of the remaining term of a leasehold estate affecting the common interest community and the provisions governing an extension or renewal of the lease;
 - (13) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale, condemnation, casualty loss to the unit or the common interest community, or termination of the common interest community; and
 - (14) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real estate taxes and interest paid by the association.
- (b) The association, within 10 days after a written request by a unit owner and the payment of a reasonable fee, shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section. A unit owner providing a certificate under (a) of

this section is provided by t

(c) A purcha than the amou A unit owner i association to i chase contract been provided until conveyan

(d) A unit o January 1, 19 collect assessm association or c (a) and (b) of t affidavit in rec

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Effect of amend amendment added Collateral refere owner of unit in c

Sec. 34.08.600 with the purcha deliver a public placed in escrow unit is located in licensed title in broker, an inde whose accounts e tality until

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this section is not liable to the purchaser for erroneous information provided by the association and included in the certificate.

(c) A purchaser is not liable for an unpaid assessment or fee greater than the amount set out in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for five days after the certificate was provided or until conveyance, whichever occurs first.

(d) A unit owner in a planned community that was created before January 1, 1986, is not exempt under AS 34.08.050, and does not collect assessments as a planned community and has not formed an association or elected officers or an executive board may comply with (a) and (b) of this section by furnishing the purchaser of the unit an affidavit in recordable form

(1) stating that assessments are not collected, the last date assessments were collected, if known, the amount of the last assessment, if known, and the reason assessments ceased;

(2) stating that an association has not been formed or that no officers or executive board exists; and

(3) providing the purchaser a copy of

(A) the recorded declaration, if any, and any amendment to the declaration;

(B) bylaws, rules, and regulations of the association, if any; and

(C) a brief narrative description of

(i) the real estate comprising the planned community; and

(ii) obligations to pay for real estate taxes, insurance premiums, maintenance, and improvements of the real estate described in the declaration. (§ 1 ch 95 SLA 1985; am § 8 ch 61 SLA 1986)

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

Collateral references. — Liability of owner of unit in condominium, recrea-

tional development, time-share property, or the like for assessment in support of common facilities levied against and unpaid by prior owner. 39 ALR4th 114.

Sec. 34.08.600. Escrow of deposits. A deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement under AS 34.08.520(c) must be placed in escrow and held either in this state or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed real estate broker, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until

(1) delivered to the declarant at closing;

(2) delivered to the declarant because of the purchaser's default

§ 34.07.260

ALASKA STATUTES

§ 34.07.290

§ 34.07.300

Sec. 34.07.260. Causes of action relating to common areas and facilities. (a) Without limiting the rights of an apartment owner, a cause of action may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of two or more apartment owners, as their respective interests may appear, with respect to a cause of action relating to the common areas and facilities of more than one apartment.

(b) A cause of action relating to the common areas and facilities for damages arising out of tortious conduct may be maintained only against the association of apartment owners and a judgment lien or other charge is a common expense. The judgment lien or charge is removed from an apartment and its percentage of undivided interest in the common areas and facilities upon payment by the respective owner of the proportionate share based on the percentage of undivided interest owned by that owner. (§ 1 ch 44 SLA 1963)

Collateral references. — Personal liability of owner of condominium unit to one sustaining personal injury or property damage by condition of common areas. 39 ALR4th 98.

Association's liability to unit owner for injuries caused by third person's criminal conduct. 59 ALR4th 489.
Standing to bring action relating to real property of condominium. 74 ALR4th 165.

Sec. 34.07.270. Service of process on two or more apartment owners. Service of process on two or more apartment owners in an action relating to the common areas and facilities of more than one apartment may be made on the person designated in the declaration to receive service of process. (§ 1 ch 44 SLA 1963)

Sec. 34.07.280. Receipts and expenditures records to be kept. (a) The manager or board of directors shall keep detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred.

(b) All books and records shall be kept in accordance with good accounting procedures and shall be audited at least once a year by an auditor outside of the organization. (§ 1 ch 44 SLA 1963)

Sec. 34.07.290. Examination by apartment owner of receipts and expenditures. The receipts and expenditures records and vouchers authorizing payment for maintenance and repair of common areas and facilities required to be kept by AS 34.07.280 shall be available for examination by an apartment owner at convenient hours of weekdays. (§ 1 ch 44 SLA 1963)

Art.

Section
300. Determination of ownership
310. Action for owners of

Sec. 34.07. owners if p
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SENATE COMMITTEE REPORT

John

DATE: 4/7/94

FURTHER:

DATE TURNED INTO OFFICE: 4/26/94

L&C Committee considered HOUSE BILL NO. 353

"An Act repealing the requirement of an annual audit of the receipts and expenditures applicable to certain property managed under the Horizontal Property Regimes Act."

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts _____ Letter of Intent
- further referral to the _____

- do pass
- do not pass
- no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCEV (H)	1/21/94	✓	

Appropriation No Fiscal Note

DO PASS:

[Signature]

OTHER RECOMMENDATIONS:

Steve P. No Recommendation

Judith E. Sales

Tim Kelly - DePan

Chair: Signature and Recommendation

FISCAL NOTE

No. 1
 Bill Version: CSHB 353(L&C)
 (H) Publish Date: 3/11/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: 1/21/94 Department: Commerce and Economic Dev.
 Title: Repealing the requirement of an annual audit...under BRU: Occupational Licensing
the Horizontal Property Regimes Act. Component: Operations
 Sponsor: Representative James
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1008 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) costs: None

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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

ANALYSIS: (Attach a separate page if necessary)

HB 353 does not impact requirements of the Alaska Real Estate Commission.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 21, 1994
 Approved by Commissioner: Paul Fuhs Date: _____
 Agency: Commerce and Economic Development

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- FISCAL NOTE -

SENATE COMMITTEE REPORT

fact

DATE: 4/11/94

FURTHER:

DATE TURNED INTO OFFICE: 4/26/94

L&C Committee considered HOUSE BILL NO. 365

"An Act extending the termination date of the Board of Barbers and Hairdressers; and providing for an effective date."

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCED	3/14/94	<input checked="" type="checkbox"/>	

Appropriation No Fiscal Note

DO PASS:

Steve Murphy

OTHER RECOMMENDATIONS:

Judith E. Salo
Dominique L. ... NR

Tim Kelly - No Pass

Chair: Signature and Recommendation



Representative Jerry Sanders

District 19

Vice Chair, Rules Committee
Vice Chair, Community & Regional Affairs Committee
House State Affairs Committee
Special Committee on Oil & Gas
Legislative Council
International Trade & Tourism

SPONSOR STATEMENT

The purpose of House Bill No. 365 is to extend the termination date of the Board of Barbers and Hairdressers from June 30, 1993 to June 30, 1997. The Board is presently in the one year extension period allowed under the 'Sunset' provision for closing down the Board.

If the State allows the Board of Barbers and Hairdressers to Sunset, it will also stop the Division of Occupational Licensing from being able to de-license the industry. An immediate result of losing the ability to de-license will be a large increase in insurance rates for the industry. It is also felt that an additional ramification would be that if the industry is de-licensed and someone does get injured, it is very likely that the State could be held potentially liable in a lawsuit.

Licensure is also required to insure that Barbers and Hairdressers receive required training in the proper use of chemicals, many of which are potentially dangerous. The industry is growing so fast and has so much new technology that there are many potential dangers to public health. For example, color and perm solutions that are improperly applied by untrained or unlicensed people can and have caused damage to the scalp, and also to hearing and eyesight. New microwave technology hair drying machines can also cause severe burns if used improperly.

In order to continue to protect the public's health and safety, we need to continue the Board of Barbers and Hairdressers.

SPONSOR STATEMENT

716 W. 4th -
During Session

SPONSOR STATEMENT (7) 258-8199
(907) 465-4945

STATE OF ALASKA
Boards and Commissions

BARBERS AND HAIRDRESSERS

BOARD: Board of Barbers and Hairdressers

BOARD IDENTIFICATION NUMBER: 011

DEPARTMENT: Department of Commerce and Economic Development

AUTHORITY: AS 08.13.010

STATUS: Active

SUNSET DATE: June 30, 1993

REQUIREMENTS: Legislative Confirmation

PROHIBITIONS: Cannot serve more than all or part of two consecutive terms.

TERM: 4 years

DESCRIPTION: 5 members appointed by Governor; 2 licensed barbers, 2 licensed hairdressers and 1 public member; serve at the pleasure of Governor.

FUNCTION: Regulates and controls applications, licenses and permits of barbers, hairdressers and cosmetologists.

CHAIR: Governor may select.

SPECIAL FACTS: Annual report to Governor. Members serve until a successor is appointed. An appointment to fill a vacancy is for the remainder of the unexpired term. A member who has served all or part of two successive terms may not be reappointed unless four years have elapsed since the person has last served. Serve at the pleasure of the governor.

COMPENSATION: Standard Travel and Per Diem. No additional compensation.

MEETINGS: As often as necessary to conduct business.

FOR FURTHER INFORMATION CONTACT: Ms. Adela Fiorendo, Division of Occupational Licensing, DCED, P.O. Box 110806 M/S 0800, Juneau, AK, 99811 0806, Phone: 907 465 2547

STATE OF ALASKA
Boards and Commissions

Membership Roster
BARBERS AND HAIRDRESSERS (C11)

Member	Appointed	Reappointed	Term Exp.
Karen L. Cleek Public 9304 Turn Street Juneau, AK 99801	12/02/93		07/01/96
Eimo Kienbaum Barber 2337 Second Avenue Ketchikan, AK 99901	09/30/91	07/01/93	07/01/97
Jerry Mavfield Barber 750 Highview Drive Anchorage, AK 99515	06/15/91	08/17/92	07/01/93
Mariann Stoffel Hairdresser - Chair 1352 Pioneer Peak Drive Wasilla, AK 99687	10/09/91	07/01/93	07/01/97
Barbara Watkins Hairdresser 1017 San Fernando Apt. #2 Anchorage, AK 99508	08/14/91		07/01/95

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 365

Revision Date: 3/11/94
 Title: An act extending the termination date of
the Board of Barbers & Hairdressers...
 Sponsor: Representative Sanders
 Requestor: Representative Sanders

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

(Thousands of Dollars)

Expenditures/Revenues	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
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 EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

(Thousands of Dollars)

FUND SOURCE	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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

ANALYSIS: (Attach a separate page if necessary)

HB 365 extends the termination date of the Board of Barbers and Hairdressers to June 30, 1997. Funding for the Board of Barbers and Hairdressers is included in the FY95 operating budget; therefore, new funds are not required.

Prepared by: JoAnne Cummings, Regulations Specialist *[Signature]* Phone: 465-2537
 Division: Occupational Licensing *[Signature]* Date: 3/11/94
 Approved by Commissioner: Paul Fuhs *[Signature]* Date: 3/14/94
 Agency: Commerce and Economic Development

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FISCAL NOTE

HB

386

MEMORANDUM

Date: March 21, 1994
To: Representative Carl Moses
From: Kevin Kempton KK
Personnel Officer
Subject: HB386 Information

The current situation: The Legislature is faced with the unique requirement in AS 39.35.680(37) to include temporary employees of the legislature in the retirement system. The purpose of this 1979 addition to the retirement law was to protect session and interim staff employees who were paid on an hourly or daily wage basis from being treated as other temporary employees and therefore, by definition, denied participation in the retirement program. The amendment is unique because it only affects legislative employees; temporary employees of the Executive are excluded from active participation in the retirement system.

In fact, the employees addressed by this statute are no longer paid on an hourly basis and are not treated as temporary employees in terms of other benefit programs.

The problem: While AS 39.35.630(37) legitimately protects the session and interim staff employees as well as other Agency employees with whom we develop a clear long term relationship, it has a detrimental financial effect on a true temporary employee and the Agency.

A true temporary or casual employee is one with which we do not intend to create a long term relationship. They are generally hired to complete a specific job or work for a short period of time. Examples of these employees are movers and tour guides and some session only positions.

Addressing truly temporary employees is the main purpose of HB386. An employee working only a short period, and placed in the retirement system, is forced to pay 6.75% of their salary while the employer must pay over 15% to the system. This requirement is an expense for both parties and generally a waste of money. It is a waste because these employees, most of whom do not intend to remain in the retirement system, withdraw their contribution to regain their lost income. Doing this not only subjects them to the usual taxes on income, but will normally result in a tax

- MEMO FROM PERSONNEL -

Representative Carl Moses

March 21, 1994

Page 2

penalty for early withdrawal. The result turns the tax advantage of our system into a tax disadvantage and a waste of money. It is a substantially larger waste for the employer who has paid 15% of the salary for no good reason.

As it is currently written CSHB 386 (L&C) am places a 400 hour maximum limitation on designating a temporary employee. This presents a difficult if not impossible situation to administer. Often when employees are hired it is not known how many hours they will work, and this very low maximum limit (approx. 10 weeks) places unnecessary restrictions on hiring. It should be noted the State of Alaska does not define a temporary employees in this context within the Executive Branch rules.

The **proposed committee substitute** for this bill will allow the Agency to hire temporary employees outside the retirement system while still protecting the rights of those addressed in the 1979 amendment to the retirement statute. Specifically, no legislative employee will be excluded except by their own option. As an employee option we provide protection for the possibility of future changes to the way in which employees are paid.

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON:
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



SESSION
CAPITAL BUILDING, ROOM 204
JUNEAU, ALASKA 99801-1182
PHONE (907) 465-4451
FAX (907) 455-3445

INTERIM
715 W 4TH AVE #633
ANCHORAGE, AK 99501-2133
PHONE (907) 258-8167
FAX (907) 258-8468

M E M O R A N D U M

DATE: March 22, 1994

TO: Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee

FROM: Rep. Carl E. Moses, Chairman *CEM*
House Rules Committee

SUBJ: Request for Scheduling - CSHB 386 (L&C) am

I respectfully request a Senate Labor & Commerce Committee hearing for CSHB 386 (L&C) am, relating to the retirement benefits of some temporary hourly employees who work for the Legislative Affairs Agency.

CSHB 386 (L&C) am continues with two main objectives; one, to provide an avenue for cost savings for the agency, and two, to expand flexibility in hiring practices.

The proposed Senate CS which you will find attached, responds to problems unintended, but raised by the amendment made on the House floor. That amendment attempted to limit the hours an employee would work to be considered as a temporary hourly. In addition, the proposed Senate CS makes participation in the PERS retirement plan an option by the temporary hourly employee.

I have attached support material for your packet preparation, including the proposed Senate CS and the related fiscal note for it. Please contact Tim Benintendi of my staff at 3764 for further assistance.

CEM/tb/m16

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



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716 W 4TH AVE #630
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PHONE (907) 258-8167
FAX (907) 258-8468

CSHB 386 (L&C) am

This bill would allow the Legislative Affairs Agency to hire temporary hourly employees without the PERS retirement benefit and without leave benefits. Mandatory SBS would still apply.

- + Gives Legislative Affairs Agency hiring flexibility.
- + Provides cost savings by reducing employer-paid payroll charges.
- + Affects TEMPORARY hourly employees only, not permanent hourly employees. Those affected include casual labor in maintenance and supply, public services moderators, summer tour guides, etc.
- + Those who want retirement credit at a later date may apply, and pay actuarial fees through PERS.
- + Does not affect regular legislative staff.
- + Allows retirees interested in part-time work to do so without impact on retirement benefits.
- + Executive Branch has used the practice for years, without problems.
- + Has a negative fiscal note

CEM/tb/stmt.4.1

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE
COLD BAY • DUTCH HARBOR • EGECIK • EKWOK • FALSE PASS • IVANOF BAY • KING COVE • KING SALMON • KOLIGANEK • LEVELOCK • NAKNEK
NELSON LAGOON • NEW • PORT MOLLER • SAND POINT
SHEMYA • SOUA • UNALA • UNGA

- SUMMARY -

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



SESSION
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FAX: (907) 258-6468

SPONSOR SUMMARY

HOUSE BILL 386

HB 386 has two main objectives; one, to provide a cost saving avenue for the Legislative Affairs Agency, and two, to expand flexibility in hiring practices.

The potential cost savings are reflected in less payroll maintenance. The flexibility afforded the agency will allow for the hiring of retirees who do not want additional benefits. It would also respond to the desire of some temporary hourly laborers to not be placed on the PERS system, since they usually cash out and pay a penalty in the process.

This measure would affect TEMPORARY hourly workers only, the casual labor group, not the permanent hourly employees. It would not affect regular legislative staff.

CSHB 386 (L&C) am set a limit of 400 hours on the length of time casual labor may be retained in a hiring status without retirement or leave benefits.

The Executive branch has availed itself of this hiring practice for years without problems. The Legislative Affairs Agency is the only remaining agency without the ability to hire under these circumstances.

The bill carries a negative fiscal note.

CEM/tb/stmt.4

STATEMENT/QUESTIONS

"An act...retirement rights of temporary hourly employees...of the Legislature"

The Legislative Affairs Agency would like to hire people in a temporary capacity without putting them into the Retirement System. This would save the Agency 15% in employer charges and save the employee tax penalties for early withdrawal from the retirement system. It would also eliminate unnecessary paperwork for those employees who choose not to participate in the retirement system.

The Executive Branch is already able to do this because temporary employees are excluded from the retirement system. The Legislative Branch is unable to do this because two different statutes require hourly and temporary employees of the Legislature to be in the retirement system. Prior to 1979 Session Employees of the Legislature were daily paid and considered temporary. In order to include these employees in the retirement system, AS 39.35.680(37) specifically included temporary employees of the Legislature in the retirement system. Session employees are no longer daily paid and Title 39 should be changed. Title 24.10.060(e) specifies that all hourly employees of the Legislature be included in the retirement system. Temporary employees are often paid on an hourly basis.

In order to offer the temporary employee a choice, both of these statutes need to be changed. Currently, any employee of the Legislature must be placed in the retirement system. We would like to be able to offer temporary employees a choice. It would save money and reduce paperwork.

1. Who do you think will choose not to pay into the retirement system?

People who pack and unpack when the Legislature relocates to and from Juneau.
Some Teleconference moderators who work sporadically during the interim.
People who are retired from the State and work for short periods.
Capitol Tour Guides.

2. How will this effect session staffers?

There will be no effect on the majority of session staffers. They are considered seasonal or part time and are included in the retirement system. They are paid on a semi monthly basis like other state employees. Under the committee substitute the few temporary session employees we have would be offered this employee option.

3. How much money will this save?

The fiscal note for the committee substitute shows a savings of \$3,500 in employer charges. It is quite likely that the savings would be greater but as this is an employee option it is difficult to predict.

4. Does the Executive Branch have a similar program?

They are able to hire temporary employees and not include them in the retirement system. They do not have a program which allows the employee the option of choosing to be in the retirement system or not.

5. Should the Legislative Branch have an employer option like the Executive Branch?

Temporary employees of the Legislature have been treated differently than temporary employees of the Executive at least since 1979 when temporary employees of the Legislature were included in the retirement system, even though temporary employees of the Executive were not included. We see no problem offering Legislative employees an option at the same time Executive employees are not offered the same option. This bill serves our unique needs. Currently, Legislators may opt out of the retirement system.

6. Why won't the version which passed the House work?

The version which passed the House caps the number of hours a temporary employee could work without being in the retirement system at 400 hours per year. This is approximately 10 weeks. We feel this unnecessarily restricts the Legislature.

In some instances we might not know how long we will be employing someone and later need to go back and retroactively put them in the retirement system. This is unwieldy and creates an administrative burden for LAA, DOA, and the employee. We would have to begin a time consuming tracking of temporary hours to ensure that a particular employee did not exceed the cap.

7. Can an employee later decide to buy their temporary time?

A vested employee can receive credited service for full time temporary personal service. The employee has to pay the full actuarial cost of the benefits related to the service before being entitled to receive benefits for that employment. The employee is also liable for interest on the amount owed.

We feel this bill serves the Legislature's needs. It protects temporary employees who want retirement benefits yet offers those who do not need or want retirement benefits the ability to opt out.

SENATE COMMITTEE REPORT

DATE: 2/24/94

FURTHER:

DATE TURNED INTO OFFICE: 4/15/94

L&C Committee considered CS FOR HOUSE BILL NO. 386(L&C) am

"An Act relating to the retirement rights of temporary hourly employees hired by the legislature."

and recommends:

- replace with SEN CS HB 386 (L&C)
- or adopt previous CS
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<i>SCS</i> LEGISLATURE	3/17/94		✓
<i>CS</i> ADMIN	3/1/94	✓	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
<i>CS</i> LEGISLATURE	3/17/94		✓
<i>CS</i> LEGISLATURE	1/21/94		✓

Appropriation No Fiscal Note

DO PASS

[Signature]
[Signature]

OTHER RECOMMENDATIONS:

[Signature] NR
Judith P. Salo NK

Tim Kelly
 Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

NO. _____
BILL VERSION: CSHB 386 (L&C) am
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act relating to the retirement rights of temporary hourly employees hired by the legislature."
Sponsor: House Rules Committee
Requestor: House Rules Committee

Department Affected: Legislature
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	-13.4	-13.4	-13.4	-13.4	-13.4	-13.4
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-13.4	-13.4	-13.4	-13.4	-13.4	-13.4

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	-13.4	-13.4	-13.4	-13.4	-13.4	-13.4
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	-13.4	-13.4	-13.4	-13.4	-13.4	-13.4

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

This change will save personal services costs and allow greater flexibility in hiring temporary employees. The Legislature will be able to distinguish between temporary employees, who

(See page 2 for continuation)

Prepared By: Karla Schotfield, Deputy Director
Division: Administrative Services

Phone: 465-3852
Date: 3/17/94

Approved By: Pamela A. Stoops, Executive Director
Agency: Legislative Affairs Agency

Date: 3/17/94

Distribution (by preparator):

FISCAL NOTES

— Gov. & Impacted Agency(ies).
Page 1 of 2

CONTINUATION OF FISCAL NOTE: CSHB 386 (L&C) am

PERSONAL SERVICES

are hired for a few days or for limited hours over a few months, and the majority of seasonal or session employees who would be enrolled in the retirement system. It would also allow retirees who work for short periods the option of declining additional benefits. Neither the temporary employee nor the employer would pay into the retirement system. An employee may not be hired as a temporary employee for longer than 400 hours in a calendar year.

-13.4

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 386(L&C) am

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the Retirement rights of hourly employees of the legislature" BRU: Retirement & Benefits
 Component: Retirement & Benefits
 Sponsor: House Rules
 Requestor: _____ COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

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

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
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 (FY 94) impact: \$ zero

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Robert F. Stalnaker *Robert F. Stalnaker* Phone: 465-4470
 Division: Retirement & Benefits
 Approved by Commissioner: Nancy Bear Usera *Nancy Bear Usera* Date: 3/1/94
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

NO. _____
BILL VERSION: SCS CSHR 386 (L&C)
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act relating to the retirement rights of temporary hourly employees hired by the legislature."
Sponsor: House Rules Committee
Requestor: Senate Labor & Commerce

Department Affected: Legislature
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	-3.5	-3.5	-3.5	-3.5	-3.5	-3.5
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-3.5	-3.5	-3.5	-3.5	-3.5	-3.5

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	-3.5	-3.5	-3.5	-3.5	-3.5	-3.5
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	-3.5	-3.5	-3.5	-3.5	-3.5	-3.5

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

This bill provides the option of enrolling or not enrolling in the retirement system to temporary hourly employees of the Legislature. It is anticipated that employees who work only for a

(See page 2 for continuation)

Prepared By: Karla Schofield, Deputy Director
Division: Administrative Services

Phone: 465-3852
Date: 3/17/94

Approved By: Pamela A. Stoops, Executive Director
Agency: Legislative Affairs Agency

Date: 3/17/94

Distribution (by preparer): Le-

FISCAL NOTE

- & Impacted Agency(ies).
Page 1 of 2

CONTINUATION OF FISCAL NOTE: SCS CSHB 386 (L&C)

PERSONAL SERVICES

few days or for limited hours over a few months, would not participate in the retirement system. This would result in savings to the Legislature in employer contributions to the retirement system. The savings would vary by year depending on the number of employees who elected not to participate.

-3.5

8-LS1534U ✓
Cramer
3/9/94

SENATE CS FOR CS FOR HOUSE BILL NO. 386()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the retirement rights of temporary hourly employees hired
2 by the legislature."

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

4 * Section 1. AS 24.10.060(e) is amended to read:

5 (e) The permanent interim committees of the legislature, the rules committees,
6 the president of the senate, or the speaker of the house of representatives, as
7 appropriate, may authorize the employment of temporary hourly employees.
8 Temporary hourly [HOURLY] employees are subject to the salary schedule set out
9 in AS 39.27.011 [AND GENERAL STATE LAWS REGARDING RETIREMENT] but
10 are not entitled to receive leave benefits. A temporary hourly employee is not
11 entitled to participate in a state retirement system on the basis of the temporary
12 legislative employment unless the employee requests that the position be
13 designated as a position entitled to coverage under the state retirement laws. If
14 the employee makes the request, the position shall be entitled to participate in

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AS 39.35 (Public Employees' Retirement System).

* Sec. 2. AS 39.35.680(37) is amended to read:

(37) "seasonal" refers to an employee who is occupying a position for less than 12 months each year where it is anticipated that the same employee will return to the position when needed and includes a temporary hourly employee of the legislature if the employee requests inclusion in this chapter under AS 24.10.060(e) [PART OF THE SERVICE FOR THE LEGISLATURE DURING EACH CALENDAR YEAR IS PERFORMED DURING A LEGISLATIVE SESSION];

HB

394

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 394

June 25, 1993

*The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

Under the authority of Article II, Section 15, of the Alaska Constitution, I have vetoed:

HOUSE BILL NO. 112 am S

***"An Act relating to limited partnerships;
and providing for an effective date."***

I am vetoing the bill, not because I do not approve of the majority of the changes it would have made, but because it contains a minor but potentially harmful deviation (in Section 18) from the model uniform act upon which the bill is substantially based.

The language of Section 18 was included in the bill because of a concern that current law might be too restrictive of the circumstances under which a court might order dissolution of a limited partnership. I have been advised by the Department of Law that this new provision is somewhat vague, and presents the potential for unnecessary litigation and possibly other undesired results. Under current law, a court may dissolve a limited partnership only if "it is not reasonably practicable to carry on the business" of the partnership. AS 32.11.380. Section 18 of the bill gives the court potentially broader authority to dissolve a limited partnership, in "an equitable way," upon application by any partner.

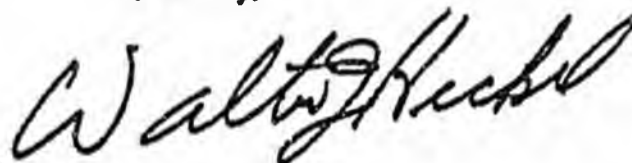
*The Honorable Ramona L. Barnes
June 25, 1993
Page 2*

This provision, however, has other possible (and probably unintended) ramifications. For example, the provision could make limited partnerships less attractive as a tax-planning or estate-planning vehicle. The section could also affect the desirability of limited partnerships as investment vehicles.

While I approve of the major portions of the bill, unfortunately, I must veto this bill because of the potential undesirable impact of Section 18. This Administration is available to work with the Legislature to resolve the problems posed by the language of this section.

With best regards.

Sincerely,



*Walter J. Hickel
Governor*

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RECEIVED

JAN 18 1994

Ans'd.....

January 10, 1994

HB394

Carl E. Moses
Chairman, House Rules Committee
Alaska State Legislature
Capital Building, Room 204
Juneau, AK 99801-1182

Re: House Bill 112 - Support for 1994 Amendments to Alaska Uniform
Limited Partnership Act

Dear Representative Moses:

In 1993, House Bill 112 was introduced. This bill contained amendments to the Alaska Uniform Limited Partnership Act which greatly simplified the filing requirements for limited partnerships in Alaska. The undersigned members of the Alaska Bar Association, Estate Planning Section and Taxation Section, individually supported these filing requirement simplification amendments in 1993, and we again support such amendments in 1994.

However, in 1993, a further amendment was added to House Bill 112 on the Senate floor. This further amendment significantly changed the manner in which limited partnerships could be dissolved. This proposed change would have had several significant detrimental effects upon the operation of limited partnerships in Alaska. First, the amendment would eliminate creditor protection benefits which limited partnerships provide for Alaskans. Under the Uniform Limited Partnership Act, a limited partner may not demand that the partnership be dissolved. Further, a creditor of a limited partner may only obtain a "charging order" against distributions made to the limited partner. These standard Uniform Limited Partnership Act provisions produce substantial protection against creditors. The proposed change would have significantly weakened this protection.

Second, and equally important, the proposed Senate floor amendment would have had the effect of denying estate tax reduction benefits which are available to the citizens of almost all states which have enacted the Uniform Limited Partnership Act. This estate tax savings occurs because the limited partner can not demand that the partnership be dissolved. As a result, the value of the partnership's interest is discounted, often by approximately 25 - 50 percent. As a result, on the death of a limited partner, his or her family often pays significantly less estate tax.

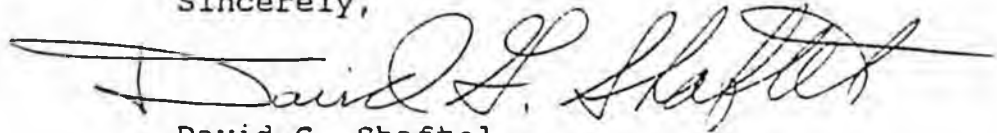
- LTR FROM
DAVID SHAFTEL

The above-described detrimental consequences of the Senate floor amendment caused the undersigned members of the Alaska Bar Association to vigorously oppose House Bill 112, and recommend that it be vetoed. Such a veto occurred on June 25, 1993.

(394)
In summary, we support House Bill 112 as it is proposed in 1994. These amendments will have the beneficial effects of simplifying the filing requirements for limited partnerships in Alaska. This 1994 version of House Bill 112 does not contain the above-described detrimental amendment relating to dissolution of limited partnerships.

Thank you very much for consideration of our views.

Sincerely,



David G. Shaftel,
and on behalf of the following:

Peter B. Brautigam
Hartig, Rhodes, Norman,
Mahoney & Edwards

Robert C. Brink
Attorney

Brian J. Brundin
Hughes, Thorsness, Gantz,
Powell & Brundin

Brian W. Durrell
Bogle & Gates

Peter C. Ginder
Kempel, Huffman and Ginder

John L. Hoffer Jr.
Attorney

Robert L. Manley
Hughes, Thorsness, Gantz,
Powell & Brundin

Steven T. O'Hara
Bankston & McCollum

Charles F. Schuetze
Davis & Goerig

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JUNEAU
Dennis C. Bailey
Caroline Crezma
Paul L. Dillon
Thomas W. Findley
Richard D. Monkman
Arthur H. Peterson
Peter K. Putner

January 20, 1994

HB394

Representative Carl Moses
ATTN: Tim Benintendi
Alaska House of Representatives
Room 204, State Capitol
Juneau, Alaska 99801-1182

FOR MESSENGER PICK-UP

Re: Draft bill re Uniform Limited Partnership Act
-- certificate of limited partnership

Dear Carl:

I have quickly reviewed the January 18, 1994 draft of this bill, prepared by the Legislative Affairs Agency, as you requested, and have discussed it with Legislative Counsel Terry Bannister. It appropriately is a virtual duplicate of last year's HB 112 (which passed the Legislature as HB 112 am S and was vetoed by the governor because of that Senate floor amendment). It looks good and is ready for introduction.

In comparing this draft with HB 112, I find four little differences -- all of which appear to be appropriate. They are:

1. The lead-in line for each bill section in the new version no longer contains the phrase "as enacted by sec. 1, ch. 128, SLA 1992." That phrase appeared in HB 112 because ch. 128, SLA 1992, the comprehensive revision of the Limited Partnership Act, had not yet taken effect. It took effect July 1, 1993, and the phrase is no longer necessary.

2. Section 22(c) has been revised. In HB 112, it said in its entirety:

"Unless otherwise agreed by the partners, the applicable provisions of former AS 32.10, repealed by sec. 2, ch. 128, SLA 1992, governing the allocation of profits and losses, distributions to a withdrawing partner, and distributions of assets upon the winding up of a limited partnership apply to limited partnerships formed before the effective date of this Act instead of AS 32.11.220, as amended by sec. 9 of this Act."

- LTR. FROM UNIFORM LAW COMMISSIONER

In the January 18, 1994 draft, it now says, in its entirety:

"Unless otherwise agreed by the partners, the allocation of profits and losses of a limited partnership that is formed before the effective date of this Act, but after July 1, 1993, is governed by AS 32.11.220, as that section exists before the effective date of this Act, instead of AS 32.11.220, as amended by sec. 9 of this Act."

I believe that the drafter's changes are appropriate since the comprehensive revision of the Limited Partnership Act has now taken effect, and, presumably, some partnerships have already been organized under it. Since AS 32.11.220, referred to in this section does not deal with distributions to a withdrawing partner or distributions of assets upon winding up, the reference to those two actions is deleted. The new reference to July 1, 1993 is helpful because that is when ch. 128, SLA 1992 took effect, and that Act contained its own transition provision to cover the period before July 1, 1993.

3. Section 23 has been revised. HB 112 said:

"If this Act takes effect after July 1, 1993, this Act is retroactive to July 1, 1993, to the extent constitutionally permissible."

The January 18, 1994 draft now says:

"This Act is retroactive to July 1, 1993, to the extent constitutionally permissible."

Again, I believe that the drafter's change is appropriate since the comprehensive revision has taken effect and the contingency language is no longer appropriate. (We now know that the new Act's effective date will be after July 1, 1993.)

4. Section 24 has been revised. HB 112 said:

"This Act takes effect July 1, 1993."

The January 18, 1994 draft now says:

"This Act takes effect immediately under AS 01.10.070(c)."

The new wording (an immediate-effective-date clause) is standard language to accompany a retroactivity clause, such as is in sec. 23. And last year's version referred to July 1,

Rep. Carl Moses
Limited Partnership Act bill
January 20, 1994

Page 3

1993 because that was when the comprehensive revision in ch. 128, SLA 1992 was to take effect, and it was desirable to have the whole package take effect at the same time.

So, the bill is ready to go. Thanks for your support and introduction of it. Let me know if I can be of further assistance.

Yours truly,



Arthur H. Peterson

cc: Terry Bannister
Legislative Counsel
Legislative Affairs Agency

Deborah E. Behr, Assistant A. G.
& Supervisor, Legis./Regs. Section
Alaska Department of Law

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 18, 1994

SUBJECT: Sectional summary of HB 394

TO: Representative Carl Moses
Attn: Tim

FROM: ^{JB} Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of HB 394. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 of the bill removes the requirement that two or more persons have to execute the certificate of limited partnership. Reduces the amount of information that must be provided in the certificate of limited partnership. This is the major change in the bill. The majority of the other changes in the bill reflect this change. The bill takes the approach of relying on a written partnership agreement or on the partnership records as the sources for the information deleted from the certificate.

Section 2 of the bill amends the section relating to the amendment of the certificate of limited partnership. Deletes partnership contribution changes from the list of events that require an amendment to the certificate of limited partnership. This reflects the deletion of contribution information from the information required to be in the certificate.

Section 3 amends the section on the execution of partnership certificates. Simplifies the execution requirements of certain partnership certificates by only requiring execution by the general partners. Deletes the reference to contributions. These changes are necessary because the certificate of limited partnership is no longer required to include information on limited partners and the contributions of the partners.

SECTIONAL

Section 4 of the bill allows a person to use an attorney-in-fact to sign original certificates of limited partnership, certificates of amendment, and certificates of cancellation. Since the certificates are no longer required to contain information on limited partners or partnership contributions, the reference in this subsection to partners is limited to general partners, and the reference to contributions is deleted.

Section 5 of the bill changes the scope of the notice provided by a filed certificate of limited partnership. The certificate provides notice of who is a general partner, not who is a limited partner.

Section 6 of the bill changes the section on the admission of limited partners. The section is amended (1) to add subsection (a), and (2) to delete a subsection that provided that new limited partners are added by amending the certificate of limited partnership. These changes result from the changes made to the certificate of limited partnership. Under those changes, limited partners are no longer required to be identified in the certificate.

Section 7 of the bill indicates that a person who makes certain contributions to a limited partnership is liable as a general partner to certain third parties until either of two listed events occurs. Rewrites the second event to refer to general partners and not to limited partners, since the chapter no longer requires limited partners to be identified in the partnership certificates.

Section 8 of the bill addresses the enforceability and compromise of a partner's promise to contribute to the limited partnership. Adds a new subsection (a), and makes other changes to implement the fact that contribution information is no longer required to be included in the certificate of limited partnership.

Section 9 of the bill directs how profits and losses of a limited partnership are to be allocated among the partners. Substitutes a reference to the partnership records for the reference to the certificate of limited partnership, since information on the value of partnership contributions is no longer required to be contained in the certificate.

Section 10 of the bill directs how distributions are to be allocated among the partners. Substitutes a reference to the partnership records for the reference to the certificate of limited partnership, since information on the value of partnership contributions is no longer required to be contained in the certificate.

Section 11 of the bill states the extent and time when a partner is entitled to receive distributions from a limited partnership. The deletion of paragraph (2) reflects the changes made in sec. 1 of the bill to the information required to be in the certificate of limited partnership.

Section 12 of the bill establishes when a limited partner can withdraw from a limited partnership. Since under sec. 1 of the bill the certificate of limited partnership will contain less information, the section substitutes references to the partnership agreement for the references to the certificate. Requires the time or events of withdrawal to be specified in written form in the agreement or the section takes over.

Section 13 of the bill makes changes to reflect the bill's general approach to require less information in the certificate of limited partnership and refers instead to a written partnership agreement.

Section 14 of the bill makes changes to reflect the bill's general approach to require less information in the certificate of limited partnership and refers instead to the records required under AS 32.11.840 as the source of the information.

Section 15 of the bill makes changes to reflect the bill's general approach to require less information in the certificate of limited partnership. Refers instead to the partnership agreement as the source of the authority for giving an assignee of a partnership interest the right to become a limited partner.

Section 16 deletes the reference to the certificate of limited partnership since, under sec. 1 of the bill, the certificate is no longer required to contain information from which liabilities of the limited partnership could be ascertained.

Section 17 of the bill makes changes to reflect the bill's general approach to require less information in the certificate of limited partnership. The section substitutes a written partnership agreement as a source for determining what events trigger the dissolution of the partnership.

Section 18 of the bill deletes paragraph (3) from the registration application for a foreign limited partnership. The same deletion was made for domestic limited partnerships. Requires the foreign limited partnership to include in its registration application the name and address of each general partner, the address where information on the limited partners is kept, and an undertaking by the partnership to maintain the records.

Section 19. The deletion of AS 32.11.810(3) reflects that information on the character of the limited partnership's business is no longer required to be included in the certificate of limited partnership.

Section 20 of the bill requires a limited partnership to maintain records containing some of the information that is no longer required to be included in the certificate of limited partnership.

Representative Carl Moses

February 18, 1994

Page 4

Section 21 of the bill makes a deletion to reflect that the identity of the limited partners is no longer required to be included in the certificate of limited partnership.

Section 22 of the bill provides transition provisions for the bill.

Section 23 of the bill makes its provisions retroactive to July 1, 1993, to the extent constitutionally permissible.

Section 24 of the bill gives the bill an immediate effective date.

If I may be of further assistance, please advise.

TLB:pl

94-139.plm

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON:
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY

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FAX: (907) 258-8468

MEMORANDUM

DATE: March 11, 1994

TO: Senator Tim Kelly, Chairman
Senate Labor & Commerce Committee

FROM: Rep. Carl E. Moses, Chairman *CEM*
House Rules Committee

SUBJ: Committee Hearing - HB 394

Thank you for scheduling HB 394, the bill to complete the modernization of Alaska's uniform limited partnership law. As you know, this is the reintroduction of HB 112 from last year, which was successfully passed by the legislature.

I have provided support material, attached, to supplement your review of this measure. If there are additional needs prior to the committee hearing, please contact Tim Benintendi of my office at 3764.

CEM/tb/m16

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Juneau, Alaska 99801-2105

M E M O R A N D U M

March 14, 1994

SUBJECT: Draft of CSHB 394(I & C) (Work Order No. 8-LS1546\E,
3-12-94)

TO: Senator Tim Kelly, Chair
Senate Labor & Commerce Committee
Attn: Josh

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the above-referenced bill draft. This draft incorporates into HB 394 the limited liability partnership provisions found in SB 348. Three sections in SB 348 have been modified so that they will fit under the title of HB 394: AS 32.05.350, AS 32.05.310(d), and the new sec. 32.05.620 (formerly sec. 32.05.405 in SB 348), relating to commerce outside the state (now applies only to registered limited liability partnerships, not to partnerships in general).

1. Expression requirement in title. Article II, sec. 13, of the state constitution requires that the subject of each bill be expressed in the title. In other words, the title should give reasonable notice of the contents of the bill.

The title of this draft appears to technically satisfy this requirement. However, please be aware that there is a question in this regard. Although the partnerships covered in HB 348 are "limited" partnerships because their liability is limited, they would not normally be considered "limited partnerships" because that term has developed a specific meaning. Using that same term to cover SB 348 partnerships is not the best way to give reasonable notice of the provisions in the bill that deal with the "limited liability partnerships." Although, as indicated earlier, it's probably technically okay, you need to be aware that the issue is lurking there.

2. Court rule addition to title of HB 394. The addition of the court rule changes to the title of HB 394 is considered a technical change to the title and does not violate the uniform rule prohibiting a title change in the second house.

If I may be of further assistance, please advise.

TLB:pl:mi
94-195.plm

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April 20, 1994

Hon. Tim Kelly, Chair
Senate Labor & Commerce Committee
Alaska State Legislature
Room 101, State Capitol
Juneau, Alaska 99801-1182

Re: HB 394, Uniform Limited Partnership Act

Dear Senator Kelly:

I understand that you plan to take up HB 394, completing the update of Alaska's Uniform Limited Partnership Act (AS 32.11), on Tuesday, April 26, 1994, and I appreciate your doing so.

I also understand that you are thinking of possibly attaching to it the substance of your committee's SB 348, proposing adding "limited liability partnerships" to Alaska's Uniform Partnership Act (AS 32.05). Much as I hate to oppose your bill and that approach, four problems occur to me:

(1) there would be a problem under Rule 41(b), Uniform Rules of the Alaska State Legislature, in that the title refers to limited partnerships whereas SB 348 deals with regular partnerships -- a completely different kind of business entity;

(2) SB 348 proposes a major change in the very concept of partnerships, by providing for all partners, including the general partners, to have limited liability (sec. 3 of the bill);

(3) that major substantive change would make Alaska's version of the Uniform Partnership Act, which that bill amends, seriously out of conformity with the Uniform Act as enacted in other states (all of which have enacted it); and

(4) tacking that bill onto HB 394 would require HB 394 to go back to the House for concurrence, and it might get lost in the final rush ^{at} adjournment.

It would be a shame to lose these amendments to the Uniform Limited Partnership Act that everybody has agreed upon as being very worthwhile for Alaska's business climate.

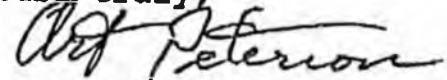
HB 394 completes the job begun in 1992, and I urge your

Hon. Tim Kelly
HB 394, Uniform Limited Partnership Act
April 20, 1994

2

committee's "Do Pass" recommendation. Thank you.

Yours truly,



Arthur H. Peterson
Uniform Law Commissioner
for Alaska

cc: Hon. Carl Moses, Chair
House Rules Committee

Rest of Alaska's Uniform Laws Delegation

BURR, PEASE & KURTZ

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TAX ID NO. 92-0037399

April 22, 1994

Honorable Tim Kelly, Chair
Senate Labor & Commerce Committee
Alaska State Legislature
Room 101, State Capitol
Juneau, AK 99801-1182VIA FACSIMILE
465-3756

Re: House Bill 394, Uniform Limited Partnership Act

Dear Senator Kelly:

The Uniform Partnership Act has been adopted in substance in 47 of the 50 states, and substantially similar legislation has been adopted in two others. Only Louisiana, which is unique in following French civil law, is without some form of the Uniform Partnership Act.

The essence of that Uniform Partnership Act is that people who choose to use a general partnership for their business are liable for the obligations of that business, in contrast to entities such as corporations and limited partnerships. As a representative of the State of Alaska on the Uniform Law Commission, I am highly concerned about the possibility of creating limited liability for general partners as Senate Bill 348 would do.

The Uniform Limited Partnership Act, which all but three states have adopted, offers a way for partners to avoid liability, but makes it clear to other businesses and the public in general that such limited partners have no such liability. That distinction between general and limited partnerships has existed throughout this century, and is understood to be the law throughout the United States.

All of the Uniform Law Commissioners from Alaska hope that your Committee will give favorable consideration to updates of the Alaska version of the Uniform Limited Partnership Act after the hearing concerning it on April 26,

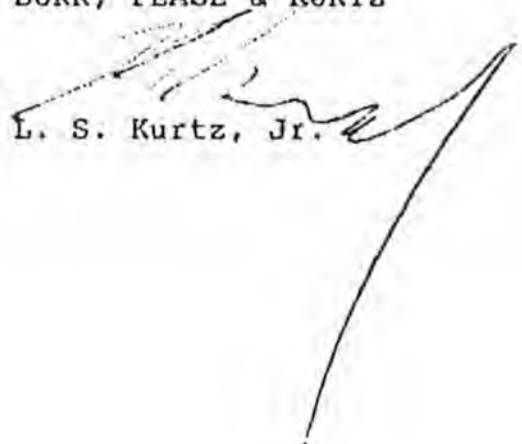
Honorable Tim Kelly, Chair
Page 1
April 22, 1994

1994. However, I am alarmed to learn that you may attach the substance of Senate Bill 348 to House Bill 394. Both as a Uniform Law Commissioner and as a practicing attorney with three decades of experience litigating and negotiating partnership matters, I would be forced to oppose the needed update of Alaska's Uniform Limited Partnership Act if it incorporated the substance of Senate Bill 348. I urge your Committee to keep the two bills separate until full public hearings have been held concerning the substance of Senate Bill 348.

In conclusion, I can assure you of one thing. Passage of Senate Bill 348 in its present form or inclusion of it in the Alaska Uniform Limited Partnership Act will certainly improve the business of all attorneys in Alaska dealing with partnerships, primarily by causing increased litigation. Such action will also make it more difficult to collect loans to partnerships, of which many are held by State of Alaska lending agencies. While I enjoy making money, I do not wish to be doing so because of legislation passed without adequate consideration of the consequences.

Sincerely,

BURR, PEASE & KURTZ


L. S. Kurtz, Jr.

pam119

bcc: John Beard

BURR, PEASE & KURTZ

810 N Street
Anchorage, Alaska 99501
Telephone: (907) 276-6100

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FACSIMILE COVER PAGE

DATE: 4/22/94 TIME: 11:20 a.m.

TO: Honorable Tim Kelly, Chair

Company Name: Alaska State Legislature

City & State: Juneau, AK

Facsimile No: () 465-3756

FROM: L.S. Kurtz, Esq.

FILE NO: _____

COMMENTS: Letter re House Bill 394

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NAME: Pam

TELEPHONE: (907) 276-6100, Extension: 226

SENATE COMMITTEE REPORT

DATE: 3/9/94

FURTHER:

DATE TURNED INTO OFFICE: 4/28/94

L&C Committee considered HOUSE BILL NO. 394

"An Act relating to limited partnerships; and providing for an effective date."

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

Individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
LAW			

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Dept. of Law	4/1/94		
DCED (H)	-		✓

Appropriation No Fiscal Note

DO PASS:

Steve King

OTHER RECOMMENDATIONS:

Bob Noyes No Rec

Judith E. Salo NR

Judith E. Salo No Rec

T. Kelly - Do Pass

Chair: Signature and Recommendation

AMENDMENT #)

OFFERED IN THE SENATE
TO: HB 112

BY SENATOR RIEGER

Page 7, after line 8:

Insert a new bill section to read:

"* Sec. 18. AS 32.11.370, as enacted by sec. 1, ch. 128, SLA 1992, is amended by adding a new subsection to read:

(b) If the partnership agreement or the certificate of limited partnership does not contain a provision for dissolving the partnership, upon application of a partner the court may prescribe an equitable way to dissolve the partnership, taking into account the interests of the partners and creditors of the partnership."

Renumber the following bill sections accordingly.

Repeal in title to second

Repeal
Y adopted or Y unanimous consent
Y N
Y N moved

Ady

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



SESSION
CAPITAL BUILDING ROOM 204
JUNEAU ALASKA 99801-1182
PHONE (907) 465-4451
FAX (907) 455-3445

INTERIM
716 W 4TH AVE #520
ANCHORAGE AK 99501-2133
PHONE (907) 258-8167
FAX (907) 258-8462

SPONSOR SUMMARY

HB 394 is the reintroduction of HB 112 from last year. That bill was successfully heard in two committees in each body in 1993, and passed both houses. As it was taken up on the senate floor at the end of session, the bill was amended by Senator Rieger. The amendment was reviewed by our office, the LAA Legal Section, and a Uniform Law Commissioner, was considered friendly, and passed. Upon review by the state bar association after the end of the session, it was found to present a problem in a very specialized area of limited partnership law.

A review by the Uniform Law Commission, the AG's office, and our legal section, concluded that, in the public interest, HB 112 should be vetoed, because of the impact of the senate amendment.

Now reintroduced without the senate amendment from last year, HB 394 has the support of the Governor, the AG, the Uniform Law Commission, the Alaska Bar Association, and Senator Rieger.

HB 394 completes the upgrade of Alaska's Uniform Limited Partnership Act. With the adoption of this bill, Alaska limited partnership law will be brought into full conformance with recommended language of the National Conference of Commissioners on Uniform State Law (NCCUSL). Thirty-three other states have already adopted this uniform language. The chief advantages of uniform limited partnership law for Alaska are the added attractiveness of forming those partnerships here, (and to a degree, draw investment funds), and commercial compatibility with a majority of other states.

The remaining component of the upgrade which HB 394 satisfies is the form of certification. Under the old language, the LONG form is prescribed when registering or amending a certificate of limited partnership. This form, vintage 1916, requires the submission of a substantial amount of material and information, most of which is

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COLD BAY • DUTCH HARBOR • EGEKIK • EKWOK • FALSE PASS • IVANOF BAY • KING COVE • KING SALMON • KOLIGANEK • LEVELOCK • NAKNEK
NELSON LAGOON • NEW STUYAHOK • NIKOLSKI • PEDRO BAY • PERRYVILLE • PILOT POINT • PORT HEIDEN • PORT MOLLER • SAND POINT
SHEMYA • SQUAW HARBOR • SOUTH NAKNEK • ST. GEORGE ISLAND • ST. PAUL ISLAND • UGASHIK • UNALASKA • UNGA

today cumbersome and unrealistic, given that modern partnerships may include hundreds of investing partners, living in dozens of states.

Section 1 of this bill provides for the NOTICE, or short form of certification. This simply requires less information be submitted when registering or amending a certificate of limited partnership. Currently, the bulk of reports involve change in partner status, ownership share, and other general information. Although this bill will require less information when registering or amending a certificate, ALL INFORMATION pertinent to a limited partnership will still be required to be retained by the partnership.

The 1992 rewrite of Alaska's ULPA failed to address this certification question, or because the sponsor's conversion to, and acceptance of, the notice format came too late in the session to amend the bill in time for passage. Letters supporting last year's HB 112 attest to the overwhelming response to the NOTICE form over the LONG form.

The remaining sections of HB 394 provide for compatibility amendments which complete the transition to the NOTICE format. Four changes in HB 394 from HB 112 of last year reflect changes in time references.

There are two zero fiscal notes (LAW & CED).

FISCAL NOTE

STATE OF ALASKA
1984 LEGISLATIVE SESSION

BILL NO. HB 394

Revision Date: _____
Title: An Act relating to limited partnership
Sponsor: Rep. Moses
Requestor: _____

Department Affected: Commerce and Economic Development
BRU: Banking, Securities and Corporations
Component: _____
COMPONENT SERIAL NO. 1233

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 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: Willis F. Kirkpatrick, Director
Division: Banking, Securities and Corporations

Phone: 465-2521
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: _____

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 394

Revision Date: January 24, 1994
Title: "An Act relating to limited partnerships;
and providing for an effective date."
Sponsor: Representative Moses
Requestor: House Rules Committee

Department Affected: Department of Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services Division

Phone: 465-3672
Date: January 24, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: January 24, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 394

ANALYSIS CONTINUATION:

This bill repeals, reenacts, and amends a good part of the state's Limited Partnership Act, AS 32.10. The bill deals with transactions between private parties, and it will not have a fiscal impact for the Department of Law.

8-LS1546E /
Bannister
3/14/94

SENATE CS FOR HOUSE BILL NO. 394(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MOSES

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to limited partnerships; amending Alaska Rules of Civil
2 Procedure 20 and 24; and providing for an effective date."

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

4 * Section 1. AS 32.05.010(a) is amended to read:

5 (a) A partnership is an association of two or more persons to carry on as
6 co-owners a business for profit, and includes a registered limited liability
7 partnership.

8 * Sec. 2. AS 32.05.100 is amended to read:

9 Sec. 32.05.100. JOINT AND SEVERAL LIABILITY OF PARTNERS.
10 Except as provided in (b) of this section, all [ALL] partners are liable

11 (1) jointly and severally for everything chargeable to the partnership
12 under AS 32.05.080 and 32.05.090;

13 (2) jointly for all other debts and obligations of the partnership; but any
14 partner may enter into a separate obligation to perform a partnership contract.

1 * Sec. 3. AS 32.05.100 is amended by adding new subsections to read:

2 (b) A partner in a registered limited liability partnership is not liable, directly
3 or indirectly, including through indemnification, contribution, assessment, or other
4 manner, for the debts, obligations, and liabilities of, or chargeable to, the partnership,
5 whether in tort, in contract, or under another theory that arise from negligence,
6 wrongful acts, wrongful omissions, malpractice, or misconduct committed by another
7 partner or by an employee or agent of the partnership

8 (1) while the partnership is a registered limited liability partnership; and

9 (2) in the course of the partnership business.

10 (c) The liability limitation in (b) of this section does not affect the liability of
11 a partner in a registered limited liability partnership for the partner's own negligence,
12 wrongful acts, wrongful omissions, malpractice, or misconduct, or the negligence,
13 wrongful acts, wrongful omissions, malpractice, or misconduct of a person under the
14 partner's direct supervision and control.

15 * Sec. 4. AS 32.05.130 is amended to read:

16 Sec. 32.05.130. RULES DETERMINING RIGHTS AND DUTIES OF
17 PARTNERS. The rights and duties of the partners in relation to the partnership shall
18 be determined, subject to any agreement between them, by the following rules:

19 (1) each partner shall be repaid the partner's contributions, whether by
20 way of capital or advances to the partnership property, and shares [SHARE] equally
21 in the profits and surplus remaining after all liabilities, including those to partners, are
22 satisfied; and, except as provided in AS 32.05.100(b), shall contribute towards the
23 losses, whether of capital or otherwise, sustained by the partnership according to the
24 partner's share in the profits;

25 (2) the partnership shall indemnify every partner in respect of payments
26 made and personal liabilities reasonably incurred by the partner in the ordinary and
27 proper conduct of its business, or for the preservation of its business or property;

28 (3) a partner who in aid of the partnership makes a payment or advance
29 beyond the amount of capital that the partner agreed to contribute shall be paid interest
30 from the date of the payment or advance;

31 (4) a partner shall receive interest on the capital contributed by the

1 partner only from the date when repayment should be made;

2 (5) all partners have equal rights in the management and conduct of the
3 partnership business;

4 (6) a partner is not entitled to remuneration for acting in the partnership
5 business, except that a surviving partner is entitled to reasonable compensation for
6 services in winding up the partnership affairs;

7 (7) a person may not become a member of a partnership without the
8 consent of all the partners;

9 (8) any difference arising as to ordinary matters connected with the
10 partnership business may be decided by a majority of the partners; but an act in
11 contravention of an agreement between the partners may not be done rightfully without
12 the consent of all the partners.

13 * Sec. 5. AS 32.05.290 is amended to read:

14 Sec. 32.05.290. PARTNER'S RIGHT TO CONTRIBUTION FROM
15 COPARTNERS AFTER DISSOLUTION. Where the dissolution is caused by the act,
16 death, or bankruptcy of a partner, each partner is liable to the copartners for the
17 partner's share of any liability created by a partner acting for the partnership as if the
18 partnership had not been dissolved unless

19 (1) the dissolution being by act of a partner, the partner acting for the
20 partnership had knowledge of the dissolution; [OR]

21 (2) the dissolution being by the death or bankruptcy of a partner, the
22 partner acting for the partnership had knowledge or notice of the death or bankruptcy;

23 or

24 (3) the liability is for a debt, obligation, or liability for which the
25 partner is not liable under AS 32.05.100(b).

26 * Sec. 6. AS 32.05.310(d) is amended to read:

27 (d) The individual property of a deceased partner is liable for the [ALL]
28 obligations of the partnership incurred while the decedent was a partner, except to the
29 extent the liability of the partner is limited under AS 32.05.100, but subject to the
30 prior payment of the decedent's separate debts.

31 * Sec. 7. AS 32.05.350 is amended to read:

1 Sec. 32.05.350. RULES FOR SETTLING ACCOUNTS FOLLOWING
2 DISTRIBUTION. In settling accounts between the partners after dissolution, the
3 following rules shall be observed, subject to any agreement to the contrary:

4 (1) the assets of the partnership are

5 (A) the partnership property;

6 (B) the contributions of the partners necessary for the payment
7 of all the liabilities specified in (2) of this section, except to the extent the
8 liability of a partner is limited under AS 32.05.100(b);

9 (2) the liabilities of the partnership [SHALL] rank in order of payment
10 as follows:

11 (A) those owing to creditors other than partners;

12 (B) those owing to partners other than for capital and profits;

13 (C) those owing to partners in respect of capital;

14 (D) those owing to partners in respect of profits;

15 (3) the assets shall be applied in the order of their declaration in (1) of
16 this section to the satisfaction of the liabilities;

17 (4) except to the extent the liability of a partner is limited under
18 AS 32.05.100(b), the partners shall contribute, as provided by AS 32.05.130(1), the
19 amount necessary to satisfy the liabilities, but if any, but not all, of the partners is
20 [ARE] insolvent, or not being subject to process, refuses [REFUSE] to contribute, the
21 other partners shall contribute, except to the extent the liability of a partner is
22 limited under AS 32.05.100(b), their share of the liabilities, and, in the relative
23 proportions in which they share the profits the additional amount necessary to pay the
24 liabilities;

25 (5) an assignee for the benefit of creditors or any person appointed by
26 the court may enforce the contributions specified in (4) of this section;

27 (6) a partner or the legal representative of a partner may enforce the
28 contributions specified in (4) of this section, to the extent of the amount that the
29 partner has paid in excess of the partner's share of the liability;

30 (7) the individual property of a deceased partner is liable for the
31 contributions specified in (4) of this section;

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(8) when partnership property and the individual properties of the partners are in the possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore;

(9) where a partner has become bankrupt or the estate of a partner is insolvent the claims against the partner's separate property [SHALL] rank in the following order:

- (A) those owing to separate creditors;
- (B) those owing to partnership creditors;
- (C) those owing to partners by way of contribution.

* Sec. 8. AS 32.05.420 is amended by adding new paragraphs to read:

(7) "partnership" includes a registered limited liability partnership;

(8) "registered limited liability partnership" means a partnership that is registered under AS 32.05.500 - 32.05.600 and that is formed and operates under an agreement governed by this chapter.

* Sec. 9. AS 32.05 is amended by adding new sections to read:

ARTICLE 7. LIMITED LIABILITY PARTNERSHIPS.

Sec. 32.05.500. REGISTRATION REQUIRED. A partnership that is formed and operates under an agreement governed by this chapter may register as a registered limited liability partnership by filing a registration document with the Department of Commerce and Economic Development.

Sec. 32.05.510. CONTENTS OF REGISTRATION DOCUMENT. (a) A registration document under AS 32.05.500 must provide

- (1) the name of the partnership;
- (2) the address of the partnership's principal office, if the partnership's principal office is not located in this state;
- (3) the address of the partnership's registered office;
- (4) the name and address of the partnership's registered agent in the state for the service of process;
- (5) a brief description of the partnership's business; and
- (6) a statement that the partnership is applying for the registration.

1 (b) A registered limited liability partnership may include other information in
2 the registration document.

3 Sec. 32.05.520. EFFECTIVE DATE AND DURATION OF REGISTRATION.

4 Registration under AS 32.05.500 is effective immediately when the registration
5 document is filed under AS 32.05.500. The registration remains effective until the
6 earlier of the date when the partnership

7 (1) voluntarily withdraws its registration under AS 32.05.570; or

8 (2) fails to file the report required under AS 32.05.530(a) within 30
9 days after the partnership receives a notice from the department under
10 AS 32.05.530(b).

11 Sec. 32.05.530. ANNUAL REPORT REQUIRED. (a) A registered limited
12 liability partnership shall file an annual report with the department that indicates any
13 material changes from the information contained in the partnership's registration
14 document filed under AS 32.05.500. The partnership shall file the report during the
15 last 60 days of each calendar year that follows the calendar year when the registration
16 document is filed under AS 32.05.500.

17 (b) If the department does not receive a report required by (a) of this section
18 within the filing period, the department shall notify the partnership by certified mail,
19 return receipt requested, that the department has not received the report.

20 Sec. 32.05.540. EXECUTION OF REGISTRATION DOCUMENT. A
21 registration document filed under AS 32.05.500 or 32.05.530 shall be executed by a
22 partner authorized to execute the application.

23 Sec. 32.05.550. REGISTERED AGENT AND OFFICE. A registered limited
24 liability partnership shall maintain in the state a registered office and an agent for the
25 service of process.

26 Sec. 32.05.560. NAME. The name of a registered limited liability partnership
27 must contain the words "Limited Liability Partnership," the abbreviation "L.L.P.," or
28 the abbreviation "LLP," as the last words or letters of its name.

29 Sec. 32.05.570. VOLUNTARY WITHDRAWAL OF REGISTRATION. A
30 registered limited liability partnership may withdraw its registration by filing with the
31 department a written withdrawal notice that is signed by a partner authorized to

1 execute the withdrawal notice.

2 Sec. 32.05.580. STATUS UNAFFECTED BY ERRORS OR SUBSEQUENT
3 CHANGES. The registration status of a registered limited liability partnership is not
4 affected by errors in the information provided in a registration application or by
5 changes that occur in the information provided in the registration application after the
6 application is filed.

7 Sec. 32.05.590. DEPARTMENT FORMS. The department may provide forms
8 for registration under AS 32.05.500 or for filing of a report under AS 32.05.530.

9 Sec. 32.05.600. FOREIGN LIMITED LIABILITY PARTNERSHIPS. (a)
10 Subject to another statute that applies to or regulates the partnership, a foreign limited
11 liability partnership may conduct business in this state. The partnership is not required
12 to register with the department under this chapter.

13 (b) The name of a foreign limited liability partnership must contain the words
14 "Limited Liability Partnership," the abbreviation "L.L.P.," or the abbreviation "LLP,"
15 as the last words or letters of its name.

16 (c) The internal affairs of foreign limited liability partnerships, including the
17 liability of partners for the debts, obligations, and liabilities of, or chargeable to, the
18 partnership, are subject to and governed by the laws of the state where the partnership
19 is formed as a limited liability partnership.

20 (d) In this section, "foreign limited liability partnership" means a limited
21 liability partnership formed under an agreement governed by the laws of another
22 jurisdiction and conducting business in this state.

23 Sec. 32.05.610. PARTNERS AS PARTIES TO ACTIONS. A partner in a
24 registered limited liability partnership is not a proper party to a proceeding by or
25 against the partnership if the object of the proceeding is to enforce or to recover
26 damages for debts, obligations, or liabilities that are of the type that the partner is not
27 liable for under AS 32.05.100(b), unless the debts, obligations, and liabilities are of the
28 type for which the partner may be held liable under AS 32.05.100(c).

29 Sec. 32.05.620. COMMERCE OUTSIDE THE STATE. (a) A registered
30 limited liability partnership may conduct its business, carry on its operations, and has
31 and may exercise the powers granted by this chapter in a state, territory, district, or

1 possession of the United States or in a foreign country.

2 (b) It is the intent of this chapter that the legal existence of a registered limited
3 liability partnership be recognized outside the boundaries of the state and that a
4 registered limited liability partnership transacting business outside the state be granted
5 the protection of art. IV, sec. 1, Constitution of the United States, subject to a
6 reasonable requirement of registration.

7 (c) The liability of the partners in a registered limited liability partnership for
8 the debts, obligations, and liabilities of the partnership shall at all times be determined
9 solely and exclusively by the laws of this state.

10 * Sec. 10. AS 32.11.010(a) is repealed and reenacted to read:

11 (a) In order to form a limited partnership, a certificate of limited partnership
12 shall be executed and filed with the Department of Commerce and Economic
13 Development. The certificate must set out

14 (1) the name of the limited partnership;

15 (2) the address of the office and the name and address of the agent for
16 service of process required to be maintained by AS 32.11.830;

17 (3) the name and business address of each general partner;

18 (4) the latest date upon which the limited partnership is to dissolve; and

19 (5) other matters the general partners determine to include.

20 * Sec. 11. AS 32.11.020(b) is amended to read:

21 (b) Within 30 days after the following events, an amendment to a certificate
22 of limited partnership reflecting the occurrence of the event or events shall be filed:

23 (1) [A CHANGE IN THE AMOUNT OR CHARACTER OF THE
24 CONTRIBUTION OF A PARTNER, OR IN A PARTNER'S OBLIGATION TO
25 MAKE A CONTRIBUTION;

26 (2) the admission of a new general partner;

27 (2) [(3)] the withdrawal of a general partner; or

28 (3) [(4)] the continuation of the business under AS 32.11.370 after an
29 event of withdrawal of a general partner.

30 * Sec. 12. AS 32.11.040(a) is amended to read:

31 (a) Each certificate required by AS 32.11.010 - 32.11.090 to be filed with the

1 department shall be executed in the following manner:

2 (1) an original certificate of limited partnership shall be signed by all
3 general partners [NAMED IN THE CERTIFICATE];

4 (2) a certificate of amendment shall be signed by at least one general
5 partner and by each other general partner designated in the certificate as a new
6 general partner [OR WHOSE CONTRIBUTION IS DESCRIBED AS HAVING BEEN
7 INCREASED]; and

8 (3) a certificate of cancellation shall be signed by all general partners.

9 * Sec. 13. AS 32.11.040(b) is amended to read:

10 (b) A person may sign a certificate by an attorney-in-fact, but a power of
11 attorney to sign a certificate relating to the admission [, OR INCREASED
12 CONTRIBUTION,] of a general partner must specifically describe the admission [OR
13 INCREASE].

14 * Sec. 14. AS 32.11.080 is amended to read:

15 Sec. 32.11.080. SCOPE OF NOTICE. The fact that a certificate of limited
16 partnership is on file with the department is notice that the partnership is a limited
17 partnership and the persons designated in the certificate as general [LIMITED]
18 partners are general [LIMITED] partners, but it is not notice of any other fact.

19 * Sec. 15. AS 32.11.100 is repealed and reenacted to read:

20 Sec. 32.11.100. ADMISSION OF LIMITED PARTNERS. (a) A person
21 becomes a limited partner

22 (1) at the time the limited partnership is formed; or

23 (2) at a later time specified in the records of the limited partnership for
24 becoming a limited partner.

25 (b) After the filing of a limited partnership's original certificate of limited
26 partnership, a person may be admitted as an additional limited partner

27 (1) in the case of a person acquiring a partnership interest directly from
28 the limited partnership, upon compliance with the partnership agreement or, if the
29 partnership agreement does not provide, upon the written consent of all partners; and

30 (2) in the case of an assignee of a partnership interest of a partner who
31 ~~has~~ power under AS 32.11.350 to grant the assignee the right to become a limited

1 partner, upon the exercise of that power and compliance with conditions limiting the
2 grant or exercise of the power.

3 * Sec. 16. AS 32.11.130(b) is amended to read:

4 (b) A person who makes a contribution of the kind described in (a) of this
5 section is liable as a general partner to a third party who transacts business with the
6 enterprise before (1) the person withdraws and an appropriate certificate is filed to
7 show withdrawal, or (2) an appropriate certificate is filed to show that the person is
8 not a general partner [THE PERSON'S STATUS AS A LIMITED PARTNER AND,
9 IN THE CASE OF AN AMENDMENT, AFTER EXPIRATION OF THE 30-DAY
10 PERIOD FOR FILING AN AMENDMENT RELATING TO THE PERSON AS A
11 LIMITED PARTNER UNDER AS 32.11.020], but in either case under (1) or (2) only
12 if the third party actually believed in good faith that the person was a general partner
13 at the time of the transaction.

14 * Sec. 17. AS 32.11.210 is repealed and reenacted to read:

15 Sec. 32.11.210. LIABILITY FOR CONTRIBUTION. (a) A promise by a
16 limited partner to contribute to the limited partnership is not enforceable unless set out
17 in a writing signed by the limited partner.

18 (b) Except as provided in the partnership agreement, a partner is obligated to
19 the limited partnership to perform an enforceable promise to contribute cash or
20 property or to perform services even if the partner is unable to perform because of
21 death, disability, or other reason. If a partner does not make the required contribution
22 of property or services, the partner is obligated at the option of the limited partnership
23 to contribute cash equal to that portion of the value, as stated in the partnership records
24 required to be kept under AS 32.11.840, of the stated contribution that has not been
25 made.

26 (c) Unless otherwise provided in the partnership agreement, the obligation of
27 a partner to make a contribution or return money or other property paid or distributed
28 in violation of this chapter may be compromised only by consent of all partners.
29 Notwithstanding the compromise, a creditor of a limited partnership who extends credit
30 or otherwise acts in reliance on that obligation after the partner signs a writing that
31 reflects the obligation, and before the amendment or cancellation to reflect the

1 compromise, may enforce the original obligation.

2 * **Sec. 18.** AS 32.11.220 is amended to read:

3 Sec. 32.11.220. SHARING OF PROFITS AND LOSSES. The profits and
4 losses of a limited partnership shall be allocated among the partners, and among
5 classes of partners, in the manner provided in writing in the partnership agreement. If
6 the partnership agreement does not specify in writing, profits and losses shall be
7 allocated on the basis of the value, as stated in the [CERTIFICATE OF LIMITED]
8 partnership records required to be kept under AS 32.11.840, of the contributions
9 made by each partner to the extent they have been received by the partnership and
10 have not been returned.

11 * **Sec. 19.** AS 32.11.230 is amended to read:

12 Sec. 32.11.230. SHARING OF DISTRIBUTIONS. Distributions of cash or
13 other assets of a limited partnership shall be allocated among the partners and among
14 classes of partners in the manner provided in writing in the partnership agreement. If
15 the partnership agreement does not specify in writing, distributions shall be made on
16 the basis of the value, as stated in the [CERTIFICATE OF LIMITED] partnership
17 records required to be kept under AS 32.11.840, of the contributions made by each
18 partner to the extent they have been received by the partnership and have not been
19 returned.

20 * **Sec. 20.** AS 32.11.240 is amended to read:

21 Sec. 32.11.240. INTERIM DISTRIBUTIONS. Except as provided in
22 AS 32.11.240 - 32.11.310, a partner is entitled to receive distributions from a limited
23 partnership before the partner's withdrawal from the limited partnership and before the
24 dissolution and winding up of the partnership

25 [(1)] to the extent and at the times or upon the happening of the events
26 specified in the partnership agreement [; AND

27 (2) IF A DISTRIBUTION CONSTITUTES A RETURN OF A PART
28 OF THE PARTNER'S CONTRIBUTION UNDER AS 32.11.310(c), TO THE
29 EXTENT AND AT THE TIMES OR UPON THE HAPPENING OF THE EVENTS
30 SPECIFIED IN THE CERTIFICATE OF LIMITED PARTNERSHIP].

31 * **Sec. 21.** AS 32.11.260 is amended to read:

1 Sec. 32.11.260. WITHDRAWAL OF LIMITED PARTNER. A limited partner
2 may withdraw from a limited partnership at the time or upon the happening of events
3 specified in writing in the [CERTIFICATE OF LIMITED PARTNERSHIP AND IN
4 ACCORDANCE WITH THE] partnership agreement. If the agreement
5 [CERTIFICATE] does not specify in writing the time or the events upon the
6 happening of which a limited partner may withdraw or a definite time for the
7 dissolution and winding up of the limited partnership, a limited partner may withdraw
8 upon not less than six months' prior written notice to each general partner at the
9 general partner's address on the books of the limited partnership at its office in this
10 state.

11 * Sec. 22. AS 32.11.280 is amended to read:

12 Sec. 32.11.280. DISTRIBUTION IN KIND. Except as provided in writing
13 in the [CERTIFICATE OF LIMITED] partnership agreement, a partner, regardless of
14 the nature of the partner's contribution, does not have the right to demand and receive
15 a distribution from a limited partnership in a form other than cash. Except as provided
16 in writing in the partnership agreement, a partner may not be compelled to accept a
17 distribution of an asset in kind from a limited partnership to the extent that the
18 percentage of the asset distributed to the partner exceeds a percentage of that asset that
19 is equal to the percentage in which the partner shares in distributions from the limited
20 partnership.

21 * Sec. 23. AS 32.11.310(c) is amended to read:

22 (c) A partner receives a return of the partner's contribution to the extent that
23 a distribution to the partner reduces the partner's share of the fair value of the net
24 assets of the limited partnership below the value, as set out in the [CERTIFICATE OF
25 LIMITED] partnership records required to be kept under AS 32.11.840, of the
26 partner's contribution that has not been distributed to the partner.

27 * Sec. 24. AS 32.11.350(a) is amended to read:

28 (a) An assignee of a partnership interest, including an assignee of a general
29 partner, may become a limited partner if and to the extent that

30 (1) the assignor gives the assignee that right in accordance with
31 authority described in the [CERTIFICATE OF LIMITED] partnership agreement; or

1 (2) all other partners consent.

2 * Sec. 25. AS 32.11.350(b) is amended to read:

3 (b) An assignee who has become a limited partner has, to the extent assigned,
4 the rights and powers, and is subject to the restrictions and liabilities, of a limited
5 partner under the partnership agreement and this chapter. An assignee who becomes
6 a limited partner also is liable for the obligations of the assignee's assignor to make
7 and return contributions as provided in AS 32.11.200 - 32.11.310. However, the
8 assignee is not obligated for liabilities unknown to the assignee at the time the assignee
9 became a limited partner [AND THAT COULD NOT BE ASCERTAINED FROM
10 THE CERTIFICATE OF LIMITED PARTNERSHIP].

11 * Sec. 26. AS 32.11.370 is amended to read:

12 Sec. 32.11.370. DISSOLUTION. A limited partnership is dissolved and its
13 affairs shall be wound up upon the happening of the first to occur of the following:

14 (1) at the time specified in the certificate of limited partnership;

15 (2) upon the happening of events specified in writing in the
16 [CERTIFICATE OF LIMITED] partnership agreement;

17 (3) written consent of all partners;

18 (4) an event of withdrawal of a general partner unless at the time there
19 is at least one other general partner and the written provisions of the [CERTIFICATE
20 OF LIMITED] partnership agreement permit [PERMITS] the business of the limited
21 partnership to be carried on by the remaining general partner and that partner does so,
22 but the limited partnership is not dissolved and is not required to be wound up by
23 reason of an event of withdrawal if, within 90 days after the withdrawal, all partners
24 agree in writing to continue the business of the limited partnership and to the
25 appointment of one or more additional general partners if necessary or desired; or

26 (5) entry of a decree of judicial dissolution under AS 32.11.380.

27 * Sec. 27. AS 32.11.420 is amended to read:

28 Sec. 32.11.420. REGISTRATION. Before transacting business in this state,
29 a foreign limited partnership shall register with the department. In order to register, a
30 foreign limited partnership shall submit to the department an original and an exact
31 copy of an application for registration as a foreign limited partnership, signed and

1 sworn to by a general partner and setting out

2 (1) the name of the foreign limited partnership and, if different, the
3 name under which it proposes to register and transact business in this state;

4 (2) the state and date of its formation;

5 (3) [THE GENERAL CHARACTER OF THE BUSINESS IT
6 PROPOSES TO TRANSACT IN THIS STATE;

7 (4)] the name and address of an agent for service of process on the
8 foreign limited partnership whom the foreign limited partnership elects to appoint; the
9 agent must be an individual resident of this state, a domestic corporation, or a foreign
10 corporation having a place of business in, and authorized to do business in, this state;

11 (4) [(5)] a statement that the commissioner is appointed the agent of
12 the foreign limited partnership for service of process if an agent has not been
13 appointed under (3) [(4)] of this section or, if appointed, the agent's authority has been
14 revoked or if the agent cannot be found or served with the exercise of reasonable
15 diligence;

16 (5) [(6)] the address of the office required to be maintained in the state
17 of its organization by the laws of that state or, if not so required, of the principal office
18 of the foreign limited partnership; [AND]

19 (6) [(7) IF THE CERTIFICATE OF LIMITED PARTNERSHIP FILED
20 IN THE FOREIGN LIMITED PARTNERSHIP'S STATE OF ORGANIZATION IS
21 NOT REQUIRED TO INCLUDE IT, THE FOLLOWING INFORMATION:

22 (A)] the name [NAMES] and business address [ADDRESSES]
23 of each general partner; and

24 (7) the address of the office at which is kept a list of the names and
25 addresses of the limited partners and their capital contributions, together with an
26 undertaking by the foreign limited partnership to keep those records until the
27 foreign limited partnership's registration in this state is cancelled or withdrawn

28 [(B) THE CAPITAL CONTRIBUTION OF EACH LIMITED
29 PARTNER].

30 * Sec. 28. AS 32.11.810 is amended to read:

31 Sec. 32.11.810. NAME. The name of a limited partnership as set out in its

1 certificate of limited partnership

2 (1) must contain without abbreviation the words "limited
3 partnership";

4 (2) may not contain the name of a limited partner unless

5 (A) it is also the name of a general partner or the corporate
6 name of a corporate general partner; or

7 (B) the business of the limited partnership had been carried on
8 under that name before the admission of that limited partner; and

9 (3) ~~[MAY NOT CONTAIN A WORD OR PHRASE INDICATING OR
10 IMPLYING THAT IT IS ORGANIZED OTHER THAN FOR A PURPOSE STATED
11 IN ITS CERTIFICATE OF LIMITED PARTNERSHIP; AND~~

12 (4)] may not be the same as, or deceptively similar to, the name of a
13 corporation or limited partnership organized under the laws of this state or licensed or
14 registered as a foreign corporation or limited partnership in this state.

15 * Sec. 29. AS 32.11.840(a) is amended to read:

16 (a) A limited partnership shall keep at the office referred to in
17 AS 32.11.830(a)(1) the following:

18 (1) a current list of the full name and last known business address of
19 each partner, separately identifying the general partners in alphabetical order and
20 the limited partners in alphabetical order;

21 (2) a copy of the certificate of limited partnership and all certificates
22 of amendment to it, together with executed copies of a power of attorney under which
23 a certificate has been executed;

24 (3) copies of the limited partnership's federal, state, and local income
25 tax returns and reports, if any, for the three most recent years; [AND]

26 (4) copies of a then effective written partnership agreement and of a
27 financial statement of the limited partnership for the three most recent years; and

28 (5) unless contained in a written partnership agreement, a writing
29 setting out

30 (A) the amount of cash and a description and statement of
31 the agreed value of the other property or services contributed by each

1 partner and that each partner has agreed to contribute;

2 (B) the times at which or events on the happening of which
3 additional contributions agreed to be made by each partner are to be
4 made;

5 (C) the right of a partner to receive, or of a general partner
6 to make, distributions to a partner that include a return of all or a part
7 of the partner's contribution; and

8 (D) events upon the happening of which the limited
9 partnership is to be dissolved and its affairs wound up.

10 * Sec. 30. AS 32.11.900(8) is amended to read:

11 (8) "limited partner" means a person who has been admitted to a
12 limited partnership as a limited partner in accordance with the partnership agreement
13 [AND NAMED IN THE CERTIFICATE OF LIMITED PARTNERSHIP AS A
14 LIMITED PARTNER];

15 * Sec. 31. APPLICABILITY PROVISIONS. (a) AS 32.11.210 and 32.11.310, as amended
16 by secs. 17 and 23 of this Act, do not apply to a limited partnership contribution or
17 distribution, unless the contribution or distribution is made after the effective date of secs. 17
18 and 23 of this Act.

19 (b) AS 32.11.350, as amended by secs. 24 and 25 of this Act, does not apply to a
20 limited partnership assignment unless the assignment is made after the effective date of
21 secs. 24 and 25 of this Act.

22 (c) Unless otherwise agreed by the partners, the allocation of profits and losses of a
23 limited partnership that is formed before the effective date of sec. 18 of this Act, but after
24 July 1, 1993, is governed by AS 32.11.220, as that section exists before the effective date of
25 sec. 18 of this Act, instead of AS 32.11.220, as amended by sec. 18 of this Act.

26 * Sec. 32. AMENDMENT OF COURT RULES. AS 32.05.610, enacted by sec. 9 of this
27 Act, amends

28 (1) Alaska Rule of Civil Procedure 20 because it effectively prohibits the
29 joinder of a partner in a registered limited liability partnership as a party in certain civil
30 actions; and

31 (2) Alaska Rule of Civil Procedure 24 because it effectively prohibits the

1 intervention of a partner in a registered limited liability partnership as a party in certain civil
2 actions.

3 * Sec. 33. Sections 10 - 31 of this Act are retroactive to July 1, 1993, to the extent
4 constitutionally permissible.

5 * Sec. 34. Sections 10 - 31 and 33 of this Act take effect immediately under
6 AS 01.10.070(c).

7 * Sec. 35. Sections 1 - 9 and 32 of this Act take effect July 1, 1994.