

ALABAMA LEGISLATIVE COMMITTEE ON GOVERNMENT  
7/00

9438

HOUSE • STATE AFFAIRS

**HB**

**168**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 6, 1998

FURTHER REFERRALS:

Date of Committee Action: 2/24/98

The STATE AFFAIRS Committee considered:

HB 168

HOUSE BILL NO. 168

TRADITIONAL ACCESS FOR TRADITIONAL ACTIVI

“An Act relating to use of traditional means of access to assist in taking game or fish and to traditional means of access for traditional outdoor activities on land and water set aside for fish and game purposes; and providing for an effective date.”

recommends it be replaced with the following committee substitute CSHB 168 (RES) [ ] the same title  
[ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee  
[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

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

[  ] zero fiscal note(s) FTG

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Janette James</i>			✓	
<i>K. S. ...</i>		✓		
<i>...</i>		✓		
<i>...</i>		✓		
<i>...</i>			✓	
<i>...</i>	✓			
<i>...</i>	✓			

CHAIR'S SIGNATURE *Janette James*

MAR-03-98 TUE 06:21 AM BURKHART, ROY-JUNE

907 495 6338

P. 02



**The Alaska Boating Association**  
P.O. Box 210430  
Anchorage, Alaska 99521

Cliff Judkins, President

March 2, 1998

To: Members of the Alaska House of Representatives  
State Capitol  
Interdepartmental Mail Stop: 3101  
Juneau, AK 99801-1182

The Alaska Boating Association strongly supports **HB168**, dealing with Traditional Access for Hunting and Fishing Purposes.

HB168 is necessary since Seventy (70) percent of our states population resides between Homer and Talkeetna, Alaska. The Game Management Units that this area covers includes GMU13, GMU14, GMU15, and GMU16. In these Game Management Unit areas there are Fourteen (14) state restricted areas that affect motorized access in one way or another. Many of these restrictions were orchestrated to benefit certain special interest groups. In some cases it allows a special interest group the exclusive use of an area. In other cases it benefits a special interest group financially. In the Fourteen (14) restricted areas hardly any restrictions were based upon game habitat protection and none were based upon the protection of the game resources. Example: In GMU13 the Tonsina Controlled Use Area is closed to using motorized vehicles or pack animals for hunting from July 26 to September 30. There is nothing prohibiting a person to use a motorized vehicle or a pack animal during this period of time in this area as long as they are not hunting. It should also be noted that these restrictions not only apply to motorized access, but in some cases, to non-motorized as well.

When restrictions are placed on motorized access the consumptive users with physical disabilities and senior citizens are adversely affected. Example: Two hunters in their mid-twenties, who are in top physical condition, hunt in the same Game Management Unit. One hunter accesses the area by non-motorized means by walking. The other hunter accesses the area by motorized means. If the Game Board restricts this area to non-motorized access only, the before mentioned hunter who used motorized means to access will be required to walk in to use the area. However, if there was a third hunter who also hunted in this same area, who accessed the area by motorized means because he has physical limitations or he is physically disabled, when the Game Board restricts motorized access in the area, the disabled hunter does not have the choice of walking in. Instead, because he cannot physically walk in, as the other hunters do, he is in actuality restricted

**Page Two 2): ABA Letter to House State Affairs Committee, March 2, 1998**

from using the area.

*Sec. 16.05.255 of the Regulations of the Board of Game* gives the Board the authority, with specific guidelines, to set bag limits and seasonal openings, to establish the means and methods employed in the harvest of game consistent with resource conservation and development goals, and other authorities. Included within this regulation the Board of Game has the authority to establish means and methods that may be employed by persons with physical disabilities. The legislature, in its wisdom, recognized the social needs of the physically disabled and gave the Board of Game this authority to grant special access considerations to this group. The Board of Game has failed, almost totally, in this area. As stated previously, approximately Seventy (70) percent of our states population lives between Homer and Talkeetna, Alaska. Thus, it would stand to reason that this same area has Seventy (70) percent of the disabled population as well. In the four Game Management Units mentioned previously (GMU13, GMU14, GMU15, and GMU16), which are used the most by this Seventy (70) percent of the population, there are fourteen (14) access restrictions. The Board of Game has made one exception in these Game Management Units for the disabled which is listed on Page Ten (10) of the 1997-98 Alaska Hunting Regulations, under the heading *Disability Provisions, paragraph Three (3)*. The only other exception for the entire State of Alaska is on the same page of the same regulation book under *Disability Provisions, paragraph Two (2)*. Within other State agencies within the State of Alaska there are numerous examples of where the special problems and concerns for the physically disabled are recognized. Businesses are required to provide Handicapped Parking as close to the building entrance as is possible. The Department of Motor Vehicles even gives complimentary Parking Stickers for the Handicapped with proper documentation from a medical doctor. Special ramps are required, not only for wheel chair access, but for people who are ambulatory but find stairways restrictive. Large buildings are now required to have elevators, again not just for wheel chair access, but for those who are stairway restricted. You could go to just about any shopping mall within the State of Alaska and park your vehicle as far away from the entrance as possible and it would be doubtful that you would have to walk more than 150 yards, probably all on a level surface, to get to the building entrances. The State of Alaska has recognized that a distance of 150 yards for many disabled and limited people, is a severe hardship. Yet, the Board of Game has issued in the before mentioned regulations only two exceptions for the physically handicapped. In one of these requirements a person must be restricted to a wheel chair for the exception to apply and in the other a person must be able to prove, through some medical source, that they are considered at least Seventy (70) percent disabled. Where does this agency and the Board get the authority to dictate what percentage or how severe a person is disabled?

The Alaska Boating Association has many elderly and disabled members. Within this group there are Disabled American Veterans, some of whom have become disabled through service to their country. Our members have in the past placed the preservation and protection of the fish and game resources and the habitat of those resources as the ultimate priority consideration. The preservation of both the resource and its habitat is probably the most on going effort getting our organizations attention. And when supported by scientific data and facts, any area concerning the preservation of resources and habitat requiring restriction will get our utmost support. However, we will not quietly sit back and be consistently restricted from our resources when no valid reason is evident. Going back to *Sec. 16.05.255 of the Regulations governing the Board of*

MAR 03 98 TUE 06:22 AM BURKHART, ROY-JUNE

907 495 6338

P. 04

**Page Three (3): ABA Letter to House State Affairs Committee of March 2, 1998**

Game there is no authority addressing the quality of an outdoor experience, which we consistently hear is reason for applying restrictions.

Another area that needs to be addressed in support of HB168 has to do with *Public Law 96-487 (ANILCA-Dec. 2, 1980), Sec 811.(a) and (b)* which I quote as follows:

*Access*

*Sec. 811.(a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.*

*(b) Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.*

Rural residents under this act, engaged in subsistence uses, are guaranteed access to Public Lands. Two of the methods specifically mentioned are snowmobile and motorboat. Should not the urban consumptive user have the same access rights?

During the first half of the current Legislative Session, two excellent Bills were introduced, debated, and successfully passed dealing with access to public land usage. Senate Bill 035 and House Bill 023 gives the Legislature the authority on restrictions to Public land usage, including Public Parks lands. House Bill 168, being discussed here, completes the circle! This bill will give the authority to the Legislature to approve or disapprove of restrictions to Public Land access for purposes of hunting and fishing.

Our Organization, the Alaska Boating Association, has carefully examined this Bill and we especially note that the Bill protects the fish and game resource and the resource habitat under it's Amendment to Section 1 AS16.05.794, Item Number Three (3). Thus, our Association, its membership, including the disabled and the elderly limited members, urge you to vote for the passage of HB168 for, but not necessarily limited to, the reasons specifically described herein

Yours truly



Elizabeth J. Burkhardt, Legislative Affairs Committee Member

cc: Representative Beverly Masek, Sponsor, HB168  
Cliff Judkins, President, Alaska Boating Association



# Alaska State Legislature

**Representative Beverly Masek**

Chair, Military & Veterans Affairs

Vice Chair, Transportation

Vice Chair, Resources

Legislative Council

During Interim:

600 East Railroad Avenue  
Wasilla, AK 99654  
907-376-2679  
907-376-6180 (fax)

During Session:

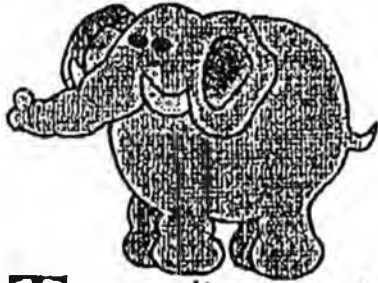
State Capitol  
Juneau, Ak. 99801-1182  
(907) 465-2679  
(907) 465-4822 FAX  
(800) 505-2678

## **SPONSOR STATEMENT – HB 168** **Bill Protecting Traditional Access on State Lands**

House Bill 168 follows up on the efforts of this Legislature to ensure the general public continues to have reasonable access to the land and resources they own. This legislation protects public access from arbitrary closures by the Department of Fish and Game and the Boards of Fish and Game.

Last year the House and Senate passed HB 23 and SB 35 which dealt with public lands and state park lands respectively. This past interim the Board of Game generated a set of proposals to inquire into whether motorized access should be allowed in Game Management Unit 13. Although at public hearings it was well demonstrated that the majority of Alaskans support access for hunting and fishing, the Board of Game at its November hearing on this issue appointed a special committee to explore this issue further.

Both HB 23 and SB 35 passed the House and Senate by solid majorities. The public's fears that those lands remaining open to access at this time will also be closed are fed by actions such as those taken by the Board of Game this past year. HB 168, like HB 23 and SB 35 will require legislative approval of those closures that are made without sound evidence pertaining to public safety or biological concerns.



# FAX Cover Sheet

Date: 02/16/98

To: \*Members - State Affairs Committee

Attention: HB 168

Number: \_\_\_\_\_

From: Roy and June Burkhart, P.O. Box 204, Willow, AK

99688-0204

VOICE:(907)495-6337 FAX:(907)495-6338

E-Mail: rjburk@alaska.net CELL-Roy:355-0303

Cell-June: 355-0404

Subject \* Rep. Jeannette James 907-465-2381

Rep. Fred Doyson 907-465-4587

Rep. Ivan Ivan 907-465-4589

Rep. Mark Hodgins 907-465-2833

Rep. Al Vezey 907-465-3258

Rep. Ethan Berkowitz 907-465-2137

Rep. Kim Elton 907-465-2108

## HAVE A GREAT DAY !



**The Alaska Boating Association**  
P.O. Box 210430  
Anchorage, Alaska 99521

Donald Sherwood- President

---

February 16, 1998

To: Members of the House State Affairs Committee:

Representative Jeannette James, Chair

Members: Representative Fred Dyson

Representative Ivan Ivan

Representative Mark Hodgins

Representative Al Vezey

Representative Ethan Berkowitz

Representative Kim Eiton

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**Page Two 2): ABA Letter to House State Affairs Committee, February 16, 198**

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Yours truly,



Elizabeth J. Burkhart, Legislative Affairs Committee Member

cc: Representative Beverly Masek, Sponsor, HB168  
Cliff Judkins, President, Alaska Boating Association



Alaska Boating Association \* P.O. Box 210430 \* Anchorage, Alaska 99521


TO: REP Bev Masek

4 Feb 1998

FROM: Don Sherwood

SUBJECT: HB168 "An Act relating to use of traditional means of access to assist in taking game or fish and to traditional means of access for traditional outdoor activities on land and water set aside for fish and game purposes".

We of the Alaska Boating Assn have always tried to create a fair and equitable way of motorized access on our states public land and waterways. But with DNR continuing in it's off handed way of imposing unnecessary, unscientific studied restrictions on OUR public lands, it has now become necessary to find away to protect the motorized public from these unwarranted attacks on our constitutional right to access. This has to cease or we the citizens of Alaska will continue to be crowded into less and less areas, just so the Preservationists can take away more areas from human use. With less than 1% of the land in use today, this is nothing but a attack on our ability to develop both our renewable resources and natural resources. It has to stop and we think this bill help stop the elitist from taking away our rights of use of public property. With fishing, hunting, and outdoor recreation as a primary reason for so many of us to come to this Great state, it has now become necessary to protect those rights. We think HB168 will do this for us.

  
Don Sherwood  
Legislative Officer



# ALASKA OUTDOOR COUNCIL

211 4<sup>th</sup> St. #302A  
Juneau, AK. 99801  
(907) 463-3830

Feb. 2, 1998

The Honorable Beverly Masek  
Alaska State Capitol  
Juneau, Ak. 99801

Dear Representative Masek:

The Alaska Outdoor Council and its member organizations are once again indebted to your continued efforts to protect the general public's ability to access and utilize the common property resources we all have a share in. HB 168 will bring balance to the management of fish and wildlife resources by giving much needed guidelines to the Boards of Fish and Game when addressing access issues in the future.

The timely nature of passing legislation like HB 168 was made abundantly clear this past year when the Board of Game took it on itself to initiate a public controversy over whether motorized access should be continued in Game Management Unit 13. As evidenced by the large turn out of Alaskans opposed to restrictions in Unit 13, it appears the BOG was acting on its own agenda without regard to the needs and desires of many outdoor enthusiasts.

We need HB 168 as it will complete the process of providing meaningful guidelines to the managing agencies that was begun with HB 23 and SB 35. Without access, the natural resources of Alaska hold little value for most people. We hope you are successful in making sure the needs of all Alaskans are addressed whenever managing agencies are involved in decisions related to the public's use of our common property resources.

Sincerely,

Rod Arno  
President

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF FISH AND GAME

DIVISION OF WILDLIFE CONSERVATION

P.O. BOX 25526  
JUNEAU, ALASKA 99802-5526  
PHONE: (907) 465-4190  
FAX: (907) 465-6142

February 10, 1998

The Honorable Beverly Masek  
Alaska State Legislature  
State Capitol Building, Room 432  
Juneau, AK 99801-1182

Dear Representative Masek:

I recently testified during a House Resources Committee hearing on House Bill 168. In retrospect, I believe I may not have communicated clearly to the committee my concerns and the department's objections to this bill.

There is a wide variety in how Alaskans enjoy and use wildlife resources. For over forty years, the Boards of Fish and Game have provided Alaskans an opportunity to participate directly in making decisions about how Alaska's fish and wildlife resources should be used and enjoyed. The boards devote over eighty meeting days per year to these issues.

The Board of Game has worked to provide diverse opportunities for hunting experiences the public has requested. Managing means and methods of access through establishment of controlled use areas has been a very important tool for providing this variety and for managing conflicts between competing wildlife users.

As I said at the hearing, the legislature has the ability through statute to abolish or modify any controlled use area adopted by the Board of Game. I believe this is a far better approach to exercising legislative oversight of wildlife management, than completely removing this important tool from the Board of Game.

I realize this bill has already left the Resources Committee, but I want to correct any impression I may have left with the committee members that the department was neutral or in support of this legislation. We are opposed to House Bill 168.

Sincerely,



Wayne Regelin  
Director

Author: nelsonw@ptialaska.net (Nelson Weidenbaugh) at CC2MHS1

Date: 2/13/98 4:24 PM

Priority: Normal

TO: Representative Jeannette James at LAA\_TRANS, Representative Fred Dyson at LAA\_TRANS,  
Representative Ivan Ivan at LAA\_TRANS, Representative Mark Hodgins at LAA\_TRANS,  
Representative Ethan Berkowitz at LAA\_TRANS, Representative Beverly Masek at LAA\_TRANS,  
Senator Loren Leman at LAA\_SLEM, Al\_Vezey@legis.state.ak.us at CC2MHS1,  
Representative\_Kim\_Elton@legis.state.ak.us at CC2MHS1

Subject: House Bill No. 168

House State Affairs Committee

Members of the State Affairs Committee: I would like to request your support and approval of H.B. No. 168. This will protect the rights of all Alaskans in using traditional means of access when pursuing outdoor activities such as fishing, hunting and all other means of recreation.

This bill is needed to ensure that all outdoor activities requiring some form of transportation can be enjoyed by Alaskans now and into the immediate future. This bill does not discriminate or favor any one type of transportation. This bill demonstrates that it supports all methods of transportation when in the pursuit of outdoor activities.

House Bill 168 clearly shows that there are safeguards established to protect Alaska's valuable resources.

The Department of Fish & Game, Natural Resources, Board of Game and Board of Fisheries should not be permitted to set policies which can restrict our traditional means of access which we now possess.

Legislators, Department heads and members of the Boards are constantly changing; that is why I consider this bill to be important legislation that will protect our rights in using traditional means of access which we have enjoyed in the past, the present and hopefully for many years to come.

If any member would like to contact me on this issue, I can be reached by E-Mail or at my home number of 907-249-9707.

Sincerely,

Nelson C. Weidenbaugh

Mr. Kevin  
8050 Summerset Dr

E Hite - President  
AK. STATE SNOWMOBILE ASSOC.

563-3990

Anchorage

AK 99518

Distribution  
20

Affiliation

Anchorage

Reg Voter

Y

Date POM Sent	Constituency	Bill Number	Response	Subject
04/07/97	N	HB 168	Supports	

ON BEHALF OF THE MEMBERSHIP OF OUR CLUB, I STRONGLY SUPPORT PASSAGE OF THIS BILL. ALASKAN'S ACCESS SHOULD BE ENHANCED WITHIN OUR PUBLIC LANDS. STATE PARKS SHOULD BE ANSWERABLE TO O ELECTED OFFICIALS WHO ARE ELECTED BY THE PUBLIC LAND OWNERS!



# ALASKA CENTER *for the* ENVIRONMENT

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501  
(907) 274-3621 • fax: 274-8733

February 18, 1998

House State Affairs Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Re: HB 168

Dear Committee Members:

Since I will be unable to attend the committee's teleconferenced hearing on this bill tomorrow morning, I would like to submit the following comments by fax for your consideration.

HB 168 restricts the ability of the Board of Fisheries, the Board of Game, and the Department of Fish and Game to regulate motorized vehicle use on public lands under their jurisdiction (including purportedly special and protected legislatively designated areas like refuges and critical habitat areas). Since we believe that such regulation is an essential management tool to protect fish and wildlife, soils, vegetation, and water quality; to protect home and cabin owners from the excessive noise of motorized recreational vehicles; and to provide a spectrum, or balance, of recreational opportunities on the public lands--and that more, not less, such regulation is called for--we strongly oppose this bill (as we did the two bills that were passed last year, SB 35 and HB 23).

This is the third in a series of bills which puts our fish, wildlife, and public lands at risk, and discriminates against property owners and non-motorized recreationists. We are not by any means against all motorized recreational vehicle use; we are, however, opposed to bills like this one that strongly favor particular types of users by perpetuating the gross imbalance on our state-owned public lands between those lands that are managed for motorized recreational vehicle use and those lands that are managed for quiet recreation and for the protection of home and cabin owners (for example, a recent DNR analysis concluded that in a southcentral study area of more than 34 million acres of both state and federal public lands, only 4.5% of them had been set aside for quiet winter uses (this 34 million acres included not only undesignated land but also state parks and designated federal lands like the Chugach National Forest and the Kenai National Wildlife Refuge)).

But that this bill is unfair is not its only problem. Where more than temporary regulations are required for areas of any significant size (more than 640 acres), fish and wildlife managers can regulate motorized vehicle use to protect fish, wildlife or their habitat only if it is "biologically essential" to do so. This is an impossibly high standard and would

prevent managers from exercising their professional judgment by implementing restrictions that they believe are both important and appropriate--unless they can prove that they are "essential." Fish, wildlife, and habitat will suffer from the imposition of this unrealistic standard.

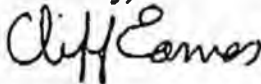
Furthermore, managers will be unable to protect local residents from the unfair competition provided by often wealthier individuals from outside the area who might have the advantage of greater access to motorized vehicles and therefore an increased chance of success. In fact, among the large majority of witnesses who opposed this bill before House Resources were the Tanana Chiefs Conference and three other Native leaders.

Finally, the legislature has more than enough important matters on its plate without taking on additional responsibilities that are better left to boards and agencies. These latter entities are experts in their fields; can devote far more time than the legislature can to these complicated issues; and can provide many more, and more accessible, opportunities for public involvement (for example, most non-legislative meetings and hearings are held in the evenings or on weekends, not during the work day, and are long enough so that everyone who makes the effort to attend can have a chance to be heard). The legislature is far too busy to be able to devote this much attention to these issues. Additionally, micro-managing the site specific regulation of motorized recreational vehicles is no more appropriate a legislative task than the drawing of specific oil and gas lease sale or timber sale boundaries.

Surely there is enough room on Alaska's 104 million acre land entitlement (much of it far closer to major population centers and roads than the federal lands) to provide for the enjoyment of all Alaskans, and all types of visitors, not just the minority that use motorized recreational vehicles. Many people still prefer to use truly traditional means of accessing our public lands, like hiking boots, skis, snowshoes, dog teams and canoes. In fact, Controlled Use Areas are some of our most popular hunting areas. We have a responsibility to accommodate hunters, fishers and others who recreate under their own power as well as motorized users, and to provide some level of protection for private property owners and local users of local fish and wildlife resources.

Thank you for your consideration of these comments.

Sincerely,



Cliff Eames  
Issues Director



# Alaska State Legislature

Representative Beverly Masek

Chair, Military & Veterans Affairs

Vice Chair, Transportation

Vice Chair, Resources

Legislative Council

During Interim:

600 East Railroad Avenue  
Wasilla, AK 99654  
907-376-2679  
907-376-6180 (fax)

During Session:

State Capitol  
Juneau, AK 99801-1182  
907-465-2679  
907-465-4822 (fax)  
1-800-505-2678

February 6, 1998

To: Representative *Jeannette* James, Chair  
House State Affairs Committee  
Fr: Representative Masek, *Beverly*  
Re: Request for Hearing on CSHB 168 (RES)

Dear Representative James:

I am writing to request that you schedule House Committee Substitute for House Bill 168 (RES), "An Act relating to use of traditional means of access to assist in taking game or fish and to traditional means of access for traditional outdoor activities on land and water set aside for fish and game purposes; and providing for an effective date" for a hearing before your committee as soon as possible.

My office is working with the Department of Fish and Game on several amendments to the bill, which I will offer at the hearing before the House State Affairs Committee.

Eddie Grasser is my aide, who is working on this bill. Should you have any questions, please contact him.

Thank you.

2/19/98

To: Members of the House State Affairs Committee  
Representative Jeannette James, Chair  
Members: Representative Fred Dyson  
Representative Ivan Ivan  
Representative Mark Hodgins  
Representative Al Vezey  
Representative Ethan Berkowitz  
Representative Kim Elton

HB 168

Madam Chairman and members of the House State Affairs Committee. My name is Cliff Judkins. I live in Wasilla. I am a 36 yrs. resident.

First I would like to thank you. Many of us are aware of the time you take away from your personal lives and families to serve the people of Alaska.


As president of the Alaska Boating Association and as an individual I strongly support HB 168.

Restriction of access to hunting and fishing motorized or otherwise should be based upon sound biological datum not emotions or personal likes and dislikes.

Adoption of HB 168 would give needed direction to the Boards of fish and game. They are now spending many hours listening to proposals and debate, concerning motorized access, that have nothing to do with fish and game management.

There will always be a debate between those that favor more efficient, modern technology and those who favor the old ways. That debate should not be carried on in arena of wild life management.

Again thank you for the time you give.

  
Cliff Judkins  
Pres. Alaska Boating Assoc.

Name - age - 30 yrs - resident - X military disabled - 4488 short of being considered poverty. - 13 is my where my food for existence comes from.

I want to take this time first of all to personally thank, Rose - Jack - Scott Eden - Nick Kozick and Lyda Green for helping spontaneity of the valley to protect the rights already given residents of the state through the Constitution of the state of Alaska.

Bill 162 ~~is~~ that Gov. Masch. is proposing is some thing that ~~has~~ <sup>should</sup> have been passed a long time ago.

This young lady deserves a lot of credit and thanks for this bill. I believe in no prejudice or conflict of interest of any special interest groups.

The U.S. Senate and Congress only have their minds on the big bucks of the Oil Co. and not of the people.

The Governor fights like hell for the tourists business and the million from Canadian visit with Maligina and the fishermen and Canneries not to mention the tour bus business - what has he done for <sup>the people</sup> the land?

We the people that live inland depend on the natural resources of wild life to put meat on our tables for our families.

We are required to only take 1 moose 50" or side fish and 1 Caribou.

The Federal government gives rural residents special permits to take any moose and as many Caribou necessary for subsistence in Glenn Allen Payson and those areas.

This is prejudice and conflict of interest to other residents of this state.

Unit 13 is bordered by Denali Hwy and 90° of the people want it unpaved and left alone as is. It's a waste of money by the state when there are 1000 geologists needing repairs.

The business is just another push for tourist lodges to run and the Trails in the area are supposedly damaging to the tourists.

There is a big lodge on this road about 2 miles from Big Lake, etc.

The property on each side of the Hwy is either State Land or Federal except for some few privately owned. I have checked with Mat Su Borough and North Star Borough and I found out the owners of these parcels - except the big lodge with the air strip and float plane lake. Mat Su says it's not in their borough and North Star says it's not in theirs - Well in pushing for answer they say it's a legislative mix-up.

Mr. T. Valford I think this is your idea make your own. Can Clarify who it belongs to for us. If Unit 13 is shut off to O.R.V.

This would make it an ideal location for base camp for Guides and air taxi with its own private game refuge in all directions! - Could there possibly be a conflict of interest here?

Conflict of int and discrimination  
 Most Federal Lands other wise known as the  
 Peoples Land is restricted to ORV - But  
 OK for air Craft to fly in and out of.

The air Craft is not allowed on a road  
 and like ORV do not meet our road require-  
 ments and receive a prefered priority  
 status I guess. — Will it be

because the Board of Fish Game and  
~~Wildlife~~ ~~Subsistence~~ ~~Management~~ is mostly of  
 Guides - airstrip Services - and private  
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They use ~~that~~ their wild life resource  
 to make big bucks for themselves and all  
 we are asking is to put food on our  
 tables for our families. We — the ORV  
 hunters are in the minority and have  
 little or nothing to say about our  
 restricted methods of taking game for food.

The officers in the field even object  
 to the laws handed them but must enforce  
 them.

Unit 13 is not only a way of life and  
 means of subsistence to many of us but  
 a Constitutional right pointed out in the  
 state Constitution.

The thing we need — not in the seat  
 of the Governor is some one who recognizes  
 the needs of all the people of the state  
 not just special interest and big bucks.

We are tired of the echo's of the black  
 sheep in Washington our fearless leader.

I don't see much we can do now  
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they voted on past & present items and  
not what they promise they will do  
Like the Bible says - Many will be  
called but few will be chosen

RED DECKER  
HCO1 Box 10486D  
PALMER 99675  
745-6784

Special interest groups - Priority Preference - Conflict of interest - Lack of Representation

Name - age - 30 yrs resident - X military disabled - 4488 short of being considered poverty. - 13 is my where my food for existence comes from.

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Like the Bible says - Many will be  
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RED DECKER  
HCO1 BOX 6486D  
PALMER 99645  
745-6784

9500 Prospect Drive  
Anchorage, Alaska 99516

February 19, 1998

House State Affairs Committee  
Alaska Legislature  
By Fax: 907/465-2381

Re: Testimony on HB 168

Dear Members of the Committee:

I am unable to testify by teleconference today on HB 168, but I wish to register my opposition to this bill, and to the erroneous concepts which seem to lie behind it.

I am a former member of the Alaska Board of Game (1975-76), and I know from first-hand experience the great service this Board has performed for all Alaskans, in mediating conflicts between resource users, in supporting the concept of fair-chase hunting, and in attempting to insure a fair allocation of hunting opportunity and quality hunting experiences between all hunters, whether motorized or non-motorized. I do not believe that this is a role that the Alaska Legislature should assume, nor is it one which the Legislature is well-equipped to assume. Yet this will be the result of HB 168.

The unspoken assumption of HB 168 and its sponsor Rep. Masek is that motorized access to hunting and fishing opportunities is the desire of the overwhelming majority of Alaskan resource users, and that this desire must be accommodated without any consideration of non-motorized users, the quality of the outdoor experience, or the health of the resource itself. **This notion is flat wrong.**

Non-motorized recreation users in Alaska far outnumber the ones who believe they must depend on motorized access for their outdoor experiences. Yet the Boards of Fish and Game, and the Departments of Natural Resources and Fish and Game, are, by the Legislature, being rendered powerless to make a fair allocation of land and resource uses between motorized and non-motorized users

This blind unfairness is an abdication of responsibility to the citizens of the state, and a real "black eye" on the quality of Alaska's environmental credentials. Is it no wonder that, despite our continuing claim that Alaskans are "true environmentalists," we continually fail to convince the rest of the Nation that we could responsibly develop ANWR, for example? Clearly our actions, such as HB 168, speak much louder than our words.

I am particularly concerned with specific parts of HB 168 which, if enacted, can lead to long-term and irreversible resource damage. First, the burden

House State Affairs Committee  
February 19, 1998  
Page 2  
Re: HB 168

on the Game and Fish Boards to demonstrate that a "traditional access" restriction is "biologically essential" for the protection of a species or its habitat is much too high. First, it assumes scientific or biological certainty, which any scientist can tell you is a near impossibility. Second, it almost invites resource damage (rather than before-the-fact prevention) as "proof" that a restriction is necessary. In many cases, once the damage is done (particularly to terrain and vegetation), it will last for decades, or even centuries.

The definition of "traditional outdoor activities" in HB 168 goes far beyond those activities associated with hunting and fishing, which are the purview of the two Boards affected by HB 168. It includes "recreational mining" which has the potential of uncontrolled, long-term terrain damage.

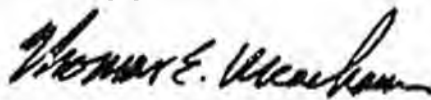
There is no maximum weight limit in HB 168 for motorized "recreation vehicles." It is very possible that under HB 168, the Boards and the resource agencies would be unable to control or prevent the "recreational" use of a D-8 Cat, for example, anywhere on state land for the purpose of "recreational mining" or any other "traditional outdoor activity" for which a user might desire to use his tractor for access or sport. Even vehicles less damaging than a D-8 Cat may, over time and with concentrated use, leave scars on the land that will not heal for decades, if ever.

The Denali Highway hunting areas are one example where rampant ATV and tracked vehicle access have left permanent resource damage, and HB 168 would simply encourage and perpetuate this damage. If this is an example of Alaska's wise natural resource management attitudes and policies, then it is little wonder that the rest of the Nation cannot trust this state to develop ANWR responsibly. As a Congressman from Ohio or Tennessee, would you take a look at HB 168 and reach any other conclusion?

I urge that HB 168 not be approved. If it is approved, I urge that amendments be adopted to encourage the prevention of natural resource damage before it occurs, that authority to make fair allocation of motorized and non-motorized areas be specifically retained by the Fish and Game Boards, and that the details of HB 168's definitions be amended to place a maximum weight limit or ground pressure per square inch on permitted motorized recreational vehicles, and to prohibit tracked vehicles with metal tracks, lugs or blades.

Thank you for your consideration of this testimony.

Sincerely yours,



Thomas. E. Meacham



DATE: 2/19/98

Please accept the enclosed original(s) of written testimony for the House St Affairs

for the HB 168 teleconference hearing that was scheduled on

2/19/98.

A copy of this testimony was transmitted to your committee via fax on 2/19/98.

Thank you .

Mat-Su Legislative Information Office

2/19/98

To: Members of the House State Affairs Committee  
Representative Jeannette James, Chair  
Members: Representative Fred Dyson  
Representative Ivan Ivan  
Representative Mark Hodgins  
Representative Al Vezey  
Representative Ethan Berkowitz  
Representative Kim Elton

HB 168

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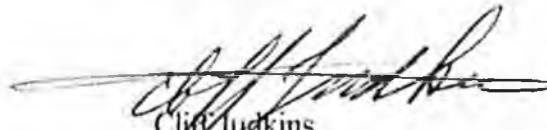
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Again thank you for the time you give.



Cliff Judkins  
Pres. Alaska Boating Assoc.

# FISCAL NOTE

Bill Version: CSHB 168 (RES)

(H) Publish Date: 2/6/98

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected: Fis and Game  
 Title Traditional Access for Traditional Activities BRU Wildlife Conservation  
 Component Wildlife Conservation  
 Sponsor Representative Masek  
 Requester House Resources Committee Component Serial No. 473

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES (1024)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other -- F&G Fund (1024)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by Phil Koehl, Wildlife Biologist *PK* Phone 465-4190  
 Division Wildlife Conservation Date 2/2/98  
 Approved by Commissioner [Signature] Date 2.3.98  
 Agency Alaska Department of Fish and Game

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**HB**

**181**

0-LS0628\B  
Cramer  
4/2/97

CS FOR HOUSE BILL NO. 181( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE VEZEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to separate segregated funds for certain political contributions  
2 from corporations and labor organizations."

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

4 \* Section 1. AS 15.13 is amended by adding a new section to read:

5 Sec. 15.13.160. Separate segregated funds for certain contributions from  
6 corporations and labor organizations. (a) If a corporation or a labor organization  
7 withholds money from the compensation paid to officers or employees of the  
8 corporation or from dues or other fees assessed on members of the labor organization  
9 for the purpose of making a contribution permitted by this chapter, the corporation or  
10 labor organization shall deposit the money in a separate segregated fund.

11 (b) A contribution from a separate segregated fund is considered to be a  
12 contribution from the corporation or labor organization.

13 (c) A corporation or a labor organization may not solicit or obtain donations  
14 to a separate segregated fund from an individual on an automatic or passive basis,

1 including a payroll deduction plan or reverse checkoff method, unless the individual  
2 affirmatively and voluntarily consents to the donation in writing at least once in every  
3 calendar year.

4 (d) A donation to a separate segregated fund may not be obtained by

5 (1) using coercion or physical force;

6 (2) making a donation a condition of employment or membership;

7 (3) using or threatening to use job discrimination or financial reprisals.

8 (e) A corporation or labor organization may not pay to an individual a bonus  
9 or other remuneration for the purpose of reimbursing a donation to a separate  
10 segregated fund.

11 (f) In this section,

12 (1) "contribution" means, notwithstanding AS 15.13.400, money or  
13 another thing of value given or lent to influence the nomination or election of a  
14 candidate, or given or lent to a group, a political party, or to influence the outcome of  
15 a ballot proposition or question;

16 (2) "corporation" means a corporation organized on a for profit or  
17 nonprofit basis;

18 (3) "separate segregated fund" or "fund" means a separate segregated  
19 fund established under this section.

20 \* Sec. 2. This Act applies to withholdings from compensation made on or after the  
21 effective date of this Act.

# HOUSE COMMITTEE REPORT

(7)  
Date Referred to Committee: March 7, 1997

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/13/97

The STATE AFFAIRS Committee considered:

HB 181

HOUSE BILL NO. 181

QUALIFICATIONS OF STATE FORESTER

"An Act relating to separate segregated funds for certain political contributions from corporations and labor organizations."

recommends it be replaced with the following committee substitute CS HB 181 (STA)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) APOC.

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

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

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

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeanette James</i>	✓			
<i>Monica [unclear]</i>	✓			
<i>Fred [unclear]</i>	✓			
<i>[unclear]</i>	✓			
<i>[unclear]</i>	✓			

CHAIR'S SIGNATURE *Jeanette James*

# Alaska State Legislature

Interim Address:  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
(907)-456-5081  
Fax# (907)-456-8245

House of Representatives

Session Address:  
Room 13  
(907)-465-3719  
FAX# (907)-465-3258



Official Business

State Capitol  
Juneau, AK. 99801-1182

Representative Al Vezey

## HB 181 Right of Workers to Stay Out of Politics

### Sponsor Statement

HB 181 protects the rights of workers who want to stay out of politics. I have had constituents share their concern with me that their employers automatically deduct contributions from their check for political action. These people are reluctant to make an issue of what they consider an unfair practice because of job security.

This process of funding political actions by corporations and labor organizations is known as a "reversed check-off". "Reverse check-off" is a payroll deduction by an employer of an annual amount determined by the corporation or labor organization which is automatically deducted from an employees paycheck. On January 7<sup>th</sup> of this year, the Sixth Circuit Court of Appeals upheld in *Michigan AFL-CIO v. Miller* Michigan's statute that bans "reversed check-off" practices by corporations or labor organizations.

HB 181 would require corporations and labor organizations to inform officers and employees of the existence of a separate segregated fund. If the employee or officer affirmatively and voluntarily agrees to contribute to the fund, the corporation or labor organization must reaffirm that consent at least once a year.

This legislation goes beyond recent attempts to impose a right to know policy in preserving workers' rights. Individual workers should not only have a right to know, but also a right to say no.

## ALASKA PUBLIC OFFICES COMMISSION

### POSITION PAPER ON HB 181

#### Introduction:

The Public Offices Commission met on March 19, 1997 to discuss HB 181, which will amend AS 15.13 by creating a new type of group, the "separate segregated fund." Corporations and unions with payroll deduction plans may "establish, administer, and solicit contributions" for their separate segregated funds to give to parties or ballot measures. The bill requires that they obtain affirmative consent from employees before making deductions. It limits the class of people from whom corporations and unions may solicit contributions. Finally, it prohibits the use of coercion; making a contribution a condition of employment; threats of or actual job discrimination; or reimbursing individuals for their political contributions.

#### Analysis:

The Commission identified the following concerns and makes the following recommendations:

(1) Sections 1-4. The proposed amendments to existing provisions in the campaign disclosure law are confusing. Rather than amend sections AS 15.13.065(a), 067, 070(c ) and 074(f) to exempt separate segregated funds, the Commission recommends that the existing provisions be left as is and that potential conflicts between those provisions and the requirements of separate segregated funds be addressed in a new subparagraph in section 160. This approach will reduce the risk that AS 15.13.065(a), 067, 070(c ) and 074(f) are misinterpreted to prohibit separate segregated fund contributions to parties or ballot measure groups altogether; or in the alternative, to permit separate segregated funds to contribute an unlimited amount to parties.

The Commission recommends the following:

Delete proposed amendments to AS 15.13.065(a), 067, 070(c ) and 074(f).  
Add a new subparagraph in section 160 that states:

Notwithstanding sections 065(a), 067, 070(c ), and 074(f), a separate segregated fund may not contribute to candidates or groups that are not parties or ballot measure groups.

(2) Section 5. The controlled giving limitation described in AS 15.13.074(h) applies to groups that are so closely tied to a candidate that they are treated the same as a candidate campaign. Permitting separate segregated funds an exemption from this provision appears to be inconsistent with the rest of the bill which prohibits separate segregated funds from making contributions to candidates.

To eliminate any potential confusion, the Commission recommends the following:

delete section 5 regarding AS 15.13.074(h) from the bill.

(3) The Commission was concerned that the bill does not specifically define "separate segregated fund." In the absence of an explicit definition, the Commission is unclear whether the bill is intended to apply to all corporate and union political action committees ("PAC's"); PAC's with payroll deduction plans; or PAC's with payroll deduction plans that are controlled by the associated corporation or union. Additional guidance is necessary for the Commission to implement the provision consistent with legislative intent. Assuming the separate segregated fund refers to corporate and union PAC's with payroll deduction plans that are controlled by the affiliated corporation or union, the Commission recommends the following:

amend AS 15.13.400 to include a new subparagraph that defines separate segregated funds as follows:

(12) "separate segregated fund" means two or more individuals who affirmatively and voluntarily consent to make campaign contributions jointly through a payroll deduction plan administered and controlled by a union, profit or nonprofit corporation of which the individuals are members, officers, stockholders or employees.

(4) Section 3 & 6. As proposed, separate segregated funds may contribute an unlimited amount to parties. The absence of any monetary limitation on the amount of money a separate segregated fund may contribute to a party appears to give separate segregated funds a privilege not available to other groups which are limited to \$1,000 under AS 15.13.070(c). To eliminate this privilege, the Commission recommends the following:

amend AS 15.13.070, to include a new subparagraph (e) with states the following:

(e) A separate segregated fund may contribute not more than \$1,000 per year to a political party.

(5) Section 6: AS 15.13.160(b). As proposed, the bill appears to permit corporations and unions to spend an unlimited amount soliciting contributions from a restricted group of employees, stockholders and members.

Under current Commission regulations, soliciting a contribution to a specific group is a contribution. 2 AAC 50.313(l)(4). As a result, corporations and unions would be prohibited from soliciting because they are prohibited from making contributions to parties. Corporations and unions, however, may make unlimited contributions to ballot measure groups.

The Commission recommends the following:

change the first sentence in AS 15.13.160(b) as follows:

A corporation organized on a for profit or nonprofit basis or a labor organization may establish, and administer [, AND SOLICIT] contributions to a separate segregated fund to be used for political purposes.

(6) Section 6: AS 15.13.160(e). Subparagraph (e)(2) through (4) appears to contain unnecessary words that confusion the meaning of the provision. To clarify those subsections, the Commission recommends the following:

change AS 15.13.160(e) as follows:

- (2) stockholders [OF MEMBERS] of the nonprofit corporations;
- (3) officers or directors [OF MEMBERS] of the corporation;
- (4) employees [OF THE MEMBERS] of the corporation who have policy-making, managerial, professional, supervisory, or administrative nonclerical responsibilities;

(7) Section 6: AS 15.13.160(g). The prohibitions in subsection (g) require that the Commission exercise authority over an area of law with which it has had no prior experience. Subparagraph (g) prohibits the use of coercion or force; making a contribution a condition of employment or membership; or threats of or actual job discrimination. To the extent the Commission must determine whether a contribution was the result of any of the factors in subparagraph (g), the Commission will need to become familiar with a new area of law. In general, the Commission believes that authority over employment matters is best assigned to a regulatory entity with existing expertise in that area.

(8) Section 6: AS 15.13.160(h). The Commission is uncertain regarding the calculation of the penalty provision set out in subparagraph (h). The provision states that a corporation or union that reimburses restricted individuals for their contributions to a separate segregated fund is subject to a civil penalty of "two times the total contribution obtained for all the individuals for the separate segregated fund during that calendar year."

It is not clear to the Commission what is meant by "all the individuals." It may apply to all individuals who contribute to the separate segregated fund during the year; or it may apply only to all individuals who made illegal contributions to the fund. To clarify the legislature's intent, the Commission requests that the language be amended to make clear that the provision applies to all individuals or only those who acted illegally.



# Alaska State Legislature

## House of Representatives

E-Mail: Representative Al Vezey@LEGIS.state.ak.us

**Interim Address:**  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
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Official Business



**Session Address:**  
Room 13  
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State Capitol  
Juneau, AK. 99801-1182

### Representative Al Vezey

Date: March 14, 1997

To: Rep. Jeannette James, Chairman  
House State Affairs Committee

AV

From: Rep. Al Vezey

Re: HB 181

---

I am requesting that HB 181, "An Act relating to separate segregated funds for certain political contributions from corporations and labor organizations." be scheduled for hearing in the House State Affairs Committee.

Attached is the sponsor statement I have prepared.

OK

**FISCAL NOTE**

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO. HB 181**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to separate segregated funds..."  
 Sponsor: Rep. Vezey  
 Requestor: (H) STA

Department Affected: Administration  
 BRU: Alaska Public Offices Commission  
 Component: Alaska Public Offices Commission  
 COMPONENT SERIAL NO. 70

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	11.9	11.9	6.0	6.0	0	0
TRAVEL	1.1	1.1	0	1.1	0	1.1
CONTRACTUAL	29.6	64.6	41.7	64.6	41.7	64.6
SUPPLIES	.4	.4	.4	.4	.4	.4
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>43.0</b>	<b>78.0</b>	<b>48.1</b>	<b>72.1</b>	<b>42.1</b>	<b>66.1</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	43.0	78.0	48.1	72.1	42.1	66.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>43.0</b>	<b>78.0</b>	<b>48.1</b>	<b>72.1</b>	<b>42.1</b>	<b>66.1</b>

Estimate of any current year (FY 97) cost: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Karen Boorman  
 Division: Alaska Public Offices Commission

Phone: 276-4176  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

*Alison M. Elger*  
 Date: 3/21/97

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 181

1997 LEGISLATIVE SESSION

ANALYSIS: (continued)

HB 181 creates a new type of group under campaign disclosure law, the separate segregated fund. Corporations and unions with payroll deduction plans may "establish, administer, and solicit contributions" for their separate segregated funds to give to parties or ballot measures. The bill requires that they obtain affirmative consent from employees before making deductions. It limits the class of people from whom they may solicit contributions. Finally, it prohibits the use of coercion; making a contribution a condition of employment; threats of or actual job discrimination; or reimbursing individuals from their political contributions.

Because the bill creates a new type of entity under campaign finance law, the Commission will be required draft and approve complex regulations to implement the new section. In addition, staff anticipates that it will spend a significant amount of time answering questions and drafting advisory opinions for Commission approval. Staff estimates that about 20% additional staff time will be required in the first two years after the bill takes effect. This will decrease to 10% in the following two years. Although this increase in workload is not sufficient to warrant a new position, the increase does warrant additional personnel costs.

Because the Commission is currently understaffed in its efforts to carry out existing responsibilities, the addition of new responsibilities warrants fiscal note personnel costs. The addition of fiscal note funds to reduce the position vacancy will allow the Commission to handle the additional responsibilities of HB 181 by proportionately increasing staff time. The amount shown represents 20% of the annual cost of a Paralegal II.

The Commission estimates that this bill will result in 4 additional complaints in election years; and 3 complaints in non-election years. Because of the complex nature of the evidence required to establish that a corporation or union has used coercion; made a contribution a condition of employment; threatened or actually discriminated against an individual; or reimbursed an individual from political contributions and because the new campaign finance law requires that complaints be resolved in 180 days, the Commission would need to secure additional investigative support on a contractual basis. In the complaints described, the Commission also estimates that allegations would require that the Commission retain a hearing officer to hold an administrative hearing as required by the Administrative Procedures Act to resolve factual disputes.

In summary, the fiscal note reflects personnel costs to handle the additional work load; contractual funds to handle additional complaints--including additional investigative support; retention of a hearing officer; computer support costs; and deposition costs. Additional costs associated with complaint resolution include supply costs for paper, folders and file cabinets. Remaining contractual, supply and travel costs reflect promulgation of regulations in the first year; development and distribution of educational materials. Specific costs include paper, internal copying costs, statutorily-required regulatory notice, and postage charges. Educational efforts would be accomplished through mailings and trainings in Anchorage, Fairbanks and Juneau. Travel to Fairbanks would occur in the first year of implementation of the bill, then each succeeding election year.

**HB**

**188**

REPRESENTATIVE JOHN J. COWDERY

## **SPONSOR STATEMENT**

### **EXEMPTION OF OVERTIME FROM PUBLIC EMPLOYEE'S RETIREMENT SYSTEM.**

HB188 was introduced at the request of Anchorage Mayor Rick Mystrom.

The current definition of compensation for the Public Employees Retirement System allows for the use of overtime in the calculation of pension benefits.

This definition invites abuse of the system through the use of overtime loading to inflate an employee's high three years. Salaries have been inflated by as much as \$40,000 to \$50,000 per year in extreme cases through the use of overtime. This increases the long term liability to the State in its retirement systems.

HB188 amends AS 39.35.680(8) to exclude overtime from the definition of "Compensation" for all new employees.

# MEMORANDUM

Representative John Cowdery

TO: Rep. Jeanette J. <sup>Sy</sup>Joy's, Chair, State Affairs  
FROM: Rep. John J. Cowdery <sup>J.J.C.</sup>  
DATE: 9 April 97  
RE: HB 188  
Cc: State Affairs Committee Majority Members

## NOTE:

---

Members of the Committee:

Attached is some clarification that I feel is needed to fully understand our intention in HB188.

Some of the questions raised pertained to the definition of overtime. "Overtime" is very clearly defined in AS 23.10.060 (see attachment 1). This is the only statutory definition and is the definition HB 188 is referencing.

Representative Berkowitz is offering two amendments dealing with employees under collective bargaining issues (attachment 2). These two amendments are essentially the same with different wording, and each guts the bills intent. I urge your support of HB188. unamended.

## Overtime Definition and History

### Sec. 23.10.060. Payment for overtime.

(a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(8) an employee employed as a seaman;

(9) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(10) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(11) casual employees as may be liberally defined by regulations of the commissioner;

(12) an employee of a hospital whose employment includes the provision of medical services;

(13) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(14) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime;

(15) an individual employed as a line haul truck driver for a trip that exceeds 100 road miles one way if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section;

(16) an individual employed as a community health aide by a local or regional health organization as those terms are defined in AS 18.28.100.

### History -

(sec. 3 ch 171 SLA 1959; am sec. 1 ch 3 SLA 1962; am sec. 1 ch 243 SLA 1970; am sec. 1 ch 45 SLA 1972; am sec. 33 ch 127 SLA 1974; am sec. 1 ch 31 SLA 1980; am sec. 3 ch 47 SLA 1983; am sec. 1 ch 160 SLA 1990; am sec. 1 ch 103 SLA 1992; am sec. 5 ch 13 SLA 1993)

### Revisors Notes -

The paragraphs of (d) of this section were renumbered in 1990 and 1996 to reflect the deletion of repealed paragraphs.

### Amendment Notes -

The 1992 amendment, effective September 18, 1992, in subsection (d), added paragraph (16) and made stylistic changes.

The 1993 amendment, effective May 8, 1993 repealed former paragraph (d)(7).

### AG Opinions -

The Fair Labor Standards Act, 29 U.S.C. sec. 201-219 does not expressly preempt the AS 23.10.050 - 23.10.150 on the question of whether airline employees are excluded from the mandatory overtime directive of this section. April 15, 1980, Op. Att'y Gen.

In the case of pilots, flight crews, and other interstate air carrier employees whose activities are directly and substantially related to the transportation activities of the carrier, and who are covered by a valid existing collective bargaining agreement or agreements with the carrier, the state is precluded from applying its overtime laws due to the preemptive nature of the Railway Labor Act, 45 U.S.C. sec. 151-188. April 15, 1980, Op. Att'y Gen.

In instances where no collective bargaining agreements apply, crews of interstate air carriers are nonetheless beyond the jurisdiction of state overtime law because of certain commerce clause implications. April 15, 1980, Op. Att'y Gen.

Nonflight personnel of interstate carriers who are not covered by valid existing collective bargaining agreements are not exempt from state law, and as to those individuals the provisions of state overtime law apply. April 15, 1980, Op. Att'y Gen.

Air carriers operating solely intrastate would not seem to fall under the exclusionary scope of either the Railway Labor Act, 45 U.S.C. sec. 151-188, or of the commerce clause absent unusual fact situations. Accordingly, the protections of AS 23.10.050 - 23.10.150 dealing with overtime extend to those individuals. April 15, 1980, Op. Att'y Gen.

An administrative regulation which would require an employer to include underground travel time as part of the "workweek" for calculating wages and overtime under this section might raise the issue of federal preemption but would survive such a challenge, since Congress did not intend to preclude state regulation and there is no actual conflict between such a regulation and federal law. February 22, 1989 Op. Att'y Gen.

Decisions -

*Article not void. - The Alaska Wage and Hour Act merely requires higher minimum and overtime pay than the Fair Labor Standards Act, 29 U.S.C. sec. 201-219.*

*Although compliance with both is more expensive than compliance with the federal act, it is not, in any sense, impossible so as to make the Alaska law void. Webster v. Bechtel, Inc., 621 P.2d 890 (Alaska 1980).*

*Or preempted. - Since, under the Alaska Wage and Hour Act, the number of hours required for the overtime rate is less than that under the Fair Labor Standards Act, the Alaska act provides for a lower maximum workweek within the meaning of 29 U.S.C. sec. 218(a) and consequently, comes within the express saving clause so as not to be preempted by the federal law. Webster v. Bechtel, Inc., 621 P.2d 890 (Alaska 1980).*

*Article compatible with Federal Aviation Act. - This article provides for mandatory overtime compensation, not the regulation of maximum hours, and it is therefore neither preempted by, nor in direct conflict with, the Federal Aviation Act. Dayhoff v. Temsco Helicopters, Inc., 848 P.2d 1367 (Alaska 1993).*

*Purpose of the overtime statutes - are to compensate those who labored in excess of the statutory maximum number of hours for the wear and tear of extra work and to spread employment through inducing employers to shorten hours because of the pressure of extra cost. Janes v. Otis Eng'g Corp., 757 P.2d 50 (Alaska 1988).*

*State bound to federal regulatory definitions. - See Dresser Indus., Inc. v. Alaska Dep't of Labor, 633 P.2d 998 (Alaska 1981), cert. denied, 455 U.S. 1019, 102 S. Ct. 1716, 72 L. Ed. 2d 137 (1982).*

*Definition of "supervisory" - in the Alaska Administrative Code, that the term as used in this section means a person who directs the activities of other employees and who does not perform duties which are regularly performed by the employees supervised, except for brief periods of time not to exceed more than eight hours in the*

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 188

1 Page 1, following line 3:

2 Insert a new bill section to read:

3 **"\* Section 1. AS 39.35 is amended by adding a new section to read:**

4 **Sec. 39.35.673. Treatment of compensation for overtime required by**  
5 **union contract. For employees who first join the system on or after the effective**  
6 **date of this Act, if a collective bargaining contract entered into between a bargaining**  
7 **organization representing an employee and the employee's employer requires the**  
8 **employee to work overtime, or if an agreement entered into by the bargaining**  
9 **organization and the public employer under the contract requires an employee to work**  
10 **overtime, the compensation the employee receives for the overtime required by the**  
11 **contract or agreement shall be included in the employee's compensation for purposes**  
12 **of this chapter."**

13 Page 1, line 4:

14 Delete "Section 1"

15 Insert "Sec. 2"

16 Renumber the following bill section accordingly.

17 Page 1, line 7, following ",":

18 Insert "overtime compensation only as provided in AS 39.35.673."

19 Page 1, lines 12 - 13:

20 Delete "overtime pay."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 188

1 Page 1, following line 3:

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3 **\*\* Section 1.** AS 39.35 is amended by adding a new section to read:

4 **Sec. 39.35.673. Treatment of compensation for overtime.** In determining  
5 the compensation of an employee first hired on or after the effective date of this Act,  
6 compensation for overtime shall be excluded unless a collective bargaining contract  
7 entered into between a bargaining organization representing the employee and the  
8 employee's employer provides otherwise."

9 Page 1, line 4:

10 Delete "Section 1"

11 Insert "Sec. 2"

12 Renumber the following bill section accordingly.

13 Page 1, line 7, following ",":

14 Insert "overtime compensation only as provided in AS 39.35.673."

15 Page 2, line 1:

16 Delete "amendment"

17 Insert "amendments"

18 Delete "applies"

19 Insert "apply only"

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 188

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8 employee to work overtime, or if an agreement entered into by the bargaining  
9 organization and the public employer under the contract requires an employee to work  
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PAGE 1  
FOCUS - 1 OF 31 DOCUMENTS

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\*\*\* THIS SECTION IS CURRENT THROUGH THE 2ND REGULAR \*\*\*  
\*\*\* AND 7TH SPECIAL SESSION OF THE 42ND LEGISLATURE (1996) \*\*\*

TITLE 48. SPECIAL TAXING DISTRICTS  
CHAPTER 1. GENERAL PROVISIONS  
ARTICLE 7. DISTRICT EMPLOYEES' RETIREMENT PLANS

A.R.S. @ 48-221 (1996)

@ 48-221. Definitions

... case of employees with dual rates, shall be for the primary occupation.  
Such fixed salary or wage rates for any regularly established pay period shall  
be that which is in effect on the first day of each such period. "Compensation"  
does not include payments for overtime and bonuses over and above fixed salaries  
or wages for normal hours of service.

2. "District" means an irrigation district, drainage district, flood  
control district, agricultural improvement district, electrical district, or ...

PAGE 2

FOCUS - 2 OF 31 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 1995 SUPPLEMENT \*\*\*  
\*\*\* (1995 FIRST SPECIAL SESSION) \*\*\*

TITLE 24. RETIREMENT AND PENSIONS  
CHAPTER 11. LOCAL POLICE AND FIRE PENSION AND RELIEF FUNDS  
SUBCHAPTER 4. POLICE PENSION AND RELIEF FUNDS - CITIES OF THE FIRST CLASS

Ark. Stat. Ann. @ 24-11-423 (1995)

@ 24-11-423. Benefits - Disability retirement

... for all qualifying applications first received by the board on or after  
January 1, 1987.

(2) For purposes of computing all benefits under this section, the term  
"salary" means regular salary only and shall not include overtime pay, payments  
for unused accrued sick leave or annual leave, or the cash value of any  
nonrecurring or unusual remuneration.

(b) Any police officer retired for reasons of disability who has more than  
twenty (20) years of ...

MAR 19, 1997 5:36PM #593 P.02

TO: 81327455206540006

FROM: NCSL

§ 20630

Note 9
A. Holiday pay
City's proposed cash pay to police officers of unused holiday compensation was off consisted of "vacation pay" such as the remaining of the amount. City of Fremont v. Board of Adm'n. of Public Employees' Retirement System (Fremont Police Ass'n) (App. 5 Dist. 1989) 160 Cal.App.3d 144, 214 Cal.App.3d 144, review denied.

Where fire fighters and police officers were required to work five holidays a year the double their annual pay, each holiday pay was required to be included in salary base from which pension benefits were accrued. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

7. Disability
The public employees' retirement system may automatically retire for disability a member who has not requested retirement and who is receiving payments from an income protection plan, regardless of whether the employee is totally or partially disabled on the presentation plan policy. 65 Operating Div. 02, 25-67-72.

8. Uniform allowance
Uniform allowance given to fire fighters and police officers was required to be included in salary base from which pension benefits were computed since it was compensation because it allowed for satisfaction of personal needs which employees would otherwise be forced to incur with personal resources. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

GOVERNMENT CODE

B. Amputation allowance
Amputation allowance given to police officers was not included in salary base from which pension benefits were computed since it was merely other police attendant type compensation with police department. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

2A. Tuition—calculation of cost
With employee's contribution to pension fund through employer's salary deduction, employee directly picks up and assumes pension contributions; employee pays income tax on his actual salary, not on pension contribution. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

With employee's contribution to pension fund through employer-paid salary deduction, employee pays income tax on his reduced salary, less amount of pension contribution. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

11. — Time of maturity
Employee's contributions are not taxable income to employee and benefits are paid upon separation or retirement, whereas employer's contributions are ordinarily taxable income when made, but are taxed upon distribution of benefits. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

§ 20631. Report of nonpayment equal to uniformly applied percentage of salary

A contracting agency may report an amount for each member that is equal to a uniformly applied percentage of salary in lieu of computing and reporting the actual compensation attributable to each individual member if the contracting agency has agreed in a memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 2000) of Division 4 of Title 1 that the aggregate amount to be reported by the contracting agency for all members within a membership classification bears a reasonable relation to the aggregate amount that would otherwise be required to be reported pursuant to Section 20630.

Added by Stats.1985, c. 379 (S.B.641), § 2.

Historical and Statutory Notes

1985 Legislation
Legislative intent of Stats.1985, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20630.
A former version of this statute was repealed by Stats. 1984, c. 379 (S.B.641), § 1. For discussion of the re-

pealed subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)
For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20390. (If you are using an electronic publication, enter GM.)

§ 20632. Compensation for overtime service

For most employees in classifications designated by the Director of the Department of Personnel Administration who are also included from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, compensation for overtime shall not constitute "compensation" for the purposes of the computation of retirement contributions by employee and the state or for the purposes of the calculation of retirement benefits. (Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

1984 Legislation
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20630.
A former version of this statute was repealed by Stats. 1984, c. 379 (S.B.641), § 1. For discussion of the re-

pealed subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)
For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20390. (If you are using an electronic publication, enter GM.)

Additions or changes indicated by underlines; deletions by asterisks \*\*\*

GOVERNMENT CODE

added under matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)

§ 20633. Compensation; withheld salaries of school district employees

Notwithstanding any other provision of this part, compensation includes salary withheld by the employer in accordance with Section 44180 or 44164 of the Education Code, which provide for continuation of salary payments during a period in which the member renders no service. The withheld salary shall be reported as earned.

(Added by Stats.1985, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

1985 Legislation
Legislative intent of Stats.1985, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)

Notes of Decisions

Compensatory time off, generally 1

1. Compensatory time off, generally
Lump-sum payments for unused sick leave and vacation pay were not to be included in compensation or wages.

retired city police officers' pensions were based. See Moore Police Officers Ass'n v. Board of Administration, Public Emp. Retirement System (App. 3 Dist. 1977) 137 Cal. Rptr. 73, 88 Cal.App.3d 84.

§ 20634. University member appointed under health sciences compensation plan; exclusion of past or future supplemental payments pursuant to plan

For a university member appointed under a health sciences compensation plan of the university, "compensation" shall not include past or future supplemental payments made pursuant to any health sciences compensation plan. (Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

1984 Legislation
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)

§ 20635. Overtime

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime pay to be by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

If a member concurrently renders service in two or more positions, one or more of which is full time, service in the particular position shall constitute overtime. If two or more positions are part-time, and full time, the position with the highest pay rate or base pay shall be reported to this system. This provision shall apply only to service rendered on or after July 1, 1984. (Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

1984 Legislation
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GM.)

Additions or changes indicated by underlines; deletions by asterisks \*\*\*

CALIFORNIA

CA #1



PAGE 3  
FOCUS - 3 OF 31 DOCUMENTS

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\*\*\* THIS SECTION IS CURRENT THROUGH THE 1996 SUPPLEMENT \*\*\*  
\*\*\* (PERMANENT AND TEMPORARY LEGISLATION AS OF FEB. 9, 1996)  
(EMERGENCY LEGISLATION AS OF MAR. 31, 1996) \*\*\*

TITLE 4. POLICE AND FIRE DEPARTMENTS  
CHAPTER 6. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY

D.C. Code @ 4-607 (1996)

@ 4-607. Definitions

... college, university, or comparable recognized educational institution.

(6) The term "basic salary" means regular salary established by law or regulation, including any differential for special occupational assignment, but shall not include overtime, holiday, or military pay.

(7) The term "annuitant" means any former member who, on the basis of his service, has met all requirements of @@ 4-607 to 4-630 for title to annuity and has filed claim therefor.

(8) The ...

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ILLINOIS COMPILED STATUTES ANNOTATED  
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\*\*\* THIS SECTION IS CURRENT THROUGH PUBLIC ACT 89-679 \*\*\*  
\*\*\* (1996 REGULAR SESSION) \*\*\*

CHAPTER 40. PENSIONS  
ILLINOIS PENSION CODE  
ARTICLE 15. STATE UNIVERSITIES RETIREMENT SYSTEM

40 ILCS 5/15-110 (1996)

OLD-CITE: [Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 108 1/2, para. 15-110]

@ 40 ILCS 5/15-110. Basic compensation

... 30c of "An Act in relation to State Finance," approved June 10, 1919, as amended [30 ILCS 105/30c], or a tax-sheltered annuity plan approved by any employer. Basic compensation does not include (1) salary or wages for overtime or other extra service; (2) prospective salary or wages under a summer teaching contract not yet entered upon; and (3) overseas differential allowances, quarters allowances, post allowances, educational ...

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CODE OF IOWA 1996

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 EDITION (1996 LEGISLATION) \*\*\*

TITLE IX. LOCAL GOVERNMENT  
SUBTITLE 4. CITIES  
CHAPTER 411. RETIREMENT SYSTEM FOR POLICE OFFICERS AND FIRE FIGHTERS

Iowa Code @ 411.1 (1996)

411.1 Definitions.

... annual compensation which a member receives for services rendered as a police officer or fire fighter in the course of employment with a participating city. However, the term "earnable compensation" or "compensation earnable" shall not include amounts received for overtime compensation, meal or travel expenses, uniform allowances, fringe benefits, severance pay, or any amount received upon termination or retirement in payment for accumulated sick leave or vacation.  
Contributions made by ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE L. GENERAL AND PRELIMINARY PROVISIONS  
CHAPTER 4. PROVISIONS AFFECTING MORE THAN ONE SYSTEM  
PART II. GENERAL PROVISIONS  
SUBPART F. RETIREMENT BENEFIT COMPUTATION

La. R.S. 11:233 (1997)

233. Earnable compensation

... computation of average compensation, earnings or earned or earnable compensation, or its equivalent, shall mean the full amount earned by an employee for a given pay period. Earnings or earned or earnable compensation shall not include overtime unless it is required to be worked in the employee's regular tour of duty, operating expenses, use of automobile or motor vehicles, the cost of any insurance paid by the employer, any allowance for expenses incurred as an incident of employment, ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE II. STATE SYSTEMS  
CHAPTER I. LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM  
PART I. GENERAL PROVISIONS

La. R.S. 11:403 (1997)

403. Definitions

... pay the part-time employee would have received had he been employed on a full-time basis.

(6) "Base pay" means prescribed compensation for a specific position on a full-time basis, but does not include overtime, per diem, differential pay, payment in kind, premium pay, or any other allowance for expense authorized and incurred as an incident to employment, except for supplemental pay for certain members as provided ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1<sup>06</sup> SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE II. STATE SYSTEMS  
CHAPTER 4. STATE POLICE PENSION AND RETIREMENT SYSTEM

La. R.S. 11:1310 (1997)

1310. Average salary; method of determining

... received for the year ending on the last day of the month immediately preceding the date of retirement or date of death or for any one-year period, whichever is the greatest. For the purposes of computation, "average salary" shall not include overtime, expenses or clothing allowances.

(2) With respect to persons becoming employed on and after September 8, 1978, term "average salary" as used in this Chapter for the purpose of determining pension payments and retirement is the average ...

... month period ending on the last day of the month immediately preceding the date of retirement or date of death or for any thirty-six consecutive months, whichever is the greatest. For the purposes of computation, "average salary" shall not include overtime, expenses or clothing allowances.

B. Repealed by Acts 1982, No. 769, @ 3.

C. Every member of this police pension and retirement system who claims additional credit for services rendered ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE III. STATEWIDE SYSTEMS  
CHAPTER 8. MUNICIPAL POLICE EMPLOYEES' RETIREMENT SYSTEM

La. R.S. 11:2213 (1997)

2213. Definitions

... event.

(10) "Earnable compensation" shall mean the full amount of compensation earned by an employee for a given month, including supplemental pay paid by the state of Louisiana, but shall not include overtime.

(11) "Employee" shall mean any full-time police officer, empowered to make arrest, or any full-time police officer, decommissioned due to illness or injury, employed by a municipality of the state of Louisiana, and ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE III. STATEWIDE SYSTEMS  
CHAPTER 9. FIREFIGHTERS' RETIREMENT SYSTEM

La. R.S. 11:2252 (1997)

2252. Definitions

... 11:2254.

(8) "Earnable compensation" shall mean the full amount of compensation earned by an employee on a regular tour of duty, including supplemental pay paid by the state of Louisiana but shall not include overtime.

(9) "Employee" shall mean any full-time firefighter or any person in a position as defined in the municipal fire and police civil service system who is employed by a fire department of any municipality, ...

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SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 2. FIREMEN'S PENSION AND RELIEF FUNDS  
PART XIII. FIREFIGHTERS' PENSION AND RELIEF FUND IN THE CITY OF NEW ORLEANS

L.A. R.S. 11:3376 (1997)

3376. Disability payments; notice of injury; periodic examination; order to return to active duty

... a service benefit to be increased by one percent for each year of service before January 1, 1968, and two and one-half percent of average compensation for the best year of service, not to include overtime pay (whether voluntary or involuntary), holiday or part-time pay for each year of service after June 30, 1967. No such disability benefits shall exceed eighty percent of the average compensation earned ...

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SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 2. FIREMEN'S PENSION AND RELIEF FUNDS  
PART XIII. FIREFIGHTERS' PENSION AND RELIEF FUND IN THE CITY OF NEW ORLEANS

La. R.S. 11:3381 (1997)

3381. Retirement of members first employed before January 1, 1968, having twenty years of service; mandatory retirement

... a service benefit to be increased by one percent for each year of service before January 1, 1968, and two and one-half percent of average compensation for the best year of service not to include overtime pay (whether voluntary or involuntary), holiday, or part-time pay for each year of service after June 30, 1967. No service benefits shall exceed eighty percent of the average compensation earned ...

... increased by one percent for each year of service before January 1, 1968, and two and one-half percent of the member's average compensation for the twelve highest consecutive months of employment, not to include overtime pay (whether voluntary or involuntary), holiday, or part-time pay for each year of service after June 30, 1967. No such retirement benefit shall exceed one hundred percent of the member's average ...

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PART II. PENSION AND RELIEF FUNDS IN PARTICULAR CITIES  
SUBPART F. POLICE PENSION FUND FOR THE POLICE DEPARTMENT OF THE CITY OF NEW  
ORLEANS

La. R.S. 11:3646 (1997)

3646. Retirement with sixteen years active continuous service; amount of pension; service benefit after sixteen years

... each year of service in addition to sixteen years up to and including his twentieth year, an additional service benefit equal to two and one-half percent of his average compensation for the last year of service, not to include overtime pay, holiday pay, or court time pay.

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SUBPART F. POLICE PENSION FUND FOR THE POLICE DEPARTMENT OF THE CITY OF NEW  
ORLEANS

L.A. R.S. 11:3647 (1997)

3647. Retirement of members having twenty years or more of service

... increased by an additional one percent of his average compensation for each year of service before January 1, 1968 and two and one-half percent of average compensation for the best year of service, not to include overtime pay, holiday pay or court time pay for each year of service after June 30, 1967; and in addition, if the member has attained age fifty, his service benefit shall be increased one- ...

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ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* THIS SECTION IS CURRENT THROUGH ALL 1996 LEGISLATION \*\*\*

PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE IV. CIVIL SERVICE, RETIREMENT AND PENSIONS  
CHAPTER 32A. Contributory Group General or Blanket Insurance for Persons in the  
Service of the Commonwealth

Mass. Ann. Laws ch. 32A, @ 10A (1996)

@ 10A. Additional Amounts of Insurance, Benefits, etc., Regulated.

... in excess of one year. No reduction in the amount of insurance shall be required on account of a reduction in compensation. For purposes of this additional insurance, yearly gross salary or compensation shall not include any overtime pay and in the case of hourly workers shall be computed on the basis of scheduled required work hours.

With respect to any additional insurance which is in effect for an employee there shall be withheld from each payment of salary or wages of such ...

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LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 3. POLICEMEN'S PENSION AND RELIEF FUNDS  
PART II. PENSION AND RELIEF FUNDS IN PARTICULAR CITIES  
SUBPART G. HARBOR POLICE RETIREMENT SYSTEM (PORT OF NEW ORLEANS)

La. R.S. 11:3682 (1997)

3682. Definitions

... service for which credit is allowable as provided in R.S. 11:3684.

(8) "Earnable Compensation" shall mean the full amount of compensation earned by an employee for a given month, but shall not include overtime.

(9) "Employee" shall mean any commissioned member or employee of the Harbor Police Department of the Port of New Orleans.

(10) "Employer" shall mean the Board of Commissioners of the Port of New Orleans.

(11) "Medical Board" ...

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ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* THIS SECTION IS CURRENT THROUGH ALL 1996 LEGISLATION \*\*\*

PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE IV. CIVIL SERVICE, RETIREMENT AND PENSIONS  
CHAPTER 32B. Contributory Group General or Blanket Insurance for Persons in the  
Service of Counties, Cities, Towns and Districts, and Their Dependents

Mass. Ann. Laws ch. 32B, @ 11D (1996)

@ 11D. Group Accidental Death Insurance for Policemen and Firemen Killed in  
Performance of Duty; Premium Contributions; Acceptance of Section.

... No reduction in the amount of accidental death insurance shall be  
required on account of a reduction in salary or compensation. For purposes of  
this accidental death insurance, yearly gross salary or compensation shall not  
include any overtime pay.

With respect to any accidental death insurance which is in effect for a  
policeman or fireman there shall be withheld from each payment of salary, wages  
for compensation fifty per cent of a premium the amount of which ...

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MINNESOTA STATUTES 1996

\*\*\* CURRENT THROUGH THE 1996 SUPPLEMENT \*\*\*  
\*\*\* (1996 REGULAR SESSION) \*\*\*

Retirement  
CHAPTER 352 MINNESOTA STATE RETIREMENT SYSTEM

Minn. Stat. @ 352.115 (1996)

352.115 Retirement annuity

... successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

"Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary

...

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REVISED STATUTES OF THE STATE OF MISSOURI

\*\*\* CURRENT THROUGH THE 1996 LEGISLATIVE SESSION

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**cc:Mail for: Barbara Cotting**

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**Subject:** fiscal notes

**From:** Barbara Cotting 04/03/1997 11:43 AM

**To:** SHARI\_KOCHMAN@GOV.STATE.AK.US at CC2MHS1

**To:**

---

---

I have scheduled HB 188, Definition of Compensation in PERS, for Tuesday April 8, and I need fiscal notes. Thanks

---

---

**cc:Mail for: Barbara Cotting**

---

---

**Subject:** Re: fiscal notes

**From:** Shari Kochman at Gov\_Juneau\_Capitol 04/03/1997 01:10 PM

**To:** Barbara Cotting at LAA\_TRANS

---

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request made to doa  
thanks

..... Reply Separator .....

Subject: fiscal notes

author: Barbara Cotting at OBI\_LAA

Date: 4/3/97 5:44 PM

I have scheduled an LFF, Definition of compensation in Wash. for Tuesday April 8, and I have fiscal notes. Thanks

**NATIONAL CONFERENCE OF STATE LEGISLATURES**

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www.ncsl.org info@ncsl.org



Teletcopy to: ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~

From: Kelly Fox

Message: The following is the information you requested regarding  
exclusion of overtime pay from state retirement benefits. If  
you would like a copy of any of these statutes, please  
let me know.

Kelly

Number of pages telecopied (including cover sheet): 31

Date Sent: 3/20/97

**NOTE TO SENDER: FAX NUMBER AND AUTHORIZATION CODE MUST APPEAR ON THE REVERSE SIDE.**

ADW  
2-10 97

## Pension plums

### *System in Anchorage invites abuse*

Of all the revelations emerging from this year's list of top-paid Anchorage city employees, one stands out. It's the realization that several senior Anchorage police officers work such frightful hours that the public might well wonder about their fitness for duty.

What's even more disturbing is that those long hours are not dictated by necessity. The senior officers pile on the overtime because it produces phenomenal increases in their retirement pay.

The city's top-paid worker in 1996, for example, was a police officer who collected 1500 hours of overtime pay. That's the equivalent of a 68-hour work week, 52 weeks a year. At some point, racking up that kind of long hours has to push the limits of personal endurance.

Society entrusts police officers with a life-and-death power, the right to use deadly force. One reason we pay officers so well — some make \$75,000 a year in base pay alone — is so we have people who will use the best possible judgment in exercising this deadly power. When officers start routinely pulling 60- or 70-hour weeks to boost their pensions, citizens have a right to worry that fatigue will start to impair the officers' judgment.

All that overtime has an obvious financial cost as well. It drives up the cost of public events, because senior officers routinely grab the job of directing traffic so they can get the pension-boosting overtime. And the other big source of police overtime — working on special projects funded by federal grants — means Anchorage residents get less police service than they would otherwise, as the higher hourly cost of officers on overtime uses up the available aid faster.

At one point, the city ended the pension plum that makes police overtime so attractive. Some police employees gave it up in return for a cost of living adjustment in future pension payments.

But that change didn't last. These days, newly hired Anchorage officers go into the state pension system, where they get the best of both deals. They get the right to boost pensions with overtime and they get a cost of living adjustment. And that's not just true for peace officers. It's true for thousands of state employees who are eligible for

The potential for abuse in the state pension system used to be even worse. Workers used to get themselves posted to Bush assignments just before retirement so they could collect hefty bonuses for the high cost of Bush living. The bonuses also boosted their pension payments.

In 1986, the Legislature made that scam much harder to run. But the pension-boosting possibilities of overtime are still there, waiting to be exploited. And the problem won't be easy to fix. Under the state constitution, the state cannot diminish the pension of current workers without their consent. Any reforms can only be imposed on newly-hired employees.

But at the city level, there are some options. The change to a 5-day/8-hour workweek has trimmed the amount of overtime available to police. So has the move to expand the number of uniformed officers. The city might also revisit the requirement that uniformed officers direct traffic for special events.

Changes like those will help control overtime at the Police Department. But they aren't the whole cure. The costly pension rules that encourage excessive overtime, both at the police department and elsewhere in state government, bear further scrutiny by state legislators.