

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11041 HOUSE STATE AFFAIRS

MAR 31 2003

March 20, 2003

Representative Bruce Weyhrauch
State Capitol, Room #102
Juneau AK 99801-1182

Dear Rep. Weyhrauch,

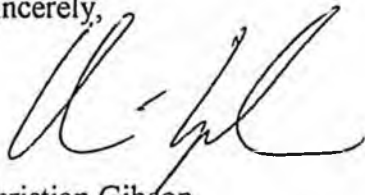
My name is Christian Gibson and I work for the Division of Juvenile Justice (DJJ) as a Youth Counselor II at the McLaughlin Youth Center. I joined the Alaska Juvenile Correctional Officers Association (AJCOA) recently to support the passage of the Youth Counselor 20-year retirement legislation, HB 183.

Youth Counselors deserve a 20-year package more than any other group of employee because of the inequity that exists within our own division. You probably know that most all other employees in DJJ are in the Peace Officers Retirement System already and have been for sometime.

As the Chair, I know that you can make HB 183 move to a hearing in the State Affairs Committee. I would certainly support such an action as a Youth Counselor and an AJCOA member. I know that HB 183 will have support in both the House and the Senate when they see it.

Please make HB 183 move for the Youth Counselors as a sign of support for a group of employees who have been working a long time toward fairness and equity.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Gibson', written in a cursive style.

Christian Gibson

HB 183 file

HISTORY OF POLICE OFFICER/FIREFIGHTER RETIREMENT

The provisions in the Public Employees' Retirement System (PERS) for a 20 year retirement originally covered police officers, fire fighters, guards at public institutions and firewardens, other than ex officio, (PERS Statutes, 1969)

Over the years many arguments have been proposed regarding eligibility for police officer/firefighter coverage. One of the primary arguments has been the high stress or hazard involved with the positions. The PERS did allow inclusion of non-police/fire positions based on this criterion in the past.

In 1975, police/fire coverage was extended to qualifying Fish and Game personnel. The coverage was removed in 1983 when it became apparent that this inclusion opened the door for an ever-increasing number of requests to include other positions.

Initially, the legislature extended the 20-year retirement to Fish and Game Biologist positions based on the greater hazards experienced in field work than other employees experienced working in a traditional office setting (January 4, 1977 Attorney General Opinion). The original covered group included selected supervisory and administrative staff positions who encountered similar hazards. The total number of covered positions at the original passage of the bill was 26 but swelled to 750 between 1976 and 1982 due in part to departmental growth and expansion of the included positions.

In 1980, non-hazardous administrative positions in the Department of Fish and Game were being considered for Police Officer coverage solely on the basis that the person in the 20 year retirement was reluctant to seek or accept a promotion to a position participating in the 30 year retirement system. In a memo dated October 3, 1980, then Retirement and Benefits Director Paul Arnoldt stated that "the number of positions considered at one time or another for inclusion into the Police Officer category encompasses nearly the full spectrum of public service employment." In 1981, the Alaska Public Employees Association petitioned the State to include a number of additional positions in the Police officer category.

Regulations were developed that defined the requirements for non-Police officer/firefighter personnel covered in the 20-year retirement. These regulations drew considerable negative public comment and were ultimately revised to be less stringent. From the effective date of the regulation in March of 1982, the number of Fish and Game positions covered grew to 1500.

It was decided that a return to the original concept of limiting coverage to bona fide police officers, fire fighters and correctional officers was the only way to stem the tide of requests for coverage under the 20-year retirement. In 1983 legislation was drafted to remove Fish and Game employees from future coverage. The estimated saving, at the time, was approximated at \$25 million over the next 17 years. (Proposed Action Regarding Police Officer Coverage in the PERS, 1983)

The legislative record indicates that in 1983 the legislators supported the concept that, although some of the Fish and Game positions were indeed hazardous, their job descriptions, training and qualifications did not mirror a police officer position. The hazardous nature of their positions alone was not a qualifying reason for police officer

coverage. One argument put forth during consideration of this legislation was that PERS employers can meet employee concern about the possibility of loss of life while performing a dangerous job with other benefit options, such as life insurance plans, accidental death and dismemberment coverage, disability benefits or hazard pay. The 1983 change returned the 20-year retirement to its original philosophy.

Correctional officers remained in PERS in 1983 because their duties and training were similar to the police officer and because they were covered in the police officer retirement for the Federal Retirement System (December 3, 1980 Paul Arnoldt memo). The 1983 legislation defined those covered in the 20-year retirement as:

AS 39.35.680(28) "Peace officer" or "fireman" means an employee occupying a position as a peace officer, chief of police, correctional officer, correctional superintendent, correctional superintendent, fireman or fire chief.

Adult and Juvenile Probation Officers were added in 1990.

Since 1983 legislation, additional positions considered for inclusion in the 20-year retirement have had to meet the same or similar requirements as police officers. These are completion of academy attendance, a field training officer program and certification by the police standards council as well as the regulatory requirements for prevention and detection of crime and enforcement of fish and game, penal, traffic or highway laws.

There are other positions, whose duties are similar to either the correctional officer or the police officer, who either are in PERS in the all-other category because they are not fully commissioned, or not in PERS at all because they are not employed by a state or municipal police agency. Therefore, duties and hazard alone do not dictate placement in the police officer classification in the PERS.

Compelling arguments can be made for the physical and/or psychological hazards faced by many groups of state and municipal employees such as:

- Park rangers
- Public service officers
- Department of Fish and Game field personnel
- Department of Transportation airport staff trained in crash rescue
- Department of Transportation weights and measures officers
- Child protective service social workers
- Department of Natural Resources fire fighting personnel
- Harbormasters
- Police dispatchers
- Intake officers
- Psychiatric nurses
- Jailers

If consideration were given to PERS disability statistics, heavy equipment operators and mechanics could be afforded twenty and out status.

Offering an individual a 20-year retirement carries a cost. The employee rate increases from 6.75% to 7.5%. The employer rate can increase also, particularly if the cost of conversion of an employee's prior service is principally borne by the employer.

HB

188

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 26, 2004

FURTHER REFERRALS:

Date of Committee Action: 3/23/04

The STATE AFFAIRS Committee considered:

HB 188

HOUSE BILL NO. 188

BAIL SCHEDULE FOR SKIING VIOLATION

"An Act relating to the authority of the Department of Natural Resources to issue citations for certain skiing violations; relating to establishing a bail schedule for certain skiing violations and to procedures for issuing a citation for a skiing violation."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DNR				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
CRT	1			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Seaton			✓	
	Grunberg			✓	
	Holm		✓		
	Lynn Coghill			X	
	Berkowitz				✓
Chair:	Weyhrauch	X			
Chair:					

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
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800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
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907 269-0244 office
907 269-0248 fax

Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

House Bill 188 Sponsor Statement

Enacted by the 18th Alaska State Legislature, the Alaska Ski Safety Act defines the rights and responsibilities of both ski areas and skiers. In accordance with the Act, House Bill 188 allows for citations to be issued in ski areas throughout the State and provides the Court with the necessary authority to adopt the bail forfeiture schedule for the violations included in the Statute.

House Bill 188 amends sections of the Alaska Ski Safety Act that have proven unenforceable. The proposed amendments are technical in nature; they clarify the statutes and are consistent with the original provisions of the Alaska Ski Safety Act. These measures will allow for full implementation and improved enforcement of the original Alaska Ski Safety Act.

It is not the intention of House Bill 188 to change any part of the Alaska Ski Safety Act.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 188
 (H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Bail Schedule for Skiing Violations BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Hawker
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB188.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 2/20/04 8:10 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/20/2004
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB188-DNR-CPL-02-24-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Bail schedule for skiing violations RDU Resource Development
 Component Claims, Permits & Leases
 Sponsor Rep. Hawker
 Requester (H) RES Component No. 2460

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mer'al Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 There is no anticipated fiscal impact to DNR associated with implementation of this legislation.

Prepared by: Bob Loeffler, Director Phone 269-8600
 Division Mining, Land and Water Date/Time 2/24/04
 Approved by: Thomas Irwin, Commissioner Date 2/24/04
 Agency Natural Resources

Representative Mike Hawker

Alaska State Legislature



Session:

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Interim:

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907 269-0248 fax

Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

Sectional Analysis **House Bill 188-Bail Schedule for Skiing Violation**

Section 1.

Amends AS 05.45.100-Duties and Responsibilities of Skiers

- (h) Allows the Commissioner of the Department of Natural Resources or a person authorized by the Commissioner to issue a citation within a ski area to a person in violation of this statute.

Section 2.

Amends 05.45.100-Duties and Responsibilities of Skiers

- (i) Adds a new subsection ordering the Supreme Court to establish a bail schedule.

Section 3.

Amends AS 12.25.190-When person to be given five-day notice to appear in court

- (c) Adds citations for skiing violations to the list of citations not required to give a written promise to appear in court by signing at least one copy of the citation.

Sec. ~~05.25.090~~. Penalties. [See delayed amendment note].

(a) Except as provided in (b) of this section, a person who violates a provision of this chapter or regulations adopted under this chapter is guilty of a class A misdemeanor.

(b) A person who violates

(1) AS 05.25.010, 05.25.020, 05.25.030(d), 05.25.060(2), or a regulation adopted under this chapter relating to AS 05.25.010 or 05.25.020 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$500;

(2) AS 05.25.055 is guilty of a violation as defined in AS 11.81.900 and may be fined up to \$50.

(c) The supreme court shall establish by order or rule a schedule of bail amounts for violations under (b) of this section that allow the disposition of a citation without a court appearance.

Sec. 05.45.100. Duties and responsibilities of skiers.

(a) A skier is responsible for knowing the range of the skier's own ability to negotiate a ski slope or trail and to ski within the limits of the skier's ability. A skier is responsible for an injury to a person or property resulting from an inherent danger and risk of skiing, except that a skier is not precluded under this chapter from suing another skier for an injury to person or property resulting from the other skier's acts or omissions. Notwithstanding any other provision of law, the risk of a skier's collision with another skier is not an inherent danger or risk of skiing in an action by one skier against another.

(b) A skier has the duty to maintain control of the skier's speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, a person skiing downhill has the primary duty to avoid collision with a person or object below the skier.

(c) A skier may not

(1) ski on a ski slope or trail that has been posted as "closed" under AS 05.45.060 (b)(5) and (d);

(2) use a ski unless the ski is equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier;

(3) cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator, or place an object in an uphill track;

(4) move uphill on a tramway or use a ski slope or trail while the skier's ability is impaired by the influence of alcohol or a controlled substance as defined in AS 11.71.900 or other drug;

(5) knowingly enter upon public or private land from an adjoining ski area when the land has been closed by an owner and is posted by the owner or by the ski area operator under AS 05.45.060 (e)(3).

(d) A skier shall stay clear of snow grooming equipment, vehicles, lift towers, signs, and other equipment on the ski slopes and trails.

(e) A skier has the duty to heed all posted information and other warnings and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others. Evidence that the signs required by AS 05.45.050 and 05.45.060 were present, visible, and readable at the beginning of a given day creates a presumption that all skiers using the ski area on that day have seen and understood the signs.

(f) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, a skier has the duty to avoid moving skiers already on the ski slope or trail.

(g) Except for the purpose of securing aid for a person injured in the collision, a skier involved in a collision with another skier or person that results in an injury may not leave the vicinity of the collision before giving the skier's name and current address to the other person involved in the collision and to an employee of the ski area operator or a member of the voluntary ski patrol. A person who leaves the scene of a collision to obtain aid shall give the person's name and current address as required by this subsection after obtaining aid.

(h) A person who violates a provision of (c) or (g) of this section is guilty of a violation as defined in AS 11.81.900. The commissioner of natural resources, a person designated by the ski area operator who is authorized by the commissioner, or an employee of the Department of Natural Resources authorized by the commissioner may issue a citation in accordance with the provisions of AS 41.21.960 to a person who violates (c) or (g) of this section within a ski area over which the state has jurisdiction.

Sec. 12.25.190. When person to be given five-day notice to appear in court.

(a) When a person is contacted by a peace officer and the peace officer exercises the option provided for in AS 12.25.180, the officer shall prepare a written citation and issue it to the person.

(b) The time specified in the notice to appear shall be at least five days after the alleged violation or the issuance of the citation, whichever is later, unless the person cited requests an earlier hearing.

(c) The person cited for the crime shall give a written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer, and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to boating citations for which a bail schedule has been established under AS 05.25.090 (b), motor vehicle and traffic citations for which a bail or fine schedule has been established under AS 28.05.151, fish and game citations for which a bail schedule has been established under AS 16.05.165, citations issued under AS 04.21.065, citations issued under AS 18.35.341, citations issued in state park and recreational facilities under AS 41.21.960, or littering citations issued under AS 46.06.080.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

RECEIVED

AUG 21 1995

LAND
REGI

Susan Miller
Office of Special Projects

Alaska Court System
State of Alaska
OFFICE OF THE ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, Alaska 99501-2099

Phone: (907) 264-8229
Fax: (907) 258-4968

August 16, 1995

Mike Sullivan
Natural Resource Manager
Division of Land
Department of Natural Resources
PO Box 107005
Anchorage AK 99510-7005

Dear Mr. Sullivan:

On August 8 the Alaska Supreme Court discussed your December 21, 1994 request that a bail forfeiture schedule be adopted for the new skiing offenses defined in AS 05.45.100. The court declined to create such a schedule because there is no clear authorization in the statute for such a schedule. Administrative Rule 43(a) states: "The supreme court will consider adopting a bail forfeiture schedule only when so authorized by statute...." The court decided the language in AS 05.45.100(b) is not an adequate authorization.

Please give me a call when you get a chance. A copy of Administrative Rule 43 is attached.

Sincerely,

Susan Miller
Office of Special Projects

SM:lb

Enclosure

Memorandum

Alaska Court System

101 E Street, Anchorage, AK 99501-2099
Phone: 254-8229 Fax: 258-4958

TO: Christine Johnson
Court Rules Attorney

DATE: July 24, 1995

FROM: Susan Miller
Special Projects

SUBJ: Ski Area Bail Forfeiture Schedule

Issue: Can the new Alaska Ski Safety Act offenses in AS 05.45.100 be added to the Parks Bail Forfeiture Schedule?

It is my understanding that the supreme court will not create bail forfeiture schedules without a clear mandate from the legislature. The Department of Natural Resources has requested that a bail forfeiture schedule be adopted for six of the new downhill skiing offenses created by the Alaska Ski Safety Act of 1994. A copy of the request and a copy of the new law (ch 63 SLA 1994) are attached.

There is no explicit requirement in this legislation that the court create a bail forfeiture schedule for these offenses. However, Mike Sullivan, author of the attached memorandum from the Department of Natural Resources, believes it was the intent of the drafters of the legislation that such a schedule be created. He points to AS 05.45.100(h) as the authority for this. Paragraph (h) states:

(h) A person who violates a provision of (c) or (g) of this section is guilty of a violation as defined in AS 11.81.900. The commissioner of natural resources, a person designated by the ski area operator who is authorized by the commissioner, or an employee of the Department of Natural Resources authorized by the commissioner may issue a citation in accordance with the provisions of AS 41.21.960 to a person who violates (c) or (g) of this section within a ski area over which the state has jurisdiction.

Apparently the drafters thought all that was required to make the new offenses eligible to be on a bail forfeiture schedule was to make them "violations" rather than misdemeanors. This is, of course, not correct. Alternatively, they apparently believed that the reference to AS 41.21.960 in the last sentence was enough to make it clear that the court should add the offenses to the Parks Bail Schedule.

AS 41.21.960(a) authorizes issuance of a citation for "a misdemeanor offense committed within a park or recreational facility subject to the department's supervision." Paragraph (b) of the statute requires the supreme court to create a bail forfeiture schedule for "those offenses that are amenable to disposition without court appearance." The statute is not completely clear about which offenses can be included in the bail schedule. Arguably, however, "those offenses" means misdemeanors defined in AS 41.21 or a regulation adopted under AS 41.21 which are committed within a park or recreational facility subject to the supervision of the Department of Natural Resources. See AS 41.21.950 and AS 41.21.960(a), attached.

The new downhill skiing offenses in Title 5 do not seem to qualify under this interpretation of AS 41.21.960(b). They are not misdemeanors, they are not offenses defined in AS 41.21 or a regulation adopted under AS 41.21, and it is not clear that they would be committed within a park or recreational facility subject to the supervision of DNR. So, the question becomes: Is the supreme court willing to add these offenses to the Parks Bail Forfeiture Schedule based on the second sentence in AS 05.45.100(h) quoted above?

Susan

Rule 43. Bail Forfeiture Schedules.

(a) **Procedure for Adopting Bail Forfeiture Schedule.** The supreme court will consider adopting a bail forfeiture schedule only when so authorized by statute. The agency charged with enforcement under a statute for which a bail forfeiture schedule has been authorized shall forward to the administrative director its recommendations for a proposed schedule, listing offenses by number, describing the offenses, and proposing a bail forfeiture amount. The proposed schedule shall be accompanied by commentary explaining the basis for the agency's recommendation, and by a copy of the proposed citation form. The supreme court shall consider the recommendation, and shall determine whether to adopt a bail forfeiture schedule, and if so, shall determine which offenses are amenable to disposition by bail forfeiture and whether the bail forfeiture amounts are appropriate. The administrative director shall notify the agency when an order adopting the schedule is issued.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB188-DNR-CPL-02-24-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Bail schedule for skiing violations RDU Resource Development
 Component Claims, Permits & Leases
 Sponsor Rep. Hawker
 Requester (H) RES Component No. 2460

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to DNR associated with implementation of this legislation.

Prepared by: Bob Loeffler, Director Phone 269-8600
 Division Mining, Land and Water Date/Time 2/24/04
 Approved by: Thomas Irwin, Commissioner Date 2/24/04
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB188-ACS-TC-2-20-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Bail Schedule for Skiing Violations BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Hawker
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB188.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 2/20/04 8:10 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/20/2004
 Agency Alaska Court System

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886

550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

February 24, 2004

The Honorable Mike Hawker
Alaska State Legislature
State Capitol, Room 434
Juneau, AK 99801

Dear Representative Hawker:

My staff and I have reviewed House Bill 188, proposed changes to the Alaska Ski Safety Act. The revisions allow the Department of Natural Resources (DNR) employees to issue citations for certain skiing violations by establishing a bail schedule for these violations. The bill also extends this DNR authority to all Alaskan ski area operators. Currently DNR's authority is limited to those areas operating under state jurisdiction. Alaskan ski area operators have proposed similar revisions in the past, including HB 134 in 1999. The operators' primary concern is that DNR was never granted the authority to establish bail schedules for ski safety act violations and that all ski areas — those on state land and those on other lands — be treated equally in regards to enforcement of these violations.

When the Alaska Ski Safety Act was passed in 1994, DNR anticipated having the responsibility of issuing a citation for the infractions listed in AS 5.45.100 (c) and (g) for ski areas operating on state lands. However, when attempting to enact a bail schedule for these violations through state court officials it was determined the 1994 legislation lacked the specific direction the courts needed to establish a bail schedule. My staff and ski area managers are particularly concerned that skiers who violate closed areas and boundaries be subject to a fine sufficient to discourage this dangerous behavior. I believe this revision is an important safety concern for both the skiers who violate closed areas and the resort employees who must search for or rescue their customers.

DNR anticipates that this bill will cause a minor increase in workload and will have minimal impact on other DNR operations. DNR supports passage of HB 188.

Sincerely,



Thomas E. Irwin
Commissioner

cc: Bob Loeffler, Director, ML&W

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."



Alaska Division
National Ski Patrol
PO Box 92207
Anchorage, Alaska 99509

February 21, 2004

House Resources Committee
Alaska State Capitol, Room 124
Juneau, Alaska 99801

Dear Co-Chair Dahlstrom and Co-Chair Masek,

The members of the Alaska Division of the National Ski Patrol urge you to adopt HB 188, providing an amendment to the Alaska Ski Safety Act. This correction is necessary to correct a major deficiency of the existing law.

In 1994, the 18th Alaska State Legislature enacted the Alaska Ski Safety Act which itemized the responsibilities of both the ski areas and the skiers and more clearly defined the rights and responsibilities of both parties. This is a good piece of legislation which well serves both the skiing public and the ski area operators.

The Alaska Supreme Court ruled that the language in the original legislation was not specific enough to give them the authority to establish a bail schedule.

In December of 1994 DNR requested the Courts to adopt a bail forfeiture schedule for specific violations of the Alaska Ski Safety Act as included in AS 05.45.100 (c) & (g).

The Alaska Supreme Court responded to this request by declining to create such a schedule because: "there is no clear authorization in the statute for such a schedule" based on the fact that Administrative Rule 43(a) states: "The Supreme Court will consider adopting a bail forfeiture schedule only when so authorized by statute . . .". The Court decided the language in AS 05.45.100 (h) is not an adequate authorization.

It should be noted that AS 05.45.100 (h) does contain a reference to AS 41.21.960 which is the Statute that pertains to "Form and Issuance of Citation". At the time the Alaska Ski Safety Act was written, it was thought that this would be adequate authority for the Courts to establish the bail schedule. Nonetheless, the Courts didn't feel that this gave them sufficient authority.

HB 188 provides specific language for a bail schedule to be created to enforce the safety provisions of the act. These changes are necessary to protect the safety and well-being of Alaskan skiers, protect others such as patrollers and resort personnel, and maintain consistency with the provisions of the Alaska Ski Safety Act. Skiers who act recklessly and do not observe closure areas can create extremely unsafe conditions for those who may be forced to rescue them.

The Alaska Division represents nearly 400 paid and volunteer ski patrollers across the State of Alaska.

Thank you for your careful consideration of this matter.

Sincerely yours,

Chris Ross
Division Director



A Facility of Youth Exploring Adventure, Inc. A Non-Profit Organization
Dedicated to Developing Recreational Facilities for Our Alaskan Youth

Representative Mike Hawker
State Capital Building Rm 434
Juneau, Alaska 99801-1182

February 25, 2004

Dear Representative Mike Hawker

I have had time to review the proposed House Bill No.188 package that you sent me and would like to offer our support in making this important legislation happen. Without this legislation there are no consequences for persons that willfully and knowingly violate provisions already included in the Alaska Ski Safety Act. It is unfortunate that this detail was overlooked when the Alaska Ski Safety Act was initially passed. It is extremely important that this legislation pass for the safety of all those Alaskans that enjoy this wonderful outdoor recreation and abide by the rules. Without consequences for the people who do not abide by the guidelines, as set forth in the Alaska Ski Safety Act, many innocent people are at risk.

I am hopeful that House Bill No. 188 will be introduced, gain support and be passed in this legislative session. It is vital that our Legislators recognize the importance of having this tool available to those persons that are out there on the front lines enforcing safety.

Please let me know if there is anything more that I can do to help you in this effort.

Sincerely,

A handwritten signature in black ink that reads "Steven P. Remme". The signature is written in a cursive style with a large, prominent "S" and "R".

Steven P. Remme
CEO Hilltop Ski Area



February 19, 2004

Representative Mike Hawker
State of Alaska

Fx. 907 465-4979

Alyeska Resort strongly supports the enactment of House Bill 188, which would allow for citations to be issued in ski areas throughout the State and provides the Court with the necessary authority to adopt the bail forfeiture schedule for the violations included in the Statute. These measures will allow for full implementation and improved enforcement of the original Alaska Ski Safety Act.

House Bill 188 amends sections of the Alaska Ski Safety Act that have proven to unenforceable. The proposed amendments are technical in nature; they clarify the statutes and are consistent with the original provisions of the Alaska Ski Safety Act.

Thank you,

Lary Daniels, General Manager -

Skiing and Golf



Eaglecrest

Ski Area

February 20, 2004

The Honorable Mike Hawker
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Hawker:

Thank you for your support of the ski industry in Alaska. Your sponsorship of HB 188 is certainly appreciated. We feel this legislation will give Alaska ski areas an effective tool for dealing with violators of the Ski Safety Act.

The Alaska Ski Safety Act of 1994 allows the Commissioner of the Department of Natural Resources to designate authorized individuals who may issue citations. Unfortunately, the Alaska Court system determined that the bail schedule was not specified clearly in the Act and that there is not sufficient authority to establish the bail schedule. It is our understanding that this situation can be corrected by the legislative amendment you introduced. The bail schedule would specifically cover the following items noted in the ski safety act.

- AS 05.45.100(c)3 Crossing the uphill track of a surface lift or rope tow except at locations designated by the operator, or places an object in the uphill track.
- AS 05.45.100(c)4 Moving uphill on a tramway or use a ski slope or trail while the skier's mobility is impaired by the influence of alcohol or a controlled substance as defined in AS 11.71.900 or other drug.
- AS 05.45.100(c)5 Knowingly enter upon public or private land from an adjoining ski area when the land has been closed by an owner and is posted by the owner or by the ski area operator.
- AS 05.45.100(g) Except for the purpose of securing aid for a person injured in the collision, a skier involved in a collision with another skier or person that results in an injury may not leave the vicinity of the collision before giving the skier's name and current address to the other person involved in the collision and to an employee of the ski area operator or a member of the voluntary ski patrol. A person who leaves the scene of a collision to obtain aid shall give the person's name and current address as required by this subsection after obtaining aid.

In December of 1994 the Department of Natural Resources, Division of Lands recommended the following bail schedule.

AS 05.45.100(c)1	Skiing on a closed slope or trail	\$150.00
AS 05.45.100(c)2	Use a ski w/out a stopping device	\$50.00
AS 05.45.100(c)3	Cross uphill track of surface lift	\$50.00
AS 05.45.100(c)4	Ski or ride lifts under the influence of alcohol or drugs	\$100.00
AS 05.45.100(c)5	Skiing in closed area	\$150.00
AS 05.45.100(g)	Skier involved in collision leaves the scene of an accident	\$150.00

It should be noted that this legislation carries out the original intent of the Ski Safety Act, which is very specific on what violations would be subject to citations. The proposed legislation does not address skiers or snowboarders who venture outside the ski area boundary, although the Ski Safety Act notes that skiers/snowboarders do so at their own risk.

Sincerely,



Gary Mendivil,
Business Manager

Paul Swanson, Area Manager, Eaglecrest Ski Area
155 S. Seward St., Juneau, AK 99801. Telephone: 586-5284.

Thank you Madame Chair and Members of the Committee for the opportunity to testify this afternoon in support of HB 188.

For the record, my name is Paul Swanson. I am Area Manager of Eaglecrest Ski Area which is owned and operated by the City and Borough of Juneau.

When the Alaska Ski Safety Act was enacted in 1994 it clearly identified duties and responsibilities of both the ski area and the skier.

However, currently we are unable to fully enforce all provisions due to the fact that the bail schedule as called for in the Act has not been established by the courts.

I feel that passage of this bill is needed to support the intent of the Ski Safety Act and reinforce current area operations and safety policies as approved by the Department of Natural Resources.

The establishment of the bail schedule will allow us to deal more effectively with violators, such as skiers who enter a closed area and those under the influence of alcohol and controlled substances.

It is important to note that the Act does not prohibit skiers from going out of the ski area boundaries - at their own risk.

I appreciate your support and am willing to answer any questions you might have.

HB

2022

Bill was
pulled from
calendar by
sponsor prior
to hearing

Alaska State Legislature

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
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Chair, Judiciary Committee
Vice-Chair, House Committee on
Economic Development,
Trade and Tourism

Member
Oil & Gas Committee

Representative Lesil McGuire

House District 28

House Bill 202

"An Act relating to false information or report."

Sponsor Statement

House Bill 202 makes it a misdemeanor to make a false complaint against a peace officer or file a false civil action or process against a peace officer with the intent to harass or discourage a peace officer from performing the officer's official duties. Under this bill, a person filing an allegation of misconduct by a peace officer must read and sign a form acknowledging that it is against the law to make a complaint against an officer knowing that it is false.

The purpose of HB 202 is to deter ill-intentioned individuals from filing knowingly false complaints against peace officers, often in an effort to punish officers for actively performing their duties. Knowingly deceitful claims of misconduct against a peace officer have substantial, negative secondary effects on parties involved.

Once filed, all allegations must be treated in the same manner, regardless of their legitimacy. Therefore, formal investigations ensue on all claims. These lengthy investigations require substantial law enforcement resources and internal procedures. Consequentially, public resources are poured into mandatory investigations of illegitimate claims that could otherwise be used for other matters, such as the safety and well being of Alaska's citizens.

Used as a threat, the adverse consequences of illegitimate claims have the power to deter officers from fulfilling their duties. False allegations, once filed against an officer, may have a demoralizing effect on his or her professional confidence and performance. HB 202 will remove a tool, the deliberate false complaint, that malicious individuals use to deter law enforcement agents from fulfilling their vital responsibilities.

HB 202 protects both our officers of peace and the citizens of Alaska. It will ensure that our State Public Safety resources are used in the most efficient manner possible and the duties of our law enforcement agents are protected.

H

Supreme Court of California

The PEOPLE, Plaintiff and Respondent,
v.
Shaun STANISTREET, Defendant and Appellant.
The People, Plaintiff and Respondent,
v.
Barbara Joyce Atkinson, Defendant and Appellant.

No. S102722.

Dec. 5, 2002.

Defendants were convicted in the Superior Court, Ventura County, Nos. 97C010156, John J. Hunter, J., of filing a false report of a criminal offense, and knowingly filing a false charge of police misconduct. Defendants appealed, and the Appellate Division of the Superior Court affirmed. On transfer, the Court of Appeal, 113 Cal.Rptr.2d 529, reversed. People petitioned for review, which was granted. The Supreme Court, Chin, J., held that: (1) statutory provision governing offense of knowingly filing a false charge of police misconduct does not violate free speech rights of the First Amendment, and (2) statutory provision governing offenses of knowingly filing a false charge of police misconduct is not facially overbroad.

Reversed and remanded.

Werdegar, J., concurred and filed a separate opinion.

West Headnotes

[1] Constitutional Law 90.1(5)
92k90.1(5) Most Cited Cases

[1] Obstructing Justice 2
282k2 Most Cited Cases

Statutory provision governing offense of knowingly filing a false charge of police misconduct does not violate free speech rights of the First Amendment; any content discrimination statute embodies by not covering complaints against other public officials is justifiable, as potential for harm for making such false statements is greater than in other situations in that it triggers mandatory investigation and record retention requirements. U.S.C.A. Const.Amend. 1;

West's Ann.Cal.Penal Code § 148.6.

[2] Constitutional Law 90(3)
92k90(3) Most Cited Cases

A statute is facially overbroad if it may cause others not before the court to refrain from constitutionally protected speech or expression.

[3] Constitutional Law 90(3)
92k90(3) Most Cited Cases

To succeed on a constitutional challenge based on asserted overbreadth, a plaintiff must demonstrate the statute inhibits a substantial amount of protected speech.

[4] Constitutional Law 82(4)
92k82(4) Most Cited Cases

Overbreadth of a statute must not only be real, but substantial as well, judged in relation to the statute's plainly legitimate sweep.

[5] Constitutional Law 90.1(5)
92k90.1(5) Most Cited Cases

[5] Obstructing Justice 2
282k2 Most Cited Cases

Statutory provision governing offenses of knowingly filing a false charge of police misconduct is not facially overbroad restriction on free speech. West's Ann.Cal.Penal Code § 148.6.

**634 *497 Superior Court, Ventura County; John J. Hunter [FN*]. Judge.

FN* Retired judge of the former Ventura Municipal Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

*500 Andrew Wolf, Ventura, for Defendant and Appellant Shaun Stanistreet.

Steven Warner, Ventura, for Defendant and Appellant Barbara Joyce Atkinson.

ACLU Foundation of Southern California, Daniel P. Tokaji, Mark D. Rosenbaum, Los Angeles; ACLU Foundation of Northern California and Alan L. Schlosser, for Defendants and Appellants.

Douglas E. Mirell and Karen R. Thorland, Century City, for National Association for Citizen Oversight of Law Enforcement and Professor Samuel Walker as Amici Curiae on behalf of Defendants and Appellants.

Michael D. Bradbury, District Attorney, Michael D. Schwartz and Douglas H. Ridley, Deputy District Attorneys, for Plaintiff and Respondent.

Lewis, D'Amato, Brisbois & Bisgaard, Joseph Arias and Christopher D. Lockwood, San Bernardino, for City of San Bernardino as Amicus Curiae on behalf of Plaintiff and Respondent.

Rains, Lucia & Wilkinson and Alison Berry Wilkinson for Peace Officers' Research Association of California Legal Defense Fund as Amicus Curiae on behalf of Plaintiff and Respondent.

Jones & Mayer, Martin J. Maver, Long Beach, and Michael R. Capizzi, Santa Ana, for California State Sheriff's Association, California Police Chiefs Association and California Peace Officer's Association as Amici Curiae on behalf of Plaintiff and Respondent.

***501 CHIN, J.**

Penal Code [FN1] section 148.6 makes it a misdemeanor to file an allegation of misconduct against a peace officer knowing the allegation to be false. We must decide whether that section violates constitutional free speech rights. Relying primarily on R.A.V. v. St. Paul (1992) 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305 (R.A.V.), defendants argue, and the Court of Appeal found, that section 148.6 is unconstitutional because it proscribes knowingly false accusations of misconduct against peace officers only and not against others. "By protecting only peace officers," the Court of Appeal said, "section 148.6 selectively prohibits expression because of its content. It therefore violates the First Amendment to the United States Constitution." We conclude that section 148.6 is constitutional on its face.

FN1. All further statutory references are to the Penal Code unless otherwise indicated.

Section 148.6 proscribes only constitutionally unprotected speech-knowingly false statements of fact. Moreover, it ****635** does not apply to all accusations of misconduct against peace officers but only to complaints filed with a law enforcement agency in a way that legally obligates the agency to investigate the complaint. The circumstance that it covers only those persons-peace officers-who will be the subject of the mandatory investigation does not render it unconstitutional.

I. FACTS AND PROCEDURAL HISTORY

The Court of Appeal summarized the underlying facts. "In a written complaint filed with the Oxnard Police Department, defendants Shaun Stanistreet and Barbara Joyce Atkinson accused an Oxnard police officer of committing lewd conduct at a Police Activities League (PAL) gathering. PAL is a police-sponsored group that works with at-risk youth. The officer was director of PAL. The charges proved to be false."

A jury found defendants guilty of violating section 148.5 (filing a knowingly false report of a criminal offense) and section 148.6, both misdemeanors. The trial court had instructed the jury that an element of each offense was that the defendants knew the allegation was false. Over a dissent, the appellate division of the superior court affirmed the judgments. The Court of Appeal transferred the case for decision (Cal. Rules of Court, rule 62) and reversed the judgments. It found that section 148.5 does not apply to complaints asserting misconduct by police officers and that section 148.6 is unconstitutional.

We granted the People's petition for review to decide whether section 148.6 is unconstitutional on its face.

*502 II. DISCUSSION

A. Section 148.6

Section 148.6, subdivision (a)(1), provides: "(1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor." [FN2]

FN2. The rest of section 148.6, subdivision (a), provides: "(2) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the

following advisory, all in boldface type: You have the right to make a complaint against a police officer for any improper police conduct. California law requires this agency to have a procedure to investigate citizens' complaints. You have a right to a written description of this procedure. This agency may find after investigation that there is not enough evidence to warrant action on your complaint; even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Citizen complaints and any reports or findings relating to complaints must be retained by this agency for at least five years.

"It is against the law to make a complaint that you know to be false. If you make a complaint against an officer knowing that it is false, you can be prosecuted on a misdemeanor charge."

"I have read and understood the above statement.

"

"Complainant "(3) The advisory shall be available in multiple languages." (Boldface type deleted.)

The Legislature first enacted section 148.6 in 1995. (Stats.1995, ch. 590, § 1; Assem. Bill No. 1732 (1995-1996 Reg. Sess.)). At that time, a different statute made (and still makes) it a misdemeanor to report a felony or misdemeanor knowing the report to be false. (§ 148.5.) However, the courts had interpreted section 148.5 as not applying to complaints of police misconduct from members of the public. (*Pena v. Municipal Court* (1979) 96 Cal.App.3d 77, 83, 157 Cal.Rptr. 584; ****636***People v. Craig* (1993) 26 Cal.Rptr.2d 184, 21 Cal.App. 4th Supp. 1, 3, 6; see *San Diego Police Officers Assn. v. San Diego Police Department* (1999) 76 Cal.App.4th 19, 22-23, 90 Cal.Rptr.2d 6.) The Legislature enacted section 148.6 to fill this gap.

The Court of Appeal recently explained the background leading to section 148.6's enactment. "The Legislature noted that since the Rodney King incident in March 1991, law enforcement agencies throughout the state had 'revised their citizen complaint procedures to promote greater accountability on the part of their line officers.'

(Assem. Com. on Public Safety, Analysis of Assem. Bill No. 1732 (1995-1996 Reg. Sess.)) However, a 'glaringly negative side-effect which has resulted [was] the willingness on the part of many of our less ethical citizens to maliciously file false allegations of misconduct against officers in an effort to punish them for simply doing their *503 jobs.' (*Ibid.*) Against this backdrop, the Legislature enacted section 148.6, in an attempt to curb a perceived rising tide of knowingly false citizens' complaints of misconduct by officers performing their duties." (*San Diego Police Officers Assn. v. San Diego Police Department, supra*, 76 Cal.App.4th at p. 23, 90 Cal.Rptr.2d 6.)

The bill's author provided additional background: "Yearly hundreds of unfounded and false complaints are filed against Peace Officers. In the Los Angeles County Sheriff's Department alone, over 500 complaints were received of which approximately 60 to 70 % were unfounded. [¶] This bill will help prevent frivolous complaints which can affect the individual officer's future. For example, a Deputy Sheriff on a list for promotion to Sergeant receives a false report of misconduct, after which his promotion is deferred until the matter is resolved. After which, the complaint being found ungrounded, the Deputy has no recourse for any financial loss due to the delay." (Assem. Com. on Public Safety, Analysis of Assem. Bill No. 1732, *supra*, p. 2.) A Senate committee report explained that section 832.5 requires complaints against peace officers be investigated and the records retained for at least five years. It noted concerns with fraudulent complaints and the "adverse impact upon a deputy's job mobility and promotional opportunity" these complaints can cause until they are resolved. (Sen. Com. on Criminal Procedure, Analysis of Assem. Bill No. 1732 (1995-1996 Reg. Sess.) pp. 2, 4.)

Thus, section 148.6 fills the gap created when the courts interpreted section 148.5 as not applying to complaints of police misconduct. But it does not merely extend section 148.5's protection to peace officers. Section 148.5 applies only to knowingly false reports "that a felony or misdemeanor has been committed," i.e., to reports of a *criminal* offense. By contrast, section 148.6 applies to all "citizens' complaints of police misconduct during the performance of an officer's duties that may or may not rise to the level of a criminal offense." (*San Diego Police Officers Assn. v. San Diego Police Department, supra*, 76 Cal.App.4th at p. 23, 90 Cal.Rptr.2d 6.) Accordingly, section 148.6 gives protection to peace officers that the Legislature has

not given to others. As the Court of Appeal put it in this case, "It is not a crime to knowingly make such an accusation against a firefighter, a paramedic, a teacher, an elected official, or anyone else."

On the other hand, as the Senate committee report noted, the Penal Code also requires that every department or agency that "employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public," and that *504 **637 "[c]omplaints and any reports or findings relating to these complaints shall be retained for a period of at least five years." (§ 832.5, subs.(a), (b).) These provisions similarly apply only to complaints against peace officers. Section 832.5 does not require investigation or lengthy retention of such accusations against firefighters, paramedics, teachers, elected officials, or others.

B. General Principles

The right to criticize the government and governmental officials is among the quintessential rights Americans enjoy under the First Amendment to the United States Constitution and Californians enjoy under the California Constitution, article I, section 2, [FN3] "[S]peech concerning public affairs is more than self-expression; it is the essence of self-government. The First and Fourteenth Amendments embody our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.'" (Garrison v. Louisiana (1964) 379 U.S. 64, 74-75, 85 S.Ct. 209, 13 L.Ed.2d 125, quoting New York Times Co. v. Sullivan (1964) 376 U.S. 254, 270, 84 S.Ct. 710, 11 L.Ed.2d 686.) "Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas." (Gertz v. Robert Welch, Inc. (1974) 418 U.S. 323, 339-340, 94 S.Ct. 2997, 41 L.Ed.2d 789.)

FN3. Neither defendants nor the Court of Appeal rely on the California Constitution as a separate basis to invalidate section 148.6. Although the California Constitution has independent force, and in some regards it provides greater protection of speech than

the United States Constitution, we have said that California law regarding defamation is coterminous with that of the United States Constitution. (Brown v. Kelly Broadcasting Co. (1989) 48 Cal.3d 711, 745 746, 257 Cal.Rptr. 708, 771 P.2d 406; see also Los Angeles Alliance for Survival v. City of Los Angeles (2000) 22 Cal.4th 352, 367, fn. 12, 93 Cal.Rptr.2d 1, 993 P.2d 334; Walker v. Kiouisis (2001) 93 Cal.App.4th 1432, 1446, 114 Cal.Rptr.2d 69.) Specifically, the California Constitution has never given greater protection to knowingly false factual statements than the United States Constitution. Accordingly, we do not further discuss the California Constitution.

Thus, speech criticizing the government and governmental officials receives the highest protection. However, this protection does not extend to all speech. "But there is no constitutional value in false statements of fact. Neither the intentional lie nor the careless error materially advances society's interest in 'uninhibited, robust, and wide-open' debate on public issues. New York Times Co. v. Sullivan, 376 U.S. at 270, 84 S.Ct. 710. They belong to that category of utterances which 'are no essential part of any exposition of *505 ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.' (Chaplinsky v. New Hampshire, 315 U.S. 568, 572 [62 S.Ct. 766, 86 L.Ed. 1031] (1942))." (Gertz v. Robert Welch, Inc., *supra*, 418 U.S. at p. 340, 94 S.Ct. 2997.)

Although false statements of fact, by themselves, have no constitutional value, constitutional protection is not withheld from all such statements. "[W]here the criticism is of public officials and their conduct of public business, the interest in private reputation is overborne by the larger public interest, secured by the Constitution, in the dissemination of truth.... [¶] Moreover, even where the utterance is false, the great principles of the Constitution which secure freedom of expression in **638 this area preclude attaching adverse consequences to any except the knowing or reckless falsehood. Debate on public issues will not be uninhibited if the speaker must run the risk that it will be proved in court that he spoke out of hatred; even if he did speak out of hatred, utterances honestly believed contribute to the free interchange of ideas and the ascertainment of truth." (Garrison v. Louisiana, *supra*, 379 U.S. at pp. 72-73, 85 S.Ct. 209, fn. omitted.)

For these reasons, the high court announced in a landmark civil libel case a "rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'--that is, with knowledge that it was false or with reckless disregard of whether it was false or not." (*New York Times Co. v. Sullivan*, supra, 376 U.S. at pp. 279-280, 84 S.Ct. 710.) The court later applied the same rule to a criminal case. "The reasons which led us so to hold in *New York Times*, 376 U.S., at 279-280 [84 S.Ct. 710], apply with no less force merely because the remedy is criminal. The constitutional guarantees of freedom of expression compel application of the same standard to the criminal remedy. Truth may not be the subject of either civil or criminal sanctions where discussion of public affairs is concerned. And since '... erroneous statement is inevitable in free debate, and ... it must be protected if the freedoms of expression are to have the "breathing space" that they "need ... to survive" ..., ' 376 U.S. at 271-272 [84 S.Ct. 710], only those false statements made with the high degree of awareness of their probable falsity demanded by *New York Times* may be the subject of either civil or criminal sanctions." (*Garrison v. Louisiana*, supra, 379 U.S. at p. 74, 85 S.Ct. 209.)

The high court has made clear, however, that even as to public officials, knowingly false statements of fact are constitutionally unprotected. "The use of calculated falsehood, however, would put a different cast on the constitutional question. Although honest utterance, even if inaccurate, may further *506 the fruitful exercise of the right of free speech, it does not follow that the lie, knowingly and deliberately published about a public official, should enjoy a like immunity.... For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected.... Hence the knowingly false statement and the false statement made with reckless disregard of the truth, do not enjoy constitutional protection." (*Garrison v. Louisiana*, supra, 379 U.S. at p. 75, 85 S.Ct. 209.)

Section 148.6 governs false allegations of misconduct only if the person knows them to be false. This test is even more stringent than the test of *New York Times Co. v. Sullivan*, supra, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686, because it does not sanction recklessly false statements but only knowingly false statements. Thus section 148.6

proscribes only constitutionally unprotected speech.

This conclusion, however, does not end the inquiry. The Court of Appeal invalidated section 148.6 not because it proscribed protected speech but because it proscribed only some--not all--of the unprotected speech in its category. For this conclusion it relied on *R.A.V.*, supra, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305, to which we now turn.

C. The R.A.V. Case

In *R.A.V.*, supra, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305, the defendant, who had allegedly burned a cross in an African-***639 American family's yard, was charged with violating a St. Paul, Minnesota, ordinance that prohibited the placing " 'on public or private property a symbol, object, appellation, characterization or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender....' " (*Id.* at p. 380, 112 S.Ct. 2538.) The Minnesota courts had interpreted the ordinance as proscribing only "fighting words." (*Ibid.*) The high court unanimously agreed the ordinance violated the First Amendment to the United States Constitution, but it divided as to the reasons.

As the Court of Appeal recently summarized, the *R.A.V.* majority invalidated the ordinance "as unlawfully discriminating on the basis of content. According to the high court, its previous statements that the Constitution does not protect certain categories of expression were not to be taken literally, but meant only that 'these areas of speech can, consistently with the First Amendment, be regulated *because of their constitutionally proscribable content* (obscenity, defamation, etc.)--not that they are categories of speech entirely invisible to the Constitution, so that they may be made the vehicles *507 for content discrimination unrelated to their distinctively proscribable content.' ([*R.A.V.*, supra, 505 U.S. at pp. 383- 384, 112 S.Ct. 2538], original italics.) Thus, while certain categories of speech and expressive conduct may be regulated, such regulation may not discriminate *within that category* on the basis of content. For example, 'the government may proscribe libel; but it may not make the further content discrimination of proscribing *only* libel critical of the government.' ([*Id.*, at p. 384, 112 S.Ct. 2538], original italics.) The ordinance in *R.A.V.* was *facially* unconstitutional as content-based discrimination because it discriminated

among fighting words based on race, color, creed, religion, or gender. (*Id.*, at p. [391, 112 S.Ct. 2538].)" (*In re Steven S.* (1994) 25 Cal.App.4th 598, 610, 31 Cal.Rptr.2d 644.)

Defendants aptly summarize their argument why section 148.6 is unconstitutional under *R.A.V.*, *supra*, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305: "... California may choose to ban all defamation proscribable under [*New York Times Co. v. Sullivan* (1964) 376 U.S. 254, 84 S.Ct. 710] and [*Garrison v. Louisiana* (1964) 379 U.S. 64, 67, 85 S.Ct. 209], regardless of its subject matter or target. Alternatively, California may choose to provide an absolute privilege for all citizen complaints, including speech critical of peace officers. What the state may not do, without running afoul of the First and Fourteenth Amendments, is to apply one defamation rule to citizen complaints against peace officers, and a different rule to those made against other public officials. That, however, is precisely the content- and viewpoint-based distinction created by Penal Code section 148.6." In other words, defendants argue the Legislature may proscribe all knowingly false allegations of misconduct or none, but it may not proscribe some of them. As we explain, defendants misread *R.A.V.*, *supra*, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305. That decision does not require such an all-or-nothing approach. [FN4]

FN4. *R.A.V.*, *supra*, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305, involved fighting words, not knowingly false statements of fact. This circumstance seemed important to the high court. "It is not true that 'fighting words' have at most a 'de minimis' expressive content, [citation], or that their content is in all respects 'worthless and undeserving of constitutional protection,' [citation]; sometimes they are quite expressive indeed." (*Id.* at pp. 384-385, 112 S.Ct. 2538.) Arguably, knowingly false statements of fact, unlike fighting words, are in all respects worthless and undeserving of constitutional protection. However, the court cited defamation as an example of the kind of proscribable speech it was talking about (*id.* at p. 383, 112 S.Ct. 2538), which suggests it at least assumed that its opinion covers knowingly false statements of fact. Accordingly, we will assume section 148.6 is subject to that decision.

**640 In response to criticism by the minority, the *R.A.V.* majority denied that it was requiring the proscription of either all speech or no speech. "In our view, the First Amendment imposes not an 'underinclusiveness' limitation but a 'content discrimination' limitation upon a State's prohibition of proscribable speech." (*R.A.V.*, *supra*, 505 U.S. at p. 387, 112 S.Ct. 2538.) *508 "Even the prohibition against content discrimination that we assert the First Amendment requires is not absolute. It applies differently in the context of proscribable speech than in the area of fully protected speech. The rationale of the general prohibition, after all, is that content discrimination 'raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace,' [citations]. But content discrimination among various instances of a class of proscribable speech often does not pose this threat." (*Id.* at pp. 387-388, 112 S.Ct. 2538.)

The high court identified three categories of content discrimination that do not threaten to drive ideas or viewpoints from the marketplace and hence are permissible. (*R.A.V.*, *supra*, 505 U.S. at pp. 388-390, 112 S.Ct. 2538.) Contrary to defendants' argument and the Court of Appeal's conclusion, we find that all three categories apply here.

[1] First, "When the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists." (*R.A.V.*, *supra*, 505 U.S. at p. 388, 112 S.Ct. 2538.) The Court of Appeal noted that this language "can best be understood by way of a concrete example provided by *R.A.V.*" We agree, but the Court of Appeal overlooked the most pertinent example: "[T]he Federal Government can criminalize only those threats of violence that are directed against the President, see 18 U.S.C. § 871--since the reasons why threats of violence are outside the First Amendment (protecting individuals from the fear of violence, from the disruption that fear engenders, and from the possibility that the threatened violence will occur) have special force when applied to the person of the President. [Citation.] But the Federal Government may not criminalize only those threats against the President that mention his policy on aid to inner cities." (*R.A.V.*, *supra*, at p. 388, 112 S.Ct. 2538.)

This example applies here. The reason the entire class of speech at issue-- knowingly false statements of fact--is proscribable has "special force" (*R.A.V.*,

supra, 505 U.S. at p. 388, 112 S.Ct. 2538) when applied to false accusations against peace officers. When a person makes a complaint against a peace officer of the type that section 148.6 governs, the agency receiving the complaint is legally *obligated* to investigate it and to retain the complaint and resulting reports or findings for at least five years. (§ 832.5.) Thus, the potential harm of a knowingly false statement is greater here than in other situations. "The State's desire to redress these perceived harms provides an adequate explanation for its" criminalizing these particular false statements of fact "over and above mere disagreement with offenders' beliefs or biases." **641*509(*Wisconsin v. Mitchell* (1993) 508 U.S. 476, 488, 113 S.Ct. 2194, 124 L.Ed.2d 436 [rejecting a constitutional challenge under *R.A.V.*, *supra*, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305, to law punishing bias-motivated crimes more severely than crimes committed for other reasons].) Accordingly, just as the government may criminalize only threats of violence against a specific victim, the President, so too may the Legislature criminalize only knowingly false accusations against a class of victims, peace officers. To complete the analogy, what the Legislature may *not* do is criminalize only knowingly false accusations of illegal racial profiling.

Second, "Another valid basis for accord[ing] differential treatment to even a content-defined subclass of proscribable speech is that the subclass happens to be associated with particular 'secondary effects' of the speech, so that the regulation is 'justified without reference to the content of the ... speech,' [citations]." (*R.A.V.*, *supra*, 505 U.S. at p. 389, 112 S.Ct. 2538.) This basis also applies here. Knowingly false accusations of misconduct against a peace officer have substantial secondary effects--they trigger mandatory investigation and record retention requirements. Complaints directed at other persons do not receive this special treatment. This requirement of an investigation, and the resulting investigation itself, can have substantial effects. Public resources are required to investigate these complaints, resources that could otherwise be used for other matters; the complaints may adversely affect the accused peace officer's career, at least until the investigation is complete; and the complaints may be discoverable in criminal proceedings. (See *City of Los Angeles v. Superior Court* (2002) 29 Cal.4th 1, 8-10, 124 Cal.Rptr.2d 202, 52 P.3d 129; *Aguilar v. Johnson* (1988) 202 Cal.App.3d 241, 249-250, 247 Cal.Rptr. 909.) These secondary effects justify the regulation on a neutral basis without reference to the content of the speech. (See

Morascini v. Commissioner of Public Safety (1996) 236 Conn. 781, 675 A.2d 1340, 1348-1351 [cost of speech that the state must bear for reasons unrelated to its content is a secondary effect].)

The third category is a catchall. "There may be other bases as well. Indeed, to validate such selectivity (where totally proscribable speech is at issue) it may not even be necessary to identify any particular 'neutral' basis, so long as the nature of the content discrimination is such that there is no realistic possibility that official suppression of ideas is afoot." (*R.A.V.*, *supra*, 505 U.S. at p. 390, 112 S.Ct. 2538.) Here, we see no realistic possibility of official suppression of ideas. In finding to the contrary, the Court of Appeal stated, "The explicit legislative intent of the law is to suppress a specific class of speech: citizen complaints of police misconduct." Were that statement accurate, our task would be easy indeed. Complaining of police misconduct is a quintessential right in this country. But that is not what is afoot here. The Legislature is not suppressing all complaints of police misconduct, only knowingly false ones.

*510 Defendants argue that section 148.6 impermissibly targets a " disfavored subject[] ." (Quoting *R.A.V.*, *supra*, 505 U.S. at p. 391, 112 S.Ct. 2538.) On the contrary, the targeted subject--formally filed complaints of misconduct against a peace officer--is, in other respects, *favored*. Those complaints are subject to mandatory investigation and record retention requirements. If a person wants to file a complaint in a way that forces an investigation, that person may not knowingly tell a factual falsehood. The Legislature may elevate the status of a category of complaints that are particularly sensitive--like those of misconduct against peace officers-- and require **642 their investigation and retention of records, and at the same time penalize those who invoke that status with knowingly false complaints. No one has a constitutional right to make a complaint of misconduct knowing both that the complaint must be investigated and that it is false.

Defendants suggest that the requirement of section 148.6, subdivision (a)(2), that the complainant read and sign an admonition explaining the right to make a complaint, the investigation and record retention requirements, and the criminal sanction for knowingly false complaints, shows that official suppression of ideas is indeed afoot. We disagree. That admonition merely advises complainants of the law and impresses on them the significance of the formal complaint. Warning people of the

consequences of a knowingly false complaint is no more impermissible than advising people they are signing a document or testifying under penalty of perjury. The explanation and admonition do not invalidate the statute.

Some of the arguments that the defendants and the Court of Appeal below employ do not match the purported reason they claim section 148.6 is invalid. In its concluding remarks, the Court of Appeal stated, "In our country, we expect and tolerate an infinite variety of expression." The statement is both true and irrelevant. In our country, we do not expect, and the Constitution does not require us to tolerate, knowingly false statements of fact.

Defendants argue that section 148.6 has a "chilling effect" on the exercise of constitutional rights. The Court of Appeal echoes this argument: "But section 148.6 might well stifle the registering of legitimate complaints made by the remaining 30 to 40 percent of citizens." But they do not explain, and we do not see, how extending section 148.6 to *all* complaints of public employee misconduct would reduce this supposed chilling effect. As defendants necessarily concede, however, so extending section 148.6 would cure any violation of the rule of R.A.V., supra, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305. Thus, the chilling *511 effect argument has nothing to do with whether section 148.6 is invalid under R.A.V., supra, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305.

[2][3][4] Rather, the chilling effect argument relates to another common constitutional objection to legislation regulating speech--that it is overbroad because it threatens protected as well as unprotected speech. A statute is facially overbroad if it "may cause others not before the court to refrain from constitutionally protected speech or expression." (Broadrick v. Oklahoma (1973) 413 U.S. 601, 612, 93 S.Ct. 2908, 37 L.Ed.2d 830; see In re M.S. (1995) 10 Cal.4th 698, 709, 42 Cal.Rptr.2d 355, 896 P.2d 1365.) To succeed, "a constitutional challenge based on asserted overbreadth ... must demonstrate the statute inhibits a substantial amount of protected speech. (New York v. Ferber (1982) 458 U.S. 747, 768-769, 102 S.Ct. 3348, 73 L.Ed.2d 1113.) '[O]verbreadth ... must not only be real, but substantial as well, judged in relation to the statute's plainly legitimate sweep.' (Broadrick v. Oklahoma, supra, 413 U.S. at p. 615 [93 S.Ct. 2908].)" (In re M.S., supra, 10 Cal.4th at p. 710, 42 Cal.Rptr.2d 355, 896 P.2d 1365.)

[5] Section 148.6 is not overbroad. The high court explained in New York Times Co. v. Sullivan, supra, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686, and Garrison v. Louisiana, supra, 379 U.S. 64, 85 S.Ct. 209, 13 L.Ed.2d 125, that a statute regulating all false statements of fact *would* be overbroad because it *would* inhibit protected speech. But section 148.6 proscribes only *knowingly* false statements. As noted in another case that rejected a chilling **643 effect argument regarding section 148.5, "The statute prohibits only knowing falsehoods. This requirement of scienter protects witnesses who honestly misperceive facts. Those who knowingly give false information to police officers should be discouraged from doing so." (People v. Lawson (1979) 100 Cal.App.3d 60, 68, 161 Cal.Rptr. 7.) Moreover, section 148.6 applies only to formally filed accusations that the agency must investigate, not to more casual speech. Such formal accusations are akin to statements or declarations made under penalty of perjury which, if knowingly false, are punishable as a *felony*. (§ § 118, 126.) Accusations that section 148.6 cover are not as formal as statements made under penalty of perjury, but the punishment for such accusations that are knowingly false is also not as serious. Section 148.6 has no more of an impermissible chilling effect than California's perjury laws. [FN5]

[FN5] If the statute had criminalized other, less formal accusations-- in speeches or newspapers, for example--the potential for chilling the exercise of constitutionally protected speech would arguably be greater. We are reviewing only the statute actually before us and express no opinion on the constitutionality of other possible statutes. We also note that this case involves only a *facial* challenge to section 148.6, not an "as applied" challenge. (See Tobe v. City of Santa Ana (1995) 9 Cal.4th 1069, 1084, 40 Cal.Rptr.2d 402, 892 P.2d 1145.) Nothing we say would preclude an as applied challenge should section 148.6 be improperly applied.

*512 Defendants cite a series of state and federal district court decisions declaring Civil Code section 47.5 [FN6] unconstitutional (Gritchen v. Collier (C.D.Cal.1999) 73 F.Supp.2d 1148, revd. on jurisdictional grounds (9th Cir.2001) 254 F.3d 807; Haddad v. Wall (C.D.Cal.2000) 107 F.Supp.2d 1230; Walker v. Kioussis, supra, 93 Cal.App.4th 1432, 114

Cal.Rptr.2d 69), and a federal district court order declaring Penal Code section 148.6 unconstitutional (*Hamilton v. City of San Bernardino* (C.D.Cal.2000) 107 F.Supp.2d 1239). *Hamilton v. City of San Bernardino*, *supra*, 107 F.Supp.2d 1239, contains almost identical analysis as *Haddad v. Wall*, *supra*, 107 F.Supp.2d 1230, filed the same day by the same court. All of these cases rely on *R.A.V.*, *supra*, 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305. We find them either inapposite or unpersuasive. The first, *Gritchen v. Collier*, *supra*, 73 F.Supp.2d 1148, was reversed on appeal when the Ninth Circuit held that the district court lacked jurisdiction to decide the question. (*Gritchen v. Collier*, *supra*, 254 F.3d 807.) Although, as defendants note, the Ninth Circuit reversed the decision because the district court should not have decided the constitutional question rather than because it decided it incorrectly, the reversal certainly weakens its precedential value. To the extent the later decisions rely on the reversed decision (see *Haddad v. Wall*, *supra*, 107 F.Supp.2d at pp. 1233-1234, 1237-1238; *Hamilton v. City of San Bernardino*, *supra*, 107 F.Supp.2d at pp. 1243-1244, 1246-1247; *Walker v. Kioussis*, *supra*, 93 Cal.App.4th at p. 1437, 114 Cal.Rptr.2d 69), they are accordingly also weakened.

FN6. Civil Code section 47.5 provides, as relevant, that "a peace officer may bring an action for defamation against an individual who has filed a complaint with that officer's employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with knowledge that it was false and that it was made with spite, hatred, or ill will."

But we need not consider in detail the extent to which the reversal of *Gritchen v. Collier*, *supra*, 73 F.Supp.2d 1148, undermines these cases. We express no opinion on the validity of Civil Code section 47.5 because the issue is not before us. For **644 the reasons stated, we respectfully disagree that Penal Code section 148.6 is invalid. *Hamilton v. City of San Bernardino*, *supra*, 107 F.Supp.2d 1239, overlooks the circumstance that complaints subject to the criminal sanction of Penal Code section 148.6 have, in some ways, a favored status that justifies the regulation without reference to the content of the speech, and the other reasons we have identified why the statute is valid.

III. CONCLUSION

The Court of Appeal erred in finding section 148.6 unconstitutional. Accordingly, we reverse the judgment of the Court of Appeal and remand the matter for further proceedings consistent with this opinion.

WE CONCUR: GEORGE, C.J., and KENNARD, BAXTER and BROWN, JJ.

*513 Concurring Opinion by WERDEGAR, J.

I agree with the majority that Penal Code section 148.6 (section 148.6) is constitutional because it criminalizes only knowingly false complaints against peace officers, and any content discrimination it embodies by not covering complaints against other public officials is, in light of the substantial secondary effects of a complaint against a peace officer, justifiable under *R.A.V. v. St. Paul* (1992) 505 U.S. 377, 112 S.Ct. 2538, 120 L.Ed.2d 305 (*R.A.V.*) "without reference to the content of the ... speech" (*id.* at p. 389, 112 S.Ct. 2538). (See maj. opn., *ante*, 127 Cal.Rptr.2d at p. 641, 58 P.3d at p. 472 [noting cost to public of mandatory investigation of police misconduct complaints].) Accordingly, I concur in the judgment of reversal and in this aspect of the majority's reasoning. I disagree, however, that section 148.6 also falls within *R.A.V.*'s "special force" exception for content discrimination based on "the very reason the entire class of speech at issue is proscribable" (*R.A.V.*, *supra*, at p. 388, 112 S.Ct. 2538) or its catchall exception, applicable where "there is no realistic possibility that official suppression of ideas is afoot" (*id.* at p. 390, 112 S.Ct. 2538). (See maj. opn., *ante*, at pp. 640-641, 58 P.3d at pp. 471-472.)

As the majority itself points out, the reason that the class of speech at issue--knowingly false statements of fact--is proscribable (as defamation) is that it has "no constitutional value" (maj. opn., *ante*, at p. 637, 58 P.3d at p. 469, quoting *Gertz v. Robert Welch, Inc.* (1974) 418 U.S. 323, 340, 94 S.Ct. 2997, 41 L.Ed.2d 789); that is, such speech may injure personal reputations without making any positive contribution to the democratic process. This reason, the majority asserts, "has 'special force' [citation] when applied to false accusations against peace officers." (Maj. opn., *ante*, at p. 640, 58 P.3d at p. 471.) But section 148.6 does not target speech that is especially worthless or especially injurious to reputation. Put another way,

the majority identifies nothing about false speech affecting peace officers that distinguishes it from false speech affecting other governmental officials *with respect to the grounds on which defamation is proscribable in the first place*. Accordingly, *R.A.V.'s* "special force" exception does not apply. (See *R.A.V., supra*, 505 U.S. at p. 388, 112 S.Ct. 2538.)

As to the catchall exception, the majority sees here "no realistic possibility of official suppression of ideas" (maj. opn., *ante*, 127 Cal.Rptr.2d at p. 641, 58 P.3d at p. 471), but I disagree. Section 148.6 "gives protection to peace officers that the Legislature has not given to others" who work in public service. (Maj. opn., *ante*, at p. 636, 58 P.3d at p. 468.) Section 148.6 also is unique in its mandate that the possibility ****645** of criminal sanctions for knowingly false complaints be prominently held up before prospective complainants at a critical juncture. In many police misconduct situations, it inevitably will come down to the word of the citizen against the word of the police officer or officers, in which case law enforcement ***514** authorities will conduct an investigation to determine who is telling the truth. If authorities for any reason disbelieve the citizen, the citizen (whether guilty or innocent) may then under section 148.6 face both criminal prosecution and the burden and expense of retaining a defense attorney. Prospective complainants cannot help but be aware of these realities when deciding whether to go forward with their complaints by signing the statute's required admonition. Realistically, some complainants are likely to choose *not* to go forward--even when they have legitimate complaints.

In light of the foregoing, and as we need not, in order to find section 148.6 constitutional, rely on *R.A.V.'s* "special force" or catchall exceptions from the First Amendment's general ban on content discrimination, I do not rely on them. Instead, I rest my concurrence on the exception for content discrimination justifiable " 'without reference to the content of the ... speech.' " (*R.A.V., supra*, 505 U.S. at p. 389, 112 S.Ct. 2538.)

I CONCUR:MORENO, J.

127 Cal.Rptr.2d 633, 29 Cal.4th 497, 58 P.3d 465, 2
Cal. Daily Op. Serv. 11,744, 2002 Daily Journal
D.A.R. 13,703

END OF DOCUMENT

HB

205

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 19, 2003

FURTHER REFERRALS:

Date of Committee Action: April 3, 2003

The STATE AFFAIRS Committee considered:

HB 205

HOUSE BILL NO. 205

PFD: PEACE CORPS VOLUNTEERS & MISC

"An Act relating to service in the peace corps as an allowable absence from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 FED
 DEC
 DFG
 GOV
 IISS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
Rev		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SEATON	✓			
	Gruenberg	✓			
	HOLLY	✓			
	LYNN			X	
	Dahlstrom			X	
	Benkowitz	✓			
Chair:	Meybrauch		X		
Chair:	Meybrauch		X		

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Representative Lesil McGuire

Chair, Judiciary Committee

Sponsor Statement for HB 205 **PFD Eligibility for Peace Corp. Volunteers**

"An Act relating to service in the peace corps as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date."

Alaskans are known for their volunteer spirit. Our young people often consider serving their country as a way to give back what this country has given to them. Many serve in the military, while others choose to make conditions better for someone else by devoting two years of their lives to the Peace Corps. Like military service, the Peace Corps has played a major role in promoting democracy in other countries. But we the legislature, have overlooked this valuable service to our country.

Alaska college students, those taking care of a loved one outside or being a merchant marine all qualify as exemptions when applying for the Permanent Fund Dividend. Spending two years of your life in a third world country as a Peace Corps' volunteer not only means going without your P.F.D., it also means that as a volunteer, you are not paid a salary. Instead, you receive a stipend to cover your basic necessities - food, housing expenses, and local transportation. At the conclusion of your service as a volunteer, you will receive a "readjustment allowance" of \$225 for each month of service. The annual dividend check would help these men and women to better their lives while they are serving our country and helping those less fortunate.

Additionally, the committee substitute before you adds language to existing statute that will give the Department of Revenue a new tool for enforcing fraud. For many years we have tried to catch and prosecute those who would lie and cheat to get a check, only to be frustrated by an overcrowded and costly court system.

The changes will bring the investigation and prosecution of these cases into the Department under Administrative Rule. Fines of up to three thousand dollars (\$3,000) can be levied through this process and will send a message to those looking for that check illegally, that they will face consequences for their actions.

Committee Substitute for House Bill 205 amends the application period from January 2 to January 1. This change is due to the fact that applicants could not file for their PFD electronically until recently, and had to wait to file a paper application until January 2.

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Representative Lesil McGuire

Chair, Judiciary Committee

TALKING POINTS

PFD Eligibility for Peace Corp. Volunteers

“An Act relating to service in the peace corps as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date.”

- The Peace Corps is an entirely voluntary government service, just as the military is.
- Peace Corps Volunteers make a two-year minimum commitment to serve their country overseas.
- Alaskan Peace Corps Volunteers (PCVs) were originally eligible to receive permanent fund dividends until they were removed in 1998. The only other group ever removed from the allowable absence list was U.S. national team (Olympic) athletes.
- Even after the PCVs and athletes were removed in 1998, a new group, the merchant marines, was added in 1999 that had never been on the allowable absence list before.
- According to the Peace Corps Office of Communications, there are currently 32 Peace Corps Volunteers from Alaska (although this number fluctuates as volunteers start or complete their 2 years of service) and 711 Alaskans have served or are serving since 1961.
- If Peace Corps Volunteers are added to the number of Alaskans eligible to receive permanent fund dividends, the reduction (if any) in the amount of each check would be a matter of pennies. In 2000 and 2001, each check would have been eight cents smaller.
- Peace Corps Volunteers only receive a only small living stipend while they serve overseas. Receiving the Alaskan Permanent Fund would nearly double their yearly income while abroad. And today's younger volunteers face higher student loan debt and re-establishment costs when they return home.
- Peace Corps Volunteers answer questions about what its like to be an Alaskan and an American every day they are abroad. They are the best ambassadors of goodwill we have. In the words of President Bush, “they are willing to sacrifice for causes greater than themselves.”

AKpeacedividends.org

Working to see that Alaska's Peace Corps Volunteers once again receive Permanent Fund Dividends they've earned.

(Note: Also see the talking points current as of 4/4/2002)

The Peace Corps is an entirely voluntary government service, just as the military is. Peace Corps Volunteers make a two year minimum commitment to serve their country overseas.

Alaskan Peace Corps Volunteers (PCVs) were originally eligible to receive permanent fund dividends until they were removed in 1998. The only other group ever removed from the allowable absence list was U.S. national team (olympic) athletes.

Even after the PCVs and athletes were removed in 1998, a new group - the merchant marine - was added in 1999 which had never been on the allowable absence list before.

Q: Why were peace corps volunteers removed from the list of those eligible to receive permanent fund dividends? We don't know. Nor do we know whose idea that was. All we do know is that it happened. A bill meant to change the rules for PFD eligibility for spouses was amended in the Senate Finance Committee in the spring of 1998 to remove peace corps volunteers and olympic athletes from the list. The change took effect beginning in 1999.

Q: Why should anyone out of state for more than six months receive a dividend? Maybe no one should. That's not the question we're asking. The question is, with the way dividends are now, should eligibility for Peace Corps Volunteers be restored?

Q: If Peace Corps Volunteers should get a dividend, why shouldn't missionaries and others? Maybe they should. Maybe a lot of other groups should. That isn't the question we're asking. The question is, should eligibility for Peace Corps Volunteers be *restored*? Missionaries have never been eligible before, and their service is different because it's not a U.S. Government service like another allowable absence, the military.

Q: What groups are currently allowed to be out of state for longer than six months and still receive their dividend? They include full-time college or vocational training students, persons serving in the armed forces duty or the merchant marine, Alaskans who are absent for medical treatments or caring for an ill parent, spouse, sibling or child.

Q: How many Alaskans are in the Peace Corps right now? According to the Peace Corps Office of Communications, there are currently 26 Peace Corps Volunteers from Alaska (although this number fluctuates as volunteers start or complete their 2 years of service) and 711 have served or are serving since 1961.

Q: If Peace Corps Volunteers are added to the number of Alaskans eligible to receive permanent fund dividends, how much would that reduce the amount of each check? In 2000 and 2001, each check would be eight cents smaller.

Assuming that all 26 PCVs were added to the estimate of the number of eligible applicants (which they aren't - the estimate isn't arrived at that way), then the same \$1,092,451,347.17 appropriated in 2001 would have to be split 590,449 ways instead of 590,423 ways. The amount of the 2001 check would have been reduced from \$1,850.28 per person to \$1,850.20 - a difference of eight cents (the amount of each check is rounded to the nearest even number of cents). The same \$1,150,429,188 appropriated in 2000 would have to be split 585,826 ways instead of 585,800 ways. The amount of the 2000 check would have been reduced from \$1,963.86 per person to \$1,963.78 - a difference of eight cents.

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FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB205
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title PFD: Peace Corps Volunteers BRU Revenue Operations
and Miscellaneous Component Permanent Fund Dividend
Sponsor Representative McGuire
Requester House State Affairs Component No. 981

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	20.0	20.0	20.0	20.0	20.0	20.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	20.0	20.0	20.0	20.0	20.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1050 Permanent Fund Dividend Fund	20.0	20.0	20.0	20.0	20.0	20.0
TOTAL	20.0	20.0	20.0	20.0	20.0	20.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page for discussion of bill.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division Department of Revenue Date/Time 3/28/03 5:05 PM
Approved by: Larry Persily, Deputy Commissioner Date 3/28/2003
Agency Department of Revenue

BILL SUMMARY

This legislation would:

- Re-establish volunteer service in the U.S. Peace Corps as an allowable absence in determining eligibility for the Permanent Fund dividend.
- Start the annual application period for the dividend on January 1 each year instead of January 2. The use of online applications allows the Dividend Division to accept applications on January 1, even if it is a holiday.
- Allow the Department of Revenue to assess administrative penalties of up to \$3,000 each and forfeiture of dividends against individuals who willfully misrepresent information on their application or in the review process for the Permanent Fund dividend. Applicants would have the right to a formal hearing before a hearing examiner to determine whether the fine is appropriate, and, beyond that, applicants could appeal to court. Under existing statute, the only method for the Department to assess a penalty against an applicant who willfully misrepresents information is to file criminal charges in the case. The state is reluctant to file criminal charges because of the great expense. Therefore, the Dividend Division loses out on using such penalties as an effective enforcement tool against fraud. This bill would solve that problem by providing administrative penalties as a lower-cost alternative.

OPERATING EXPENSES

The Department of Revenue estimates it will need to increase its contract with the Department of Law by \$20,000 per year to handle the additional workload (an estimated 50 penalty cases per year, of which an estimated 20 would go to formal hearing and of which two would likely be appealed to Superior Court).

The \$20,000 would cover the work involved in screening the cases and handling the appeals. Revenue would use an RSA to pay Law for its work.

The money would come from the Dividend Fund, not the state General Fund.

4-3-03

HB 205

April 3, 2003

APR 07 2003

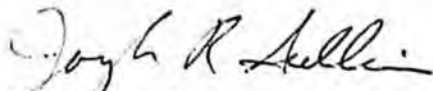
Ladies and Gentlemen of the Legislature of the Great State of Alaska,

I urge you today to restore the Permanent Fund to Peace Corps volunteers who go to help people in foreign lands improve their lives and lift themselves out of hopelessness and despair. Remember that when these Alaskan volunteers do that they represent our state of Alaska as well as our country. In addition to helping people meet their needs, the mission of Peace Corps is to expose people from other countries to Americans and Americans to those people.

Right now we are fighting a war in a part of the world that seems to be dominated by evil forces. We are trying to extinguish a fire by shooting at the flames of something that has, in a sense, been burning for a long time already. I ask you to consider that Peace Corps volunteers work to counteract the root causes of war. By the efforts Peace Corps volunteers have taken in the past, how many wars have been avoided we will never know. Any firefighter will tell you that to put out a fire, you must aim your extinguisher at the base of the flames, what is actually burning rather than at the flames themselves. The base is where Peace Corps volunteers work. When Peace Corps volunteers give up the good life they have in Alaska to help other people and live as they live and with them, those people understand that this is not something we have to do, but something we do because of who we are and the values that we have. The people in these countries understand that and they realize that America is not just rich in material things, we are rich in spirit. They see that we are trying to share this richness of spirit with them by helping them help themselves. They understand the greatness of our values and they are inspired to be like us in this way as well, not just in wealth of goods that we have. The Peace Corps is well named because ultimately, peace is what it brings to the poor of other lands.

I urge the legislature now to show their support for our Alaskan citizens who go to these countries even though losing the Permanent Fund for several years has not deterred them from what they believe and I believe is the right thing to do. I was a Peace Corps volunteer in Zambia for two years teaching subsistence farmers how to raise fish for food and to generate a little income to put clothes on their children, send them to school and buy medicine when they are sick with malaria. I hope I made a difference; I think I did. There were other Alaskans in the same program whom I know and many more in other programs in other countries whom I don't know. It is time to show our people who represent us in Peace Corps that we are behind them and support what they are doing. Please restore the Permanent Fund to Peace Corps volunteers from our wonderful and generous state that shares its people and their talents with the rest of the world to do good and bring peace.

Sincerely,



Joe Sullivan, Ph.D.
Returned Peace Corps Volunteer
Zambia, Rural Aquaculture Promotion Project
1999 to 2001

12300 Audubon Dr.
Anchorage, AK 99516
907-345-0527 (home)
907-272-3118 (work)
907-350-3771 (cell)

HB

215

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS0605H
Kurtz
4/30/03

CS FOR HOUSE BILL NO. 215()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES STOLTZE, Hawker, Wilson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to art requirements for public buildings and facilities; relating to
2 identification, monitoring, maintenance and reporting of art in public buildings and
3 facilities; and relating to the art in public places fund."

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

5 * Section 1. AS 35.27.020(c) is amended to read:

6 (c) At least one percent or, in the case of a rural school facility, at least one-
7 half of one percent of the first \$10,000,000 of the state funding for the construction
8 [COST] of a building or facility approved for construction by the legislature after
9 September 1, 1977, and at least one-half of one percent, or in the case of a rural
10 school facility, one-quarter of one percent of that portion of the state funding that
11 exceeds \$10,000,000 for the construction of a building or facility approved for
12 construction by the legislature shall [WILL] be reserved for the following purposes:
13 the design, construction, mounting, [AND] administration, and maintenance of
14 works of art in a school, office building, court building, vessel of the marine highway

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

WORK DRAFT

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23-LS0605H

1 system, or other building or facility that [WHICH] is designed for [SUBJECT TO]
2 substantial public use. Of the total amount that is received for works of art for a
3 building or facility under this subsection, at least five percent shall be deposited
4 in the art in public places fund established under AS 44.27.060 to meet future
5 maintenance needs of art works in public buildings and facilities.

6 * Sec. 2. AS 35.27.020(d) is amended to read:

7 (d) A building or facility with an estimated construction cost of less than
8 \$250,000 is exempt from the requirements of this chapter unless inclusion of works of
9 art in the design and construction of the building or facility is specifically authorized
10 by the department. A building or facility exempt under this subsection is subject
11 to AS 44.27.060.

12 * Sec. 3. AS 35.27.020(g) is amended to read:

13 (g) The architect, superintendent, department, and the Alaska State Council on
14 the Arts shall encourage the use of state cultural resources in these art works and shall,
15 to the extent permitted by law, select [THE SELECTION OF ALASKA
16 RESIDENT] artists for the commission of these art works who are residents of the
17 state under AS 01.10.055.

18 * Sec. 4. AS 35.27 is amended by adding new sections to read:

19 Sec. 35.27.022. Identification, monitoring, and maintenance of art works.

20 (a) For each work of art purchased under this chapter, the building or facility owner
21 shall install a permanent plaque containing the name or title of the work of art, the
22 name of the artist, and the year of completion on or near the work.

23 (b) Each work of art acquired under this chapter, regardless of its cost, shall be
24 included in the inventory records of state property under AS 37.05.160 or in the
25 building or facility owner's inventory system.

26 (c) For each building or facility subject to this chapter, the building or facility
27 owner shall report to the Alaska State Council on the Arts

28 (1) the amount of state funding for the project;

29 (2) the total cost of art;

30 (3) the title, artist, location, cost, inventory reference, and anticipated
31 maintenance requirements of each work of art acquired;

WORK DRAFT

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23-LS0605H

1 (4) photo documentation according to the specifications of the Alaska
2 State Council on the Arts of each work of art.

3 Sec. 35.27.024. Report to the legislature. The Alaska State Council on the
4 Arts shall prepare an annual report listing the buildings and facilities subject to this
5 chapter and each work of art purchased, including the cost, amount deposited into the
6 art in public places fund (AS 44.27.060) for maintenance, and inventory reference.
7 The Alaska State Council on the Arts shall submit the report to the Legislative Budget
8 and Audit committee within 30 days after the convening of each regular session of the
9 legislature.

10 * Sec. 5. AS 35.27.030(1) is amended to read:

11 (1) "building" or "facility" means a permanent improvement
12 constructed by the department; the term

13 (A) includes, but is not limited to,

14 (i) schools, office buildings, and court buildings;

15 (ii) other buildings that [WHICH] the commissioner
16 determines are designed for substantial public use;

17 (iii) boats and vessels of the marine highway system;

18 (iv) transportation facilities that [WHICH]
19 accommodate traveling passengers;

20 (B) excludes

21 (i) [OTHER] transportation facilities not described in
22 (A)(iii) and (iv) of this paragraph;

23 (ii) correctional facilities, as that term is defined in
24 AS 33.30.901;

25 (iii) buildings that are not designed for substantial
26 public use;

27 * Sec. 6. AS 35.27.030(3) is amended to read:

28 (3) "construction cost" is that cost expended for the actual construction
29 of the facility, exclusive of the costs of land acquisition, site investigation, design
30 services, administrative costs, equipment purchases, and any other costs not
31 specifically incurred within the construction contract or contracts awarded for the

WORK DRAFT

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23-LS0605VH

1 construction of the facility, and exclusive of costs, including costs incurred due to
 2 change orders, not included in the original construction contract or contracts
 3 awarded for the construction of the facility.

4 * Sec. 7. AS 35.27.030 is amended by adding a new paragraph to read:

- 5 (4) "state funding" means
- 6 (A) an appropriation of state funds by the legislature; or
- 7 (B) general obligation bond proceeds.

8 * Sec. 8. AS 44.27.060(c) is amended to read:

- 9 (c) The council may use the money in the art in public places fund
- 10 (1) to commission or purchase a work of art that is to be made a
- 11 permanent part of, or placed on loan in, a building or facility owned or leased by the
- 12 state that has substantial public use; [AND]
- 13 (2) to meet expenses for a commissioned work of art for a building or
- 14 facility that has substantial public use if the cost of the work of art exceeds the amount
- 15 reserved under AS 35.27.020(c); and
- 16 (3) to maintain and repair existing works of art acquired under
- 17 AS 35.27.

18 * Sec. 9. AS 44.27.060(d) is amended to read:

- 19 (d) In (c) of this section, "building" or "facility" means
- 20 (1) a building or facility of the state, as defined by AS 35.27.030, that
- 21 is designed for [AND THAT IS SUBJECT TO] substantial public use; and
- 22 (2) a building or facility that is leased by the state and designed for
- 23 [SUBJECT TO] substantial public use.

24 * Sec. 10. AS 44.27.060 is amended by adding new subsections to read:

- 25 (e) The commissioner of a department responsible for the design and
- 26 construction of a building or facility or the owner of a building or facility subject to
- 27 AS 35.27 shall deposit into the art in public places fund at least five percent of the
- 28 total amount that is received for works of art for a building or facility under AS 35.27.
- 29 (f) Money deposited in the art in public places fund does not lapse at the end
- 30 of a fiscal year unless otherwise provided by an appropriation.

31 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to

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23-LS0605H

- 1 read:
- 2 TRANSITIONAL PROVISIONS. The provisions of this Act apply to art purchased
- 3 with state funds appropriated and general obligation bonds approved by the voters on or after
- 4 July 1, 2003.

23-LS0605VD

Kurtz

4/23/03

CS FOR HOUSE BILL NO. 215()
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES STOLTZE, Hawker, Wilson

A BILL
 FOR AN ACT ENTITLED

1 "An Act relating to art works in public buildings and facilities."

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

3 * Section 1. AS 35.27.020(c) is amended to read:

4 (c) At least one percent or, in the case of a rural school facility, at least one-
 5 half of one percent of the first \$10,000,000 of the state funding for the construction
 6 [COST] of a building or facility approved for construction by the legislature after
 7 September 1, 1977, and at least one-half of one percent, or in the case of a rural
 8 school facility, one-quarter of one percent of that portion of the state funding that
 9 exceeds \$10,000,000 for the construction of a building or facility approved for
 10 construction by the legislature will be reserved for the following purposes: the
 11 design, construction, mounting, [AND] administration, and maintenance of works of
 12 art in a school, office building, court building, vessel of the marine highway system, or
 13 other building or facility that [WHICH] is subject to substantial public use. At least
 14 five percent of the cost of each work of art shall be deposited in the art in public
 15 places fund established under AS 44.27.060 to meet future maintenance needs of

1 art works in public buildings and facilities.

2 * Sec. 2. AS 35.27.020(g) is amended to read:

3 (g) The architect, superintendent, department, and the Alaska State Council on
4 the Arts shall encourage the use of state cultural resources in these art works and shall,
5 to the extent permitted by law. select [THE SELECTION OF ALASKA
6 RESIDENT] artists for the commission of these art works who are residents of the
7 state under AS 01.10.055.

8 * Sec. 3. AS 35.27 is amended by adding new sections to read:

9 **Sec. 35.27.022. Identification, monitoring, and maintenance of art works.**

10 (a) For each work of art purchased under this chapter, the building or facility owner
11 shall install a permanent plaque containing the name or title of the work of art, the
12 name of the artist, and the year of completion on or near the work.

13 (b) Each work of art acquired under this chapter, regardless of its cost, shall be
14 included in the inventory records of state property under AS 37.05.160 or in the
15 building or facility owner's inventory system.

16 (c) For each building or facility subject to this chapter, the building or facility
17 owner shall report to the Alaska State Council on the Arts

18 (1) the amount of state funding for the project;

19 (2) the total cost of art;

20 (3) the title, artist, location, cost, inventory reference, and anticipated
21 maintenance requirements of each work of art acquired.

22 **Sec. 35.27.024. Report to the legislature.** The Alaska State Council on the
23 Arts shall prepare an annual report listing the buildings and facilities subject to this
24 chapter and each work of art purchased, including the cost, amount deposited into the
25 art in public places fund (AS 44.27.060) for maintenance, and inventory reference.
26 The Alaska State Council on the Arts shall submit the report to the Legislative Budget
27 and Audit committee within 30 days after the convening of each regular session of the
28 legislature.

29 * Sec. 4. AS 35.27.030(1) is amended to read:

30 (1) "building" or "facility" means a permanent improvement
31 constructed by the department; the term

- 1 (A) includes, but is not limited to,
2 (i) schools, office buildings, and court buildings;
3 (ii) other buildings that [WHICH] the commissioner
4 determines are designed for substantial public use;
5 (iii) boats and vessels of the marine highway system;
6 (iv) transportation facilities that [WHICH]
7 accommodate traveling passengers;

- 8 (B) excludes
9 (i) other transportation facilities;
10 (ii) correctional facilities, as that term is defined in
11 AS 33.30.901;
12 (iii) buildings that are not subject to substantial
13 public use;

14 * Sec. 5. AS 35.27.030 is amended by adding a new paragraph to read:

- 15 (4) "state funding" means
16 (A) an appropriation by the legislature; or
17 (B) general obligation bond proceeds.

18 * Sec. 6. AS 44.27.060(c) is amended to read:

- 19 (c) The council may use the money in the art in public places fund
20 (1) to commission or purchase a work of art that is to be made a
21 permanent part of, or placed on loan in, a building or facility owned or leased by the
22 state that has substantial public use; [AND]
23 (2) to meet expenses for a commissioned work of art for a building or
24 facility that has substantial public use if the cost of the work of art exceeds the amount
25 reserved under AS 35.27.020(c); and
26 (3) to maintain and repair existing works of art acquired under
27 AS 35.27.

28 * Sec. 7. AS 44.27.060 is amended by adding a new subsection to read:

- 29 (e) The commissioner of a department responsible for the design and
30 construction of a building or facility or the owner of a building or facility subject to
31 AS 35.27 shall deposit into the art in public places fund at least five percent of the cost

1 of each work of art acquired under AS 35.27.

2 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 TRANSITIONAL PROVISIONS. The provisions of this Act apply to art purchased
5 with state funds appropriated and general obligation bonds approved by the voters on or after
6 July 1, 2003.

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928
Toll Free (866) 465-4958

Interim:
PO Box 464
Chugiak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

Sponsor Statement for House Bill 215

"An Act repealing statutes that relate to art works in public buildings and facilities and that require a set percentage of construction costs be spent on art."

Alaska's "Percent for Art in Public Places" originated in 1975 with the requirement that a percent of state capital expenditures for public buildings and facilities be set aside to acquire works of art for display in those facilities (Alaska Statute 36.75).

Although many have, over the years, made subjective comments about the value of individual "percent for art" projects, my intent in introducing HB 215 is to address the fiscal aspect of the program. As state government determines which functions of government are most essential, I feel that this particular program is one that we can no longer afford. In the case of school facilities, I feel that providing additional laboratory space, playground equipment and a myriad of other needs are far more important than percent for art expenditures.

I appreciate your consideration of this legislation.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB215
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Repeal One Percent for Art BRU _____
 Component _____
 Sponsor Stoltze Component No. _____
 Requester HSTA _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Dennis R. Poshard Phone 465-3900
 Division: Special Assistant to Commissioner Date/Time 4/2/03 5:56 PM
 Approved by: Commissioner Mike Barton Date 4/2/2003
 Agency: Alaska Department of Transportation and Public Facilities

Subject: [Fwd: Art in Public Places Fund]
Date: Wed, 30 Apr 2003 16:52:34 -0800
From: Barbara Bitney <Barbara_Bitney@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Ginny Austerman <Ginny_Austerman@legis.state.ak.us>

Ginny:

Could we put this in the committee packets, too. I think it explains some of what Charlotte was trying to convey during the hearing, too.

Thanks,

Barbara

Subject: Art in Public Places Fund
Date: Wed, 30 Apr 2003 11:16:49 -0800
From: "Charlotte A. Fox" <charlotte_fox@eed.state.ak.us>
To: "Barbara Bitney" <Barbara_Bitney@Legis.state.ak.us>

I hope this clarifies the Fund:

The Alaska State Council on the Arts
Art in Public Places Program

There are two major components of the Art in Public Places Program, The Art in Public Places Fund (AS 44.27.060) and the Percent for Art Program (AS 35.27)

The Art in Public Places Fund
Fund sources:

- 1) Percent for Art Projects under \$250,000
- 2) Percent for Art Projects that are buildings without substantial public use

Purpose of the fund:

Funds are ONLY used to purchase art for loan for use in State of Alaska office buildings and the Alaska Congressional offices in Alaska and Washington, DC. Governor Murkowski has 18 pieces from the Contemporary Art Bank in his DC office alone.

>From 1988 through 1999, there were no purchases from this fund due to lack of authorization. However, deposits had been made into the fund, totaling \$76,500 over 10 years. In 1999, an appropriation was made so that ASCA could access those funds.

Between 1999 and 2001, a major call to Alaskan artists was made and 66 new works by 51 Alaskan artists were purchased, which depleted the fund.


Deposits were made into the fund in 2002 of \$4,586 which purchased two new works of art, one by Ron Senungetuk and a photograph by Soldotna photographer Gary Freeburg.

Current fund balance: \$2,156. Although ASCA is authorized \$75,600 each year, only the amount deposited through the program is actually spent. There is no impact on the general fund from these income and expenditures.

Now, over 550 works of art are loaned for public display in state offices throughout Alaska and in the offices of Alaska's congressional delegation in

Washington, DC. This program is a marvelous way to highlight the range of abilities of Alaska's artists.

Charlotte Fox, Executive Director
Alaska State Council on the Arts
www.eed.state.ak.us/aksca
(907) 269-6607

 winmail.dat	Name: winmail.dat Type: application/ms-tnef Encoding: base64
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Barbara Bitney < Barbara_Bitnev@legis.state.ak.us > Legislative Aide/Representative Stoltze Alaska State House District 16 State Capitol, Room 421

Subject: Opposing HB215

Date: Tue, 01 Apr 2003 15:05:17 -0900

From: Hal Gage <halgage@alaska.net>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

I strongly oppose HB 215 (to repeal funding for the Percent for Art program). This statute is one that neither directly or indirectly cost the tax payers anything and directly and indirectly benefit all Alaskans. The works of art by local, national and internationally recognized artists that have been added to the states collection as well as decorated and enlivened our public spaces can not be over measured in the value that it has given all people of Alaska. As one of nearly two thirds of the states in this country, Alaska is a leader in up holding this program that enhances our public places.

In addition, the funding that goes to the ASCA Art Bank to help manage and procure art by Alaskans directly benefit Alaskan artists by the patronage of their work. The general public benefits from seeing a wide diversity of art in their public institutions, and public employees benefit from the works of art that adorn their work spaces. Through the states support of this program, Alaskan artists continue to work and grow to make more and better art that is shown in Alaska and outside increasing Alaska as a destination and creating a better place to live and work. The states cooperation in this program insures that our public spaces are alive and vibrant and that its intellectual coffers are well stocked for the future.

I respectfully ask you to to oppose HB 215.

Hal Gage
2526 Galewood St
Anchorage, Alaska 99508
(907) 272-4356
artist, business man, life long Alaskan

Subject: FW: HB 215

Date: Wed, 2 Apr 2003 15:11:12 -0900

From: Terry Schoenthal <tschoenthal@landdesignnorth.com>

To: "ginny_austerman@legis.state.ak.us" <ginny_austerman@legis.state.ak.us>

-----Original Message-----

From: Terry Schoenthal

Sent: Wednesday, April 02, 2003 2:42 PM

To: Lesil McGuire (Representative_Lesil_McGuire@legis.state.ak.us)

Subject: HB 215

Hello Lesil,

As a constituent from your district, I wish to express concern about HB 215, which I understand will get a hearing tomorrow. No doubt, you are getting an earful about the cuts already proposed by the Governor. In all honesty, I favor most of them. I even favor the idea of using the permanent fund toward education. How much sense does it make to tax us on one hand and return it as a permanent fund dividend on the other?

HB 215 calls for the repeal of the 1% for art in public buildings. This program has been a relatively painless way to assess ourselves to incorporate art in our everyday lives. There are clearly bad examples of this program that can be identified in our public buildings, but there are also wonderful and creative enhancements that have occurred over the years. At a minimum the art pieces give people something to talk and think about. When I show out-of-state guests and visitors around, the art in our public buildings is almost always mentioned.

Yes, money is getting tight and in the current political climate art may seem frivolous. To me, however, our public art represents a pride in our place. It also represents a commitment to quality of life. I would request support in defeating this bill and keeping our 1% for art program.

Thanks,

Terry Schoenthal

Subject: 1% for art

Date: Wed, 02 Apr 2003 14:58:41 -0900

From: "Kumin, Jon" <jkumin@kumin.alaska.com>

To: ginny_austerman@legis.state.ak.us

Hello:

I am an architect who has worked in all regions of Alaska. Please add my voice to those supporting continuation of this program. It is a citizen based system, and one that is an important part of making a complete built environment. Buildings are incomplete without windows and doors. As a designer I feel art is also a necessary component to a complete public building. Are we so poor in spirit we can't afford to add a little fun to our buildings? Quality of life will increasingly be a key part of where people locate. If we want Alaska to thrive, let's not make it a pinch-penny, poor-mouth place that people want to avoid.

Sincerely,

Jon Kumin

Fairbanks North Star Borough School District

520 Fifth Avenue • Fairbanks, AK 99701-4756 • phone (907) 452-2900



FAX COVER SHEET

Date: 4-3-03

To: Rep Weybrauch

Fax No. 907 465-2273

From: Barbara Short
Art Coordinator / Teacher

Fax No. (907) 451-0541

Number of pages (including cover sheet): 2

Notes: I tried to e-mail this but
since I have a conflict tomorrow
a.m. wanted to be sure you got
it.

This statute is a positive
thing for our state.

Please oppose AB 215 -

From: Barbara Short <bshort@northstar.k12.ak.us>
Date: Wed Apr 2, 2003 4:24:10 PM America/Anchorage
To: HB215 Sponsor Peggy Wilson <Representative_Peggy_Wilson@legis.state.ak.us>, Paul Seaton <Representative_Paul_Seaton@legis.state.ak.us>, Nancy Dahlstrom <Representative_Nancy_Dahlstrom@legis.state.ak.us>, HB215 Sponsor Mike Hawker <Representative_Mike_Hawker@legis.state.ak.us>, Max Gruenberg <Representative_Max_Gruenberg@legis.state.ak.us>, Vice Chairman Jim Holm <Representative_Jim_Holm@legis.state.ak.us>, Ethan Berkowitz <Representative_Ethan_Berkowitz@legis.state.ak.us>, Chairman Bruce Weyrauch <Representative_Bruce_Weyrauch@legis.state.ak.us>, Bob Lynn <Representative_Bob_Lynn@legis.state.ak.us>, HB215 Sponsor Bill Stolze <Representative_Bill_Stolze@legis.state.ak.us>
Cc: ashort@northstar.k12.ak.us
Subject: Strong Opposition to HB 215

To Members of State Affairs Committee:

When we study history, we learn about a people through their art. What will future students learn about us?

The Percent for Art statute stands as a tribute to Alaska. Citizens and visitors alike enter public buildings that welcome them as well as serve them. One rarely enters a building in Alaska and thinks 'what a sad and dour environment' as one used to.

HB 215 is, in my opinion, a poorly thought out attempt to limit artistic expression while benefitting the State of Alaska or local communities in no way whatsoever. It doesn't even save money.

I have been the Art Coordinator for the Fairbanks North Star Borough School District for about 15 years and, as such, am responsible for the Percent for Art program in our schools. The selection of art is taken very seriously by the volunteer committees that represent each school. The committee members represent the school community and include students, parents, staff, teachers, administrator and community artists. Normally there are 8-10 members not counting an architect or representative. On average these committees meet at least 7 times in the process of planning, drafting and selecting art. All selected artists are required to have an educational component/presentation for the school population.

The art selected by these committees is extremely well-received by their communities and enhances the buildings immensely. I have a slide show which I am sure you would be quite impressed with were you to see it...

I am unavailable to call in tomorrow morning and am thus writing you now. I am available to answer questions and can be reached next week at 452-2000, X 417.

Thank you for your consideration.

Barbara Short

"Art is the signature of civilization".
Beverly Sills

ANNE L. HERMAN
5100 East 112th Avenue
Anchorage, AK 99516-1664

April 2, 2003

Representative Bruce Weyhrauch, Chair
State Affairs Committee
Alaska House of Representatives
Juneau, AK

Dear Representative Weyhrauch,

We are writing today to ask you to please consider not passing through your committee House Bill 215, regarding the Percent for Art Program. Alaska is only one of a very few states in the country to have a program that grants a percentage of building costs to art installations in public buildings. What a wonderful and cost-effective way to introduce art into communities across this state. It is an investment in the community that goes well beyond the building that houses or exhibits it. This is truly the people's art since it is created by public artists and chosen by people in the communities in which it is displayed. Such public art encourages people to explore the arts in a friendly way; it is art that you can touch, walk around, sit on and look at every day to understand what it means. It is also a way to show that art is a part of all our lives, not just the few who can afford it.

The Percent for Arts Program also supports many Alaskan artists. We have a diverse and talented population of artists in this state who create works that enrich all our lives. This program helps them continue to create and explore their artistic visions, something that can benefit all of us. The program also supports the Alaska State Council on the Arts' Contemporary Art Bank, which holds hundreds of works that are loaned out to state and Congressional offices for your display. Perhaps you have already taken advantage of this art bank in your own offices? How much has this art added to your working lives and those of the people who come to visit your offices.?

The Percent for Arts programs creates art that can last a lifetime. It is art for all of us, not just those who can afford to purchase it or see it in a museum. It has so many benefits for the communities in which it is displayed at such a small cost. Please consider keeping this important arts program running in our state. We all will be better for it.

Thank you for taking the time to consider our request.

Sincerely,



Anne L. Herman
Bruce M. Herman

April 2, 2003

Representative Weyhrauch,

It's been said that "all art requires
courage"...

please have the courage to fight HB215
threatening public art.

Bristol Vaudrin Haggstrom
533 East 73rd Avenue
Anchorage, AK 99518
(907) 830-6913
bristol@bdsak.com

Art is not a thing; it is a way. -- Elbert Hubbard

Subject: 1% Art

Date: Wed, 02 Apr 2003 15:34:52 -0900

From: Kari Mote <kokopelli@alaska.com>

To: ginny_austerman@legis.state.ak.us

Ginny,

Please know there is a huge art community in Anchorage and we support Percentage for Art in Alaska. House Bill 215 is against Alaskans and against artists. We need more culture in Alaska, not less. As founding Artistic Director for Kokopelli Theatre Company I realize how hard it is for Alaskan artist to survive up here. We need to support local talent and to encourage our future artists, the children of Alaska to practice and keep their talent up here. If they can't survive they will leave. Please send a message of support to all Alaskan artists and oppose House Bill 215.

Thank you,

Kari Mote

Artistic Director

Kokopelli Theatre Co.

Subject: RE: 1% for Art Testimony!!!!

Date: Wed, 2 Apr 2003 15:41:38 -0900

From: "Ed Oreill" <eoneill@brownjug.alaska.net>

To: <sacteson@akanhs.org>, <ginny_austerman@legis.state.ak.us>

Bruce Weyerauch,

House Bill 215 proposes to eliminate the Percent for Art program from the state. As a born and bred Alaskan, I find this to be very frustrating. We fought long and hard to get this program going to help beautify our public buildings. To find out our legislators are trying to turn our public spaces into buildings on par with "big box stores" is preposterous. Alaska is known for it's beauty; let's keep our public buildings beautiful too.

Ed O'Neill
Brown Jug, Inc.
4140 Old Seward Hwy.
Anchorage, Alaska 99503
(907) 563-3815 x225 Cell (907) 240-1818 Fax (907) 562-3008
eoneill@brownjug.alaska.net

-----Original Message-----

From: Shelby [mailto:sacteson@akanhs.org]

Sent: Wednesday, April 02, 2003 2:51 PM

To: Shelby Acteson

Cc: "All Office Employees"@gci.net

Subject: 1% for Art Testimony!!!!

Greetings,

Below is additional information about how your voice can be heard about the 1% for Art issue. Thanks to Christopher Constant for this information.

Shelby

As you read in the previous email, House Bill 215 proposes to eliminate the Percent for Art program from the state.

Tomorrow morning, the State Affairs Committee meets from 8-10 am. You can go to the Legislative Information Office then and sign up to testify. Another option is to submit your comments in writing. This is best done by writing to Ginny Austerman at ginny_austerman@legis.state.ak.us with your comments as soon as possible. She serves as the legislative aide for Bruce Weyerauch, the Representative in charge of the committee.

If you get your written comments to her today or before 7:30 AM tomorrow, she can get your comments to the house members before they deliberate.

Subject: FW: HB 215

Date: Wed, 02 Apr 2003 15:49:10 -0900

From: Karen Benning <benning@gci.net>

To: ginny_austerman@legis.state.ak.us

In case Representative Lynn does not receive this before the Thursday meeting.

Thank you.

----- Forwarded Message

From: Karen Benning <benning@gci.net>

Date: Wed, 02 Apr 2003 11:46:17 -0900

To: <Representative_Bob_Lynn@legis.state.ak.us>

Subject: HB 215

Dear Representative Lynn:

I have never written to my representative before, but with everything that's happening to our state right now, I feel I must at last make my voice heard. You are my elected House Representative, and I hope you will take my message under consideration.

Passing HB 215 would be a big mistake. Eliminating the 1% For Art program sends the message that art and culture is less important than building materials and furniture. I have lived in cities with stronger art programs than what Alaska currently has, and I can tell you it makes a difference in community pride. While community pride cannot necessarily be directly measured, it leads to a stronger sense of citizen responsibility. This shows up indirectly in community investment. People invest in what they're proud of; they do not invest in a community that does not care about its overall health. Art is one of the most visible ways to communicate this sense of community wellness.

I have seen capital projects in action, and trust me, the 1% for Art is the least of the issues when it comes to cost overruns.

I urge you to consider the big picture when deciding how to vote on HB 215. As a former accountant, I understand cost vs. benefit, and the benefits of this program far exceed the cost.

Thank you for your time.

Sincerely,

Karen Benning

Resident, House District 31

----- End of Forwarded Message

Subject: 1% for Art Letter of Support

Date: Wed, 02 Apr 2003 16:45:35 -0900

From: Meredith <mparham@akanhs.org>

To: ginny_austerman@legis.state.ak.us

Mary Jane Michael, CEO and Executive Director for Anchorage Neighborhood Housing Services, asked me to forward the attached letter in support of the 1% for Art program, and in opposition to HB215.

Thank you.


Meredith Parham, Executive Assistant

Anchorage Neighborhood Housing Services, Inc.

(907) 677-8422

(907) 677-8452-fax

mparham@akanhs.org

	<u>1% for art letter.doc</u>	Name: 1% for art letter.doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message
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Subject: 1% for the ARTS

Date: Wed, 02 Apr 2003 16:49:06 -0900

From: cheryl chesnut <chesnut@alaska.net>

To: undisclosed-recipients;

Dear Representative Bruce Weyerauch,

As an alaskan artist I am urging you to keep 1% for the Arts intact.

This program is invaluable to our communities. I have summer art camps for children and these 1% for the Art projects directly influence them; often they will refer to their school as the one with the "steel moose out front," or the the one with the "large mural in the front entrance," etc.

It is a major source of income for artists. It is said a "higher" society is denoted by the level of their art. Art is a source of joy.

We don't want to look like a lot of the cities in the eastern block countries of europe (or Russia) where there is row after row of deadly boring, cold, concrete, uniform buildings, bridges and roads. Moscow's Red Square has become an icon representing Russia; not their usual concrete buildings. It is the color and design that we as human beings enjoy in homes, work places and our environment.

I urge you, despite our huge fiscal problems, keep 1% for the Arts. I urge you to walk around Juneau and seek out all the 1% for Art projects and feel how much they have made your day more enjoyable, or made you pause to reflect during your busy day.

Thank you,
Cheryl Chesnut
Spreading Tree Studio
522-2029

Subject: HB 215

Date: Wed, 2 Apr 2003 17:56:30 -0800

From: "Michele Miller" <Michele@northwestwishes.org>

To: <ginny_austerman@legis.state.ak.us>

CC: <mike_hawker@legis.state.ak.us>, <bill_stoltze@legis.state.ak.us>

Dear Chair Weyhrauch & House State Affairs Committee members, Dahlstrom; Lynn; Seaton; Berkowitz; and Gruenberg:

I know Rep. Hawker, Rep. Stolze and I respect them both, so I'm wondering what the motivation is for this legislation.

I am a life-long Alaskan, and have slowly migrated north from my humble beginnings in Thorne Bay, Alaska in 1952. My career has consisted of working in the legislature, so I know you have a tough job. For the past eight years, I have been a volunteer arts supporter and advocate in the Juneau and Anchorage communities.

Please consider Alaskan artists and their supporters by voting "Do Not Pass" on HB 215.

- * Public art helps to support artists;
- * It enhances communities;
- * It makes for permanent installations -- amortized over the life of a building, the cost of public art is a modest investment in the enhancement of the public environment;
- * Alaska is well known for its public art program -- one of 29 states with Percent for Art; the Percent for Art program supports the ASCA Contemporary Art Bank with over 600 pieces which are loaned to state and Congressional offices for display;
- * It is truly PUBLIC ART -- local volunteer public committees decide on the art which is appropriate for their community.

Sincerely,

Michele Miller
Development Manager
Make-A-Wish Foundation of Alaska,
Montana, Northern Idaho, and Washington
3201 C Street, Suite 610
Anchorage, AK 99503
907-258-9478 direct
907-227-6207 cell
907-258-9475 fax
michele@northwestwishes.org
www.northwestwishes.org

Re: 1% for Art Testimony!!!!

Subject: Re: 1% for Art Testimony!!!!

Date: Wed, 2 Apr 2003 17:07:33 -0900

From: "Ann Kaiser" <altlighting@msn.com>

To: <ginny_austerman@legis.state.ak.us>

Hi Ginny,

I would like to voice a strong opposition to the repeal of House bill 215 which would take away the Art and Public funding in public buildings. The cost of public art is a modest investment which enhances our quality of life and defines what and who we are. It also acts as an historical snapshot defining our history as portrayed by the artist at the time. The repeal of this bill would be an action which would be a large step backwards for our communities, our artists, and our historical landmarks. Please reconsider your support for the repeal of this bill.

Sincerely,

Ann Kaiser Snedgen

P.O. Box 1072

Girdwood, AK 99587

ph. 907-783-2629

fax 907-783-1946

Subject: House Bill 215

Date: Wed, 02 Apr 2003 17:30:04 -0900

From: Shelby <sacteson@akanhs.org>

To: ginny_austerman@legis.state.ak.us

Greetings,

I am writing in support of the Percent for Art program that would be cut with the passage of House Bill 215.

As an artist, I feel that this program plays an important role in the recognition and acknowledgement of Alaskan artists and provides opportunities for artists to stay in Alaska.

As a business owner, I see how the arts positively impact our economy by creating jobs for Alaskan artists, supporting compatible businesses, and enhancing the quality of life for all Alaskans, young and old, rich and poor.

As a community member, I enjoy many Percent for Art projects around Anchorage and appreciate how a bright fish or an abstract sculpture can enrich my day and make Alaska a desirable place to live.

The Percent for Art program represents a very small percentage of our budget and yet its benefits extend far beyond the artists and their original audience. I strongly urge you to support the Percent for Art program and not pass House Bill 215.

Thank you for your consideration,

Shelby Acteson

Owner, Style Image Consulting
Marketing Manager/Community Organizer, Anchorage Neighborhood Housing Services, Inc.

907.301.9388 phone