

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11057 HOUSE STATE AFFAIRS

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 447
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title "An Act making corrective amendments to BRU Legislative Council
the Alaska Statutes as recommended by the revisor..." Component: Council and Subcommittees
 Sponsor House Rules by Request of Leg Council
 Requestor House State Affairs Component No. 783

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
 Division: Administrative Services
 Approved by: Pamela Varni, Executive Director
 Agency: Legislative Affairs Agency

Phone 465-6626
 Date/Time 2/23/04 10:08 AM
 Date 2/23/2004

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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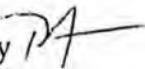
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 10, 2003

SUBJECT: HB 447 (2004 Revisor's Bill)

TO: Representative Bruce Weyhrauch
Chair of House State Affairs Committee

FROM: Pam Finley 
Revisor of Statutes

The following is a sectional analysis of HB 447, the 2004 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 6, 7, 11, 46, and 47 amend or repeal provisions that have become obsolete through other legislative action.

Sections that correct errors or oversights: Sections 1 - 5, 8 - 10, 12 - 17, 20, 23, 25 - 45, and 48 correct errors or oversights.

Sections that improve the form or substance of the law: Sections 18, 19, 21, 22, and 24 propose amendments to improve the form or substance of the statutory law of Alaska.

SECTIONAL ANALYSIS

Bill section 1. Chapter 46, SLA 2003 amended the definition of "emission" in AS 46.14.990 to change "air contaminants" to "air pollutants." This amendment arguably triggered the provisions of AS 09.45.230(d). According to the Department of Law and the Department of Environmental Conservation (chapter 46 was a Governor's bill), it was not the Governor's intent to trigger AS 09.45.230(d), and the failure to amend it to conform to the amendment in ch. 46 was an oversight. That oversight is corrected here.

Bill section 2 corrects an error in AS 09.65.235, added by ch. 117, SLA 1998, by substituting a reference to the article governing negotiated regulation making committees for a reference to the chapter governing immunities in general. As currently written, the language makes no sense because there are no official duties of the committee under AS 09.65; the duties are set by AS 44.62.710 - 44.62.800.

Bill sections 3 and 4 correct an error in Executive Order 108. Executive Order 108 repealed AS 14.37, but failed to delete cross-references to AS 14.37. These bill sections delete those cross-references in AS 11.61.195(a) and 11.61.220(a). The remaining language is adequate because Executive Order 108 moved the child care licensing provisions from AS 14.37 to AS 47.35, and AS 47.35 is already mentioned in AS 11.61.195(a)(2)(B) and AS 11.61.220(a)(4)(A).

Bill section 5 corrects an error in AS 12.55.125(l) by substituting "subsection" for "section." AS 12.55.125(f) and (g) already apply the limitations found in AS 12.55.125(l)(1) - (3) to other applicable subsections. This corrects an error in sec. 7, ch. 7, SLA 1996.

Bill section 6 amends AS 13.26.015(1) by deleting a reference to a minor having attained 18 years of age. Since, under AS 25.20.010, people 18 years of age are not minors, this provision no longer makes sense. At the time AS 13.26.015 was enacted, the age of majority was 19, but it was lowered to 18 in 1977. The legislature may, in another bill where substantive changes are more appropriate, want to consider amending AS 13.26.015(1) and AS 13.26.280(a) (which is amended by the next bill section) to include minors that are emancipated under AS 09.55.590, or to harmonize the references to married minors with AS 25.20.020, or both.

Bill section 7 amends AS 13.26.280(a) to remove another reference to a "minor under the age of 18 years." See explanation for bill section 6.

Bill section 8 corrects an error in Executive Order 108. Executive Order 108 repealed AS 14.37, but failed to delete cross-references to AS 14.37. This bill section deletes a cross-reference in AS 14.43.148(h)(1)(B)(iii). The remaining language is adequate because Executive Order 108 moved the child care licensing provisions from AS 14.37 to AS 47.35, and AS 47.35 is already mentioned in AS 14.43.148(h)(1)(B)(iii).

Bill section 9 amends AS 15.13.040(j) to correct a drafting error in ch. 108, SLA 2003 (SB 119). The Senate State Affairs Committee substitute was supposed to delete, throughout the bill, the requirement of disclosing a contributor's principal occupation and employer unless the aggregate contributions exceeded \$250 per year. This change was made in AS 15.13.040(a) and (b), but not in AS 15.13.040(j). This bill section amends AS 15.13.040(j) to conform to the committee's instructions for what became ch. 108, SLA 2003.

Bill section 10 amends AS 15.13.110(f)(2) by changing "primary election" to "general election." Chapter 103, SLA 2001 amended AS 15.25.140 - 15.25.200 so that nominating petitions are to apply to general elections, not primary elections. This bill section conforms AS 15.13.110(f)(2) to the change made by ch. 103, SLA 2001.

Bill section 11 amends the list of programs that may be considered in setting limited entry permit fees for non-residents as set out in AS 16.43.160(e)(2)(A). AS 16.43.160(e)(2)(A)(iii) and (vi) are amended to reflect the transfer of habitat and restoration programs from the Department of Fish and Game to the Department of Natural Resources in Executive Order 107. AS 16.43.160(e)(2)(A)(viii) is amended to reflect the addition of the salmon fishery assessment program and the permit buy-back assessment program in the Department of Revenue; this change should have been made when these programs were added.

Bill sections 12 - 14 amend AS 21.36.360(i), (j), and (k) by substituting "AS 21.89.090" for "AS 21.89.070". Chapter 62, SLA 1995 amended AS 21.36.360 (i), (j), and (k) to refer to a risk retention group or purchasing group "registered under AS 21.89.070". However, it is AS 21.89.090, added by ch. 62, SLA 1995, that requires registration of risk retention groups and purchasing groups. AS 21.89.070 relates to tax credits for gifts to colleges and does not mention registration. To correct this error in ch. 62, SLA 1995, these bill sections, substitute "AS 21.89.090" for "AS 21.89.070".

Bill section 15 deletes the requirement that sets of the Alaska Statutes be recorded as items of property on the records of agencies and the central property records of the state. According to the legislative supply officer, the current minimum value for recording state property is \$1,000. Now that the sets of Alaska Statutes are published in softbound editions, their value is considerably below that.

Bill section 16 corrects an error in Executive Order 108. Executive Order 108 repealed AS 14.37, but failed to delete cross-references to AS 14.37. This bill section deletes a cross-reference in AS 25.27.244(s)(2)(B)(ii). The remaining language is adequate because Executive Order 108 moved the child care licensing provisions from AS 14.37 to AS 47.35, and AS 47.35 is already mentioned in AS 25.27.244(s)(2)(B)(ii).

Bill section 17 corrects an error in Executive Order 108. Executive Order 108 abolished the division of alcoholism and drug abuse, but did not delete a reference to the division in AS 28.35.032(l). This bill section corrects that error.

Bill sections 18 and 19 substitute "tenancy by the entirety" for "tenancy by the entireties" in AS 32.05.020(2) and AS 32.06.202(c). The former is the correct term.

Bill section 20 corrects an error in Executive Order 108 by substituting "AS 47.25.001 - 47.25.009" for "AS 47.25.007 - 47.25.009" in AS 36.30.850(b)(11), which lists subjects not covered by the Procurement Code. Because executive orders must reorganize executive functions without otherwise changing the law, when Executive Order 108

deleted "AS 14.38.100" it should have inserted a reference to the statute enacted by E.O. 108 that was equivalent to AS 14.38.100. AS 14.38.100 referred to agreements with providers of services under AS 14.38.100 - 14.38.199, which corresponds to AS 47.25.001 - 47.25.009 in E.O. 108. Therefore the appropriate spanned reference to substitute for "AS 14.38.100" was "AS 47.25.001 - 47.25.009," not "AS 47.25.007 - 47.25.009." This bill section corrects the reference. The Department of Law agrees that this amendment is appropriate.

Bill section 21 amends AS 37.05.180 by inserting "former" before "AS 39.37." AS 39.37 was rejected by referendum in 1976.

Bill section 22 corrects the style of AS 37.05.318. Because this section is within AS 37.05, it should refer to "other provisions of this chapter" instead of "AS 37.05." Also, the current style of the Alaska Statutes requires the statutory reference ("AS 44.62" in this case) to precede the description ("Administrative Procedure Act" in this case.)

Bill section 23 amends AS 37.14.270(2) because the term that is actually defined in AS 47.17.290 is "child abuse or neglect."

Bill section 24 adds a short title to AS 41.17, which has come to be known as the Forest Resources and Practices Act. This bill section will make that name official.

Bill section 25. This section corrects an error in Executive Order 108. E.O. 108 repealed AS 44.21.120 and enacted the same language as AS 44.29.520. However, E.O. 108 failed to address contingent amendments to AS 44.21.120 that were made by secs. 1 and 2, ch. 4, SSSLA 2002. The contingency on which sec. 2, ch. 4, SSSLA 2002 depended (the establishment of the Alaska Veterans Advisory Council) has already occurred, but nevertheless, under sec. 13(a), ch. 4, SSSLA 2002, the effective date of sec. 2, ch. 4, SSSLA 2002 has not arrived because the agreement to allow a pilot project, which is described in sec. 10, ch. 4, SSSLA 2002, has not been executed. Under secs. 12(b) and 13(b), that agreement also controls the effective date of sec. 1, ch. 4, SSSLA 2002. In order to integrate secs. 1 and 2, ch. 4, SSSLA into E.O. 108, this bill section amends AS 44.29.520 (enacted by E.O. 108) to include the changes made by secs. 1 and 2, ch. 4, SSSLA 2002. However, this bill section is made contingent on execution of the agreement described in sec. 10, ch. 4, SSSLA 2002, and the effective date of this bill section is the date the agreement described in sec. 10, ch. 4, SSSLA 2002 is signed by all parties.

Bill section 26 corrects an error in Executive Order 108. E.O. 108 repealed AS 44.21.200 and enacted in its stead AS 47.44.200, but failed to amend cross-references to AS 44.21.200. This bill section corrects the cross-reference in AS 44.66.010(a)(10).

Bill sections 27 - 29 correct errors in ch. 46, SLA 2003. Section 15 of that Act (CSHB 160(FIN)) renumbered the paragraphs of AS 46.14.140(a), but failed to conform cross-references. These bill sections correct cross-references in AS 46.14.120(b) and (c) and

46.14.170(a). These amendments are proposed after consultation with the Department of Environmental Conservation because ch. 46, SLA 2003 was a Governor's bill.

Bill section 30 corrects an error in ch. 99, SLA 1998, which renumbered paragraphs in AS 47.10.093(b), but failed to conform a cross-reference in AS 47.10.093(g). This bill section corrects that error.

Bill sections 31 and 32 correct errors in Executive Order 108. E.O. 108 repealed AS 44.21.200 and enacted in its stead AS 47.44.200, but failed to amend cross-references to AS 44.21.200. These bill sections correct the cross-reference in AS 47.24.070 and AS 47.30.016(b)(2)(D).

Bill section 33 corrects an error in Executive Order 108. E.O. 108 repealed AS 44.21.230 and enacted in its stead AS 47.44.230, but failed to amend cross-references to AS 44.21.230. This bill section corrects the cross-reference in AS 47.30.036(3).

Bill section 34 corrects errors in Executive Order 108. Executive orders may not change substantive legal requirements. However, when E.O. 108 repealed AS 14.37.020 and amended AS 47.35.010 to include provisions from former AS 14.37.020, it failed to include references to "certification" that had been in AS 14.37.020. It also, by applying AS 47.35.010(a)(5) to child care facilities, added provisions that did not exist in AS 14.37.020. Accordingly, "certification" is added to AS 47.35.010(a)(2) and (3), and child care facilities are excepted from AS 47.35.010(a)(5). The Department of Law agreed that these changes are appropriate.

Bill section 35 involves an error in ch. 58, SLA 1999, which was carried forward in Executive Order 108. Chapter 58, SLA 1999 transferred the child care facility licensing to the Department of Education and Early Development, but was not intended to change the substantive requirements for licensing those facilities. Before 1999, the facilities were licensed under AS 47.35 and applicants were required to submit fingerprints for background checks. When the requirement was moved to AS 14.37, the fingerprint requirement was inadvertently omitted (although the background check requirement was moved to AS 14.37). Because the Department of Education and Early Development had broad regulation-making authority, it required fingerprints by regulation. However, when E.O. 108 moved the licensing of child care facilities back to AS 47.35, it excepted child care facilities from the fingerprint provision unless regulations were adopted that required them. While this may have been the proper procedure for an executive order, the effect was to continue the error in ch. 58, SLA 1999. This bill section takes the language back to what it was before ch. 58, SLA 1999, so that fingerprints will be required, even absent regulations.

Bill section 36 corrects an error in Executive Order 108. AS 47.35.021 allows discretionary denial of initial licenses. AS 14.37, repealed by E.O. 108, did not contain similar provisions. Because AS 47.35.021 was enacted in 2002, after child care licensing had been moved to AS 14.37, it appears that the omission of a similar provision for child

Representative Bruce Weyhrauch

February 10, 2004

Page 6

care licensing was deliberate. So, when E.O. 108 moved regulation of child care facilities from AS 14.37 to AS 47.35, it should have excepted those facilities from AS 47.35.021, but did not do so. This bill section corrects that error.

Bill section 37 corrects an error in Executive Order 108. AS 47.35.140 allows certain persons licensed under AS 47.35 to continue operating under certain circumstances even if an employee has committed certain offenses. AS 14.37, repealed by E.O. 108, did not contain a similar provision. Because AS 47.35.140 was enacted in 2002, after child care licensing had been moved to AS 14.37, it appears that the omission of a similar provision for child care licensing was deliberate. So, when E.O. 108 moved regulation of child care facilities from AS 14.37 to AS 47.35, it should have excepted those facilities from AS 47.35.140, but did not do so. This bill section corrects that error.

Bill sections 38 - 45 and 48 amend ch. 4, SSSLA 2002 to conform to the changes made by Executive Order 108. Sections 38, 39, 41, 42, and 44 amend secs. 5, 8, 10, 12(b), and 13(b), respectively, of ch. 4, SSSLA 2002 to substitute "health and social services" for "administration" because E.O. 108 moved the responsibility for these provisions from the Department of Administration to the Department of Health and Social Services. Bill section 40 amends sec. 9, ch. 4, SSSLA 2002 to reflect the fact that AS 47.55.010(e) is being amended by bill section 38. Bill sections 42 and 44 also remove sec. 1, ch. 4, SSSLA 2002 from the condition and delayed effective date of secs. 12(b) and 13(b), ch. 4, SSSLA 2002; the amendments of sec. 1, ch. 4, SSSLA 2002 are incorporated in bill section 25 and provisions similar to secs. 12(b) and 13(b), ch. 4, SSSLA 2002 are found in bill sections 50 and 51. Because the provisions of secs. 1 and 2, ch. 4, SSSLA 2002 are also incorporated into bill section 25, both secs. 1 and 2, ch. 4, SSSLA 2002 and the conditional and effective dates for sec. 2 that are found in secs. 12(a) and 13(a), ch. 4, SSSLA 2002 are also repealed by bill section 48.

Bill sections 43 and 45 correct an error in ch. 4, SSSLA 2002. Under sec. 15, ch. 4, SSSLA 2002, secs. 8 and 9 of that Act take effect July 1, 2005. However, there is no need for secs. 8 and 9, ch. 4, SSSLA 2002 unless sec. 5 (which adds the subsection sec. 9 repeals) and sec. 11 (which changes the name of the Home and thereby requires the amendment made by sec. 8) of that Act take effect. Therefore, bill section 43 adds that condition and bill section 45 amends the effective date in sec. 15, ch. 4, SSSLA 2002 to take the condition into account.

Bill section 46 repeals AS 39.25.110(21) which places in the exempt service employees of the Citizens' Advisory Commission on Federal Areas in Alaska. However, there are no longer employees of that Commission because AS 41.37, which created the Citizens' Advisory Commission on Federal Areas in Alaska, was repealed June 30, 2003, under sec. 3, ch. 81, SLA 1981, as amended by sec. 1, ch. 25, SLA 1988 and sec. 1, ch. 71, SLA 1998.

Bill section 47 repeals sec. 71(1), ch. 106, SLA 1980, an uncodified law section that reads as follows:

Representative Bruce Weyhrauch
February 10, 2004
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After July 1, 1981,

(1) no further loans may be made under AS 16.10.310 and AS 16.10.320(a) except for loans authorized under AS 16.10.333 [for purchase of limited entry permits] pursuant to AS 16.10.310 and 16.10.320(a)...

However, since 1981, the legislature has authorized loans under AS 16.10.310 for things other than entry permits, *e.g.*, for the upgrade of existing vessels and gear and to pay past due federal tax obligations (sec. 1, ch. 62, SLA 1994 and sec. 1, ch. 127, SLA 2000) and for quota shares (sec. 2, ch. 73, SLA 1994). Clearly sec. 71(1), ch. 106, SLA 1980 has been repealed by implication. This bill section makes the repeal explicit.

Bill section 48. See explanation for bill sections 38 - 45.

Bill section 49 provides transitional provisions for the appointments to the Alaska Pioneers' Homes Advisory Board authorized by AS 44.29.520, as amended by bill section 25. Bill section 25 is derived from secs. 1 and 2, ch. 4, SSSLA 2002. Although ch. 4, SSSLA 2002 had no transitional provisions, sec. 2 of that Act (which added the member who is chair of the Alaska Veterans Advisory Council) was to take effect after sec. 1 of that Act (which added the member described in AS 44.29.520(a)(2), as amended by bill section 25). See sec. 13(a), ch. 4, SSSLA 2002. Accordingly, in the transitional provision, the person described in AS 44.29.520(a)(2) is to be appointed before the person described in AS 44.29.520(a)(4) becomes a member.

Bill section 50 makes bill section 25 conditional on the agreement described in sec. 10, ch. 4, SSSLA 2002, as amended by bill section 41. This bill section replaces the references to secs. 1 and 2, ch. 4, SSSLA 2002 in secs. 12 and 13, ch. 4, SSSLA 2002.

Bill section 51 gives bill section 25 the effective date that the equivalent provisions had under sec. 13(b), ch. 4, SSSLA 2002.

Bill section 52 gives the remainder of this bill an immediate effective date.

Please give me a call if you have any questions about the above.

PF:med
04-162.med

HB

459

Alaska State Legislature

House of Representatives

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Representative Les Gara

HB 459, Voter Verified Paper Trails for Electronic Voting Machines

Sponsor Statement

In the wake of the 2000 federal election, and with the impetus of the federal Help America Vote Act, states across the nation are replacing punch card and paper ballots with computerized vote casting, tabulation and reporting. Alaska has successfully used the AcuVote system of optically scanned ballots since 1998. New direct recording equipment (DRE) machines – also known as touch-screen – are scheduled to be used for the first time in 2004.

Unfortunately, computer experts have warned of numerous problems with both DRE and optical scan machines. Hardware problems, unreliable computer code and lack of security have raised serious questions about whether votes are being accurately recorded, tallied and reported. The experiences of many localities have demonstrated these failings. In Bernalillo County, N.M. a programming error caused a computer to delete 25 percent of the ballots cast by early voters. In Maryland voters for the Republican candidate for governor watched as their vote appeared beside the Democratic candidate's name. In Fairfax County, Va. a machine was found to have subtracted one vote for every 100 cast for a school board candidate. In one Texas matchup, optical scan machines declared two low vote getters to be landslide winners.

In the Texas case, election officials were able to correct the mistake by hand counting the optically scanned paper ballots. Many DRE machines, however, produce no such paper trail to audit. Recognizing this crucial shortcoming of DRE technology, many observers are calling for voting machines to produce paper receipts that voters can verify before leaving the polling booth and that are subsequently held in lock boxes for audit purposes. The State of California recently moved to require such a voter verified paper audit trail in all elections. Senate Bill 296 would establish the same protections in Alaska.

Citizen trust in elections is the bedrock of democracy. Only an accurate count can assure voters that elections result in a true reflection of their will. Requiring a voter verified paper trail will assure Alaskans that no matter what technology is adopted in the future, their elections will be transparent and their votes counted accurately.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 459
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title An Act requiring an auditable paper trail for RDU Elections
electronic voting machines Component Elections
 Sponsor Representative Gara
 Requester House State Affairs Component No. 21

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	1.8		1.8		1.8	
Equipment	441.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	442.8	0.0	1.8	0.0	1.8	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			1.8		1.8	
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)	442.8					
TOTAL	442.8	0.0	1.8	0.0	1.8	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)
 At this time, the cost per unit to implement a modification to the touch screen voting equipment that would allow for voter verifiable paper records is unknown. This technology is currently in the research and development stage within the industry. However, it is estimated that each touch screen voting system would require additional hardware i.e., unit printer and 2 rolls of thermal paper. The division estimates the printer units may range in price from \$500.00 - \$1,000.00. If only one touch screen system were used in each precinct (441 precincts) the estimated cost would be \$441.0. The thermal paper required is estimated to cost \$2.00 per roll for an additional cost of \$1.8 in supplies. The total estimated cost of implementation by January 1, 2006, is \$442.8 (HAVA funds). The division will require GF appropriations of \$1.8 in future years for supplies (thermal paper) to support the equipment that provides a voter verifiable paper record.

Prepared by: Leonard G. Jones Phone 465-3051
 Division: Division of Elections Date/Time 3/5/04 2:56 PM
 Approved by: Laura A. Glaiser, Director Date 3/5/2004
 Agency: Office of the Lt. Governor, Division of Elections

adn.com

Anchorage Daily News

Opinion

(Published: February 8, 2004)

Paper trail

Integrity of Alaskans' votes at risk

Here's a bill in the Legislature that should see speedy passage. SB 296, from Sen. Johnny Ellis, D-Anchorage, would help prevent vote fraud by requiring electronic voting machines to produce a paper record of the votes that are cast.

The state's main electronic vote counting machines, Accu-vote optical scanners, aren't a problem. They use paper ballots that are read and tabulated electronically. But the state recently bought 55 touchscreen electronic voting machines that leave no paper trail whatsoever. The paperless machines are meant to accommodate voters who are physically unable to handle or mark a paper ballot. Eventually the state plans to have at least one touchscreen voting machine in each of Alaska's 446 precincts.

That's a helpful accommodation for disabled voters. But where there is no paper trail, there is huge potential for voting fraud. According to The New York Times, "When the State of Maryland hired a computer security firm to test its new (paperless electronic voting) machines, these paid hackers had little trouble casting multiple votes and taking over the machines' vote-recording mechanisms." With no paper trail, there is no way to cross-check the vote count.

In an editorial, The Times concluded: "The Maryland study shows convincingly that more security is needed for electronic voting, starting with voter-verified paper trails." That's what Sen. Ellis aims to do with SB 296.

Alaska has a statewide primary and a statewide general election this year. Alaskans must have confidence their votes will be counted securely and accurately. The protections outlined in Sen. Ellis' bill should be put into place as soon as possible.

BOTTOM LINE: Alaska law should require electronic voting machines to produce a paper record of each vote.

Fairfax Judge Orders Logs Of Voting Machines Inspected

By David Cho
 Washington Post Staff Writer
 Thursday, November 6, 2003; Page B01

It took more than 21 hours from the time polls closed Tuesday night for Fairfax County, the putative high-tech capital of the region, to get final election results from its new, computerized vote machines.

Wide spread problems in the system, which the county paid \$3.5 million to install, also opened the door to possible election challenges by party leaders and candidates.

School Board member Rita S. Thompson (R), who lost a close race to retain her at-large seat, said yesterday that the new computers might have taken votes from her. Voters in three precincts reported that when they attempted to vote for her, the machines initially displayed an "x" next to her name but then, after a few seconds, the "x" disappeared.

In response to Thompson's complaints, county officials tested one of the machines in question yesterday and discovered that it seemed to subtract a vote for Thompson in about "one out of a hundred tries," said Margaret K. Luca, secretary of the county Board of Elections.

"It's hard not to think that I have been robbed," said Thompson, whose 77,796 recorded votes left her 1,662 shy of reelection. She is considering her next step, and said she was wary of challenging the election results: "I'm not sure the county as a whole is up for that. I'm not sure I'm up for that."

Meanwhile, attorneys for local Republicans and GOP candidate Mychele B. Brickner, who lost her bid to chair the Fairfax County Board of Supervisors, went before a circuit court judge yesterday morning, asking him to keep 10 voting machines under lock and key and not to include their tabulations in the results. The machines, from nine precincts scattered across the county, broke down about midday Tuesday and were brought to the county government center for repairs and then returned to the polls -- a violation of election law, Republicans argued.

The judge said the activity logs of all 10 machines will be inspected this week, with members of both major parties present.

"It's like Florida in many ways," said the Republicans' attorney, Christopher T. Craig, referring to that state's 2000 presidential ballot-counting controversy. "This is about ballot integrity. . . . A lot of people have been telling us they couldn't vote for someone. . . . I have been hearing that there are a lot of problems" with the county's new WINvote computer technology.

As more details emerged yesterday, county officials defended the system. Luca insisted that most of the problems had less to do with computer glitches than human error.

Read
 Dr. William
 Fortney's new
 column at
proplan.com



PET TOPIC
 OF THE MONTH:

The Dog's
 Digestive
 System.

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Ask
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Your question
 could be answered
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"The new machines get an A-plus," she said. "It's the plan to collect the vote that gets the failing grade."

Fairfax purchased the 1,000 touch-screen vote machines this year from Advanced Voting Solutions of Frisco, Tex. The machines, which resemble laptop computers, were used countywide Tuesday for the first time, and the problems that resulted mirrored what occurred in Montgomery County last year when similar new technology was used. The equipment in Montgomery County was blamed for delayed results and confusion at the polls.

Fairfax officials had confidently promised that their machinery would work much better, citing a battery of tests conducted last week. They also predicted that the system would greatly speed the reporting of results.

Instead, it churned out one of the slowest vote counts in memory.

Much of the delay occurred at 7 p.m. when the polls closed. Most of the county's 223 precincts attempted to send in their computer tallies at once, overloading the system. Many poll officials ended up calling in their numbers, but some couldn't get through and instead drove their results to the county government center.

In at least 19 precincts, results were officially sealed in the mistaken assumption that they had been sent by computer modem, officials said yesterday. Sealed results cannot be opened unless all three election board members are present, which led to further delays.

In addition, software errors kept the results from two precincts from being posted until about 4:30 yesterday afternoon.

"Everyone seems to be aghast at how this could happen," Thompson said. "But this seems like something you could have had the foresight to see."

John Service, 50, of North Springfield said it took him four or five tries to register his vote for Thompson, and he wondered whether some voters were disenfranchised. "I am concerned about voters who might have been in a rush and didn't go back and check to make sure all the names [they intended to vote for] appeared on the final ballot," he said.

The glitches forced a handful of precincts to return to paper ballots. And even at polls where computer problems didn't arise, voter unfamiliarity with the technology created long lines.

Some voters gave up -- a thought that crossed Jeff Fisher's mind.

Fisher, 43, of Annandale said he almost walked out of his polling place when a woman in front of him spent 10 minutes getting through the ballot.

Others, though, wondered why so many people had problems with the machines. "I thought it was very easy to vote, and I'm not even that bright of a kid," Al Richards, 61, of Falls Church said.

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Posted on Sun, Feb. 01, 2004

ELECTRONIC VOTING'S HIDDEN PERILS

By Elise Ackerman
Mercury News

Poll workers in Alameda County noticed something strange on election night in October. As a computer counted absentee ballots in the recall race, workers were stunned to see a big surge in support for a fringe candidate named John Burton.

Concerned that their new \$12.7 million Diebold electronic voting system had developed a glitch, election officials turned to a company representative who happened to be on hand.

Lucky he was there. For an unknown reason, the computerized tally program had begun to award votes for Lt. Gov. Cruz Bustamante to Burton, a socialist from Southern California.

Similar mishaps have occurred across the country since election officials embraced electronic voting in the wake of the Florida vote-counting debacle of 2000.

When Californians go to the polls next month to choose a presidential candidate, many voters will cast a virtual ballot by pressing a computer touch screen that records their votes digitally. The only tangible proof that a citizen has voted -- and how he voted -- will be fingerprints left on the machine's screen.

Electronic voting removes the risk of election officials misinterpreting hanging chads. But it raises another electoral peril: that a digital ballot box might miscount votes without anyone noticing.

As the black box replaces the ballot box, concern is growing that local officials are becoming dependent on a handful of corporations to guarantee the integrity and accuracy of elections.

Counties, including Santa Clara County, rely on these voting-equipment companies to manage the software that runs digital voting machines and counts electronic votes -- and to fix things when they go wrong on election night. The companies, however, consider such software a trade secret, making independent confirmation of contested elections difficult, if not impossible.

To guard against error and fraud, the state requires that the companies only install approved software on electronic voting machines. But in California, one of the biggest voting-equipment companies, Diebold Election Systems, provided 17 counties with uncertified software that was used in recent elections.

Review of practices

County election officers remain responsible for overseeing electronic voting systems, but a review of past elections and current practices raises questions about how closely they're monitoring voting-equipment companies.

"My biggest concern is the lack of accountability," said David Dill, a Stanford University computer-science professor and a leading expert on electronic voting.

Election officials and company representatives dismiss concerns about computerized voting as overblown, citing safeguards designed to ensure the reliability of computerized voting systems.

“We have the best system available on the market. It is secure and reliable and the voting public had a wonderful experience,” said Jesse Durazo, the registrar of voters for Santa Clara County, which uses touch-screen machines from Sequoia Voting Systems.

Alameda County officials still don't know why the computer program failed on election night. In fact, they only discovered the malfunction because they could compare the paper absentee ballots the software was counting to the computer's tally. The rest of the county's voters cast electronic ballots. Nor were election workers aware at the time that their touch-screen machines were running unauthorized Diebold software in violation of California law, as a state investigation later discovered.

“There was something in the software,” said Elaine Ginnold, assistant registrar of voters for Alameda County. Alameda County officials refused to allow the Mercury News to review the software code used to test its electronic voting system, saying it was a Diebold trade secret.

“At no time were incorrect vote totals released,” Diebold spokesman David Bear wrote in an e-mail. “The system is safe, secure and accurate.” He attributed the malfunction to a computer-server error and the large number of candidates on the recall ballot.

“The counties are in over their heads,” said Kim Alexander, founder of the California Voter Foundation, a Davis-based election watchdog group. “People are left depending on the vendors to tell them who won the elections.”

That is especially the case on election night, when mechanical mishaps and buggy computer code could create crises only company employees could resolve.

For instance, in Riverside County during the 2000 presidential election, a computer from Sequoia began dropping touch-screen ballots from the vote tally. A Sequoia salesman who was on hand intervened and fixed the problem.

Unnoticed error

Two years later in Bernalillo County, N.M., neither local election officials nor a Sequoia representative noticed on election night that a programming error was causing a computer running Microsoft SQL server software to delete 25 percent of ballots cast by early voters. Three days later, a Democratic Party lawyer spotted a discrepancy between the number of voters who signed in at the polls and the number of digital ballots counted. Sequoia then managed to recover the lost votes.

“They messed up,” said Mary Herrera, the Bernalillo County clerk, of Sequoia.

Responded Sequoia spokesman Alfie Charles: “It was just a bug in Microsoft that required an additional step in converting data into the database format. There was a patch that was later applied by Microsoft.”

Alexander of the California Voter Foundation worries that such incidents mean the machines could miscount ballots or fail to register votes without anyone realizing.

Critics are alarmed that touch-screen voting systems do not create a paper record that allows for a physical recount of ballots. Rather, the machines record votes on digital memory cartridges. When the polls close, the cartridges are removed from the touch-screen machines and plugged into a computer which downloads and tabulates the voting data.

In November, California Secretary of State Kevin Shelley ordered that by July 2006 all touch-screen machines must print paper receipts so an election can be independently audited. To meet that mandate, the voting-equipment companies must manufacture new state-approved hardware and software.

Computer scientists acknowledge a paper trail will help ensure the accountability of electronic voting systems. However, they say such a requirement does not resolve concerns over counties' dependence on voting-equipment companies and the security of computerized voting.

Until voting machines produce paper receipts, the only way a candidate can investigate questionable election results is by examining the voting systems' software code.

But there's a catch: Election companies consider such software a trade secret not open to public scrutiny -- or subject to challenge from losing candidates, as Emil Danciu found out.

Danciu ran for city council in Boca Raton, Fla., in March 2002. A popular former mayor of the seaside town in Palm Beach County, Danciu expected to win in a landslide but lost by 16 percentage points.

After some voters complained that Sequoia's touch-screen machines appeared to have recorded ballots cast for Danciu as votes for his opponents, Danciu sued to obtain the Sequoia software code.

But Palm Beach County didn't have the code. "All of this stuff that they are asking for are all proprietary items owned by the manufacturer," a county attorney told the judge hearing the case. The attorney argued that even if the county did have the documents, it would be a felony to disclose "trade secrets."

The judge denied Danciu's request for the software code.

U.S., state inspectors

County election officers and voting-equipment company executives stress that voting machines and software are carefully examined by federal and state inspectors before receiving approval. Furthermore, they say, pre-election testing ensures ballots are counted correctly.

"There are checks and balances to ensure nothing has been compromised," said Charles, the Sequoia spokesman.

The goal of the government certification process is to make sure proprietary voting systems are accurate, reliable and secure. The certification process is crucial because it provides the only safeguard voters have that the machines are performing the way the election companies promise.

"Every single piece of hardware and software that is used in an election is certified by our office," state election official John Mott-Smith reassured the Santa Clara County Board of Supervisors last year. "Every modification to those systems has to come back for certification and testing if necessary."

Yet eight months later, a state audit revealed that voters in 17 California counties had cast ballots in recent elections on Diebold systems that were running software not approved by the state, according to a December 2003 report. The Diebold software is used to count both touch-screen electronic ballots and paper ballots read by an optical scanner. Three of the counties, including Los Angeles, the state's largest, were using Diebold software that had not been submitted for federal review.

Assurances by vendor

The audit also found that county election officials had not independently verified they were using certified software, as the law requires, but relied on assurances by Diebold it was complying with state regulations.

Even tech-savvy counties like Santa Clara can have difficulty tracking exactly what their voting-equipment company is doing for them. Computer scientists argue that a failure to keep close tabs on modifications to the machines or their software opens the door to tampering or the introduction of errors that might show up on election night.

Following November's election in Santa Clara County, Sequoia sent over a group of blue-coated technicians to make adjustments to voting machines that experienced battery problems. For three weeks, the workers, employed by a Sequoia subcontractor, took apart the machines, removing their circuit boards and making adjustments.

Nevertheless, Santa Clara County officials didn't know the name of the subcontractor and hadn't verified the identities of the workers it hired when the Mercury News made an inquiry. They also hadn't documented the changes being made to the machines.

To find out such information, "you'd have to contact Sequoia," said Assistant Registrar of Voters Elaine Larson.

In interviews with the Mercury News, registrars defended their close relationship with the companies. The world of elections administration is a small one, and the revolving door between state, federal and county elections departments and the voting-equipment companies has spun for years.

"I have a hundred percent confidence in Sequoia -- in their integrity and honesty and their ability to keep us compliant with the law of California," said Cathy Darling, assistant registrar of Shasta County.

That attitude bothers Dill, the Stanford computer scientist and electronic-voting expert. "From a computer-security perspective, handing over control of an important part of the election, I think, is not a good idea," said Dill. "I'd prefer to see that kind of control in the hands of local officials who are accountable to elected representatives."

Contact Elise Ackerman at eackerman@mercurynews.com or (408) 271-3774.



NEWS RELEASE

CALIFORNIA SECRETARY OF STATE KEVIN SHELLEY

KS03:106

FOR IMMEDIATE RELEASE
Friday, November 21, 2003

Contact: Terri M. Carbaugh
Doug Stone
916-653-6575

Secretary of State Kevin Shelley Announces Directives To Ensure Voter Confidence in Electronic Systems

Beginning July 1, 2005, All Touch Screen Systems Purchased Must Have a Paper Audit Trail

SAN FRANCISCO --- Secretary of State Kevin Shelley today announced that beginning July 1, 2005, no county or city may purchase a touch screen voting system that does not include an accessible voter verified paper audit trail (VVPAT). As of July 2006, all touch screen voting systems used in California, regardless of when they were purchased, must have a VVPAT that can be used by all voters, including the visually impaired, to verify that their preferences are accurately recorded.

In making the announcement, Secretary of State Shelley said that a transition period is necessary in order to assure the fair and efficient conduct of elections in California.

"The schedule I have set forth for implementing a VVPAT will ensure that there is adequate time for new voting systems to be properly certified. This also allows time to train elections officials and poll workers and to educate voters," he said.

To further enhance voter confidence in new technologies, Secretary Shelley is adopting voting system reforms and new electronic certification procedures. Shelley will also call upon the federal government to substantially improve its testing process.

"As the state progresses with new technology, all Californians must have confidence that every vote cast is a vote counted," said Secretary of State Kevin Shelley. "These new requirements will provide this confidence."

In addition to providing for a VVPAT, Shelley's reforms call for additional requirements for software testing and auditing, new security protocols for manufacturers, random field testing on Election Day to ensure proper performance of individual voting machines, and the creation of a state Technical Oversight Committee.

In February 2003, Shelley convened an Ad Hoc Touch Screen Task Force composed of computer experts, members of the public, and representatives of the disabled community and election officials to make recommendations to increase the security of voting equipment software. The task force issued a series of recommendations for Shelley's consideration.

A complete copy of Secretary Shelley's directives and the recommendations of the Ad Hoc Touch Screen Task Force are available on the Secretary of State's website, at <http://www.ss.ca.gov/elections/touchscreen.htm>.



<http://www.sunspot.net/news/local/bal-te.md.machine30jan30.0.4050694.story?coll=bal-local-headlines>

Md. computer testers cast a vote: Election boxes easy to mess with

In Annapolis, tales of trickery, vote rigging

By Stephanie Desmon
Sun Staff

January 30, 2004

For a week, the computer whizzes laid abuse - both high- and low-tech - on the six new briefcase-sized electronic voting machines sent over by the state.

One guy picked the locks protecting the internal printers and memory cards. Another figured out how to vote more than once - and get away with it. Still another launched a dial-up attack, using his modem to slither through an electronic hole in the State Board of Elections software. Once inside, he could easily change vote totals that come in on Election Day.

"My guess is we've only scratched the surface," said Michael A. Wertheimer, who spent 21 years as a cryptologic mathematician at the National Security Agency.

He is now a director at RABA Technologies in Columbia, the firm that the state hired for about \$75,000 to look at Maryland's new touch-screen voting machines scheduled to be unveiled in nearly every precinct in Maryland for the March 2 primary.

The state has no choice but to use its \$55 million worth of AccuVote-TS machines made by Diebold Election Systems for the primary. The old optical scanners are gone.

Yesterday, Wertheimer calmly presented his eight-member team's findings to committees in the House and Senate, explaining the weaknesses they discovered and a plan for how to plug many of the cracks, at least in the short run.

Giddy geek speak

Yet on a recent morning at his offices, Wertheimer's computer programmers were practically giddy as they invented new ways to muck up an election. Some were simple - like the lock-picking or just yanking the cords out of a machine's monitor, disabling it for the rest of the day.

Other fiddling inspired round after round of excited geek speak, true gibberish to the untrained ear, to explain a host of attacks that could be launched up close or by modem.

One thing was clear: There are many ways to fool with Diebold's machines, some of which could lead to an Election Day disaster. At the same time, some scenarios were far-fetched and too difficult to pull off

Low-tech hacking is also a possibility, though.

Someone bent on causing trouble could call a polling place and tell workers that the state's modem is down and results should be called in on a new phone number. Then the troublemaker could simply change the results before sending them onto the state.

While results can now be encrypted - after criticism that they weren't being - something called authentication is missing. Authentication tells the main computer that the person sending in results is the one who is actually permitted to do so.

Sneaking in, via modem

Meanwhile, William A. Arbaugh, an assistant computer science professor at the University of Maryland, College Park and part of the team, easily sneaked his way into the state's computers by way of his modem. Once in, he had access to change votes from actual precincts - because he knew how to exploit holes in the Microsoft software.

Those holes should have been patched through regular updates sent to customers, patches that haven't been installed on the elections equipment since November.

"There's no security that's going to be 100 percent effective. But the level of effort [needed to get into the system] was pretty low," Arbaugh said. "A high school kid could do this. Right now, the bar is maybe 8th grade. You want to raise the bar to a well-funded adversary."

"Every system is vulnerable somehow," said Karl Aro, director of the state's Department of Legislative Services, who commissioned the study for the legislature. "The system's not bad but it needs some work."

No system is completely secure. In fact, the more elections the state holds, the more opportunities there will be for hackers to see how it works and launch new attacks, experts said.

"If you had the time and the money, the sky's the limit on what you could do to make a secure system," McLarnon said.

"You just need to raise the level of effort needed to exploit it so it's not feasible to do," said fellow consultant John Ormonde.

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**VerifiedVoting.org**

Friday, January 30, 2004

Understanding The Problem

"Imagine, it's Election Day 2004. You enter your polling place and go to cast your vote on a brand new 'touch screen' voting machine. The screen says your vote has been counted. As you exit the voting booth, however, you begin to wonder. How do I know if the machine actually recorded my vote? The fact is, you don't."

- Representative Rush Holt (NJ).

The problem is simple: A touch screen voting machine records your vote in the memory of the machine, where you can't see it. How do you know your vote for candidate A wasn't recorded as a vote for candidate B? You don't!

Many states and communities are planning to buy massive numbers of so-called "Direct Recording Electronic" (DRE) machines (paperless touch screen are DREs, but there are other kinds of DREs that use dials or switches instead of touch screens). Some are already using them.

Unfortunately, these machines are dangerous for democracy. With the computer technology they are using, there is always a risk that a program flaw or, worse, tampering with the software could change votes and even change the outcome of elections. And these changes might not be detected! Since ballots are secret, once the voter leaves the booth there is no one who can detect or correct any errors that the machine made in recording the votes. If the election results are obviously absurd, as happens occasionally with other kinds of vote-counting equipment, the only options will be to accept an obviously wrong election result or hold a new election.

The solution is simple: require there to be a "voter verifiable audit trail" with all voting equipment. A voter verifiable audit trail is a permanent record of each vote that the voter can check to ensure that it represents their intent. These votes are deposited in a secure ballot box. If there is a manual recount, we can be sure that the votes being counted are what the voters wanted to cast.

Without this requirement, we can never again have confidence that our elections reflect the will of the voters, as opposed to a random error or the will of someone who tampered with the voting machines.

HAVA: The Reason Behind The Rush To Install New Voting Equipment

HAVA, the Help America Vote Act, was passed by congress in October of 2002. The purpose of the Act is:

To establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes. <<NOTE: Oct. 29, 2002 - [H.R. 3295]>>

It is this Act, with specific dates, that require the States to update old voting equipment so that a similar situation (as what occurred in Florida) will not occur again.

In the rush to pass this new Act some key elements were left out, such as a "voter verifiable paper receipt". The newest Act, introduced by Representative Rush Holt, hopes to update the original

ADDITIONAL RESOURCE

Here are links to b statements and su the problem.

▶ **Johns Hopkin Study**

A major electronic machine maker has its "leaked" s code evaluated b computer scientists
BAD NEWS for Di

▶ **FAQ**

If you only read (thing on this topi should probably | Questions and Ar page to address | questions that co regularly.

▶ **PPT Presentation**
Here is an abbrev presentation Day gave: (Powerpoint gives a good ove the problem as o 6, 2003.

▶ **Recorded Into Speech Radio Net**
A story produced which includes in with Rebecca Mer and David Dill.

▶ **A statement f Rebecca Mercu**

▶ **An essay by K Alexander of th California Voter Foundation.**

▶ **Letter from th USACM to the H Science Commi**

HAVA Act with specific solutions to the question of voter verified paper receipts and other obvious discrepancies.

[More on HAVA](#)

[More on HAVA Deadlines](#)

[How I Can Help?](#)

▶ [Peter Neuman catalog of receipt voting machine problems.](#)

▶ [An interview with Peter Neuman and Rebecca M...](#)

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Executive Summary

At the request of the State of Maryland, RABA Technology's Innovative Solution Cell (RiSC) performed a review of the DIEBOLD touch-screen electronic voting system. A team of security experts reviewed the SAIC report commissioned by Maryland and went on to hold a "Red Team" exercise to discover vulnerabilities in the actual voting system as it will be deployed for the March 2004 primary.

The key findings of this effort are two-fold. The State of Maryland election system (comprising technical, operational, and procedural components), as configured at the time of this report, contains considerable security risks that can cause moderate to severe disruption in an election. However, each of these vulnerabilities has a mitigating recommendation that can be implemented in time for the March 2004 primary. *With all these near-term recommendations in place*, we feel, for this primary, that the system will accurately render the election and is worthy of voter trust. However, between the March and November elections we strongly feel that additional actions must be taken to mitigate increasing risks incumbent on a system that will receive broad scrutiny. Ultimately we feel there will be a need for paper receipts, at least in a limited fashion.

Introduction

On November 13, 2003 the Department of Legislative Services, Maryland General Assembly of the State of Maryland (DLS) entered into an agreement with RABA Technologies, LLC to perform a "trusted agent" evaluation of certain aspects of the State Board of Elections plan to use touch-pad "Direct Recording Electronic" (DRE) devices for upcoming elections. The trusted agent role implies that RABA will provide *independent* assessments and will *not seek to profit* from its recommendations. RABA Technologies wishes to thank the State of Maryland for the opportunity to participate in this important project.

The specific requirements of the agreement were:

1. Examine and critique the study conducted by Aviel D. Rubin, known as the Hopkins study.
2. Examine and critique the methodology and practices used by SAIC in its review of the Diebold equipment and the Rubin report.
3. Examine and critique the conclusions reached by SAIC regarding the integrity of the Diebold voting machines and the overall security of Maryland's election procedures.
4. Examine and critique the IT Security Certification and Accreditation Guidelines as issued by the Maryland Department of Budget and Management.
5. Assist DLS in comparing existing SBE practices and procedures to those of the counterparts in other states.

To carry out the work, DLS provided RABA with copies of:

1. *Risk Assessment Report, Diebold AccuVote-TS System and Processes* (unredacted) dated September 2, 2003. This is SAIC-6099-2003-261.



Text Size: A A A A

Voting Machine Leaves Paper Trail

By Joanna Glasner

Story location: <http://www.wired.com/news/business/0,1367,58738,00.html>

02:00 AM May. 09, 2003 PT

Voting machines that print individual ballots -- an election accessory many computer scientists have clamored for -- are moving a step closer to widespread availability.

In response to concerns raised by election officials and security-minded techies, one of the largest makers of touch-screen voting machines has introduced a prototype capable of producing paper ballots.

Developed by Election Systems & Software of Omaha, Nebraska, the machine is currently in beta testing, with plans to make it commercially available by July.

"The idea is to provide a voter-verifiable ballot," said Lou Dedier, the ES&S vice president and general manager who built the original test model in his garage. Dedier said his mock-up was based on suggestions from elections administrators.

The planned rollout comes as a coalition of computer scientists, led by David Dill, a Stanford computer science professor, is lobbying election officials and voting machine manufacturers to fix security flaws in the current crop of touch-screen voting machines. The coalition believes the flaws are serious.

In particular, computing experts worry that hundreds of thousands of direct-recording electronic, or DRE, voting machines used in elections nationwide do not provide an auditable paper trail that records individual votes. In order to ensure that votes are not lost because of a computer malfunction or tampering, critics say DRE machines should be able to print and store individual ballots immediately after a vote is cast.

"I'm happy that some are trying to produce interesting solutions to the voter-verifiable audit-trail problem," said Dill. Although he does not endorse any particular voting machine vendor, he considers the ES&S prototype a

breakthrough for a major manufacturer.

As pressure mounts for paper receipts, ES&S is not the only one who may add on a ballot-printing feature.

Joe Richardson, a spokesman for Diebold Election Systems, one of ES&S's chief competitors, said the company would be willing to provide such a feature to U.S. customers if the demand is there. Richardson said the company included ballot-printing capability in more than 300,000 voting machines it sold to Brazil.

Avante International Technology, a developer of smart-card technology, recently introduced a machine called Vote-Trakker, which creates a paper ballot that voters can view and verify before exiting the polls.

Sequoia Voting Systems, another large maker of DRE machines, recently agreed to provide machines for Santa Clara County, California. Officials there plan to petition the secretary of state to approve a pilot project with paper records that voters can inspect starting in this November's election.

For ES&S, providing a ballot-printer capability isn't solely an altruistic move. Dedier said municipalities can expect to pay between \$400 and \$500 to add the ballot-printing feature to an existing machine.

The ballot-printing prototype by ES&S is quite similar to its standard DRE machine. In both cases, voters make their choices by touching the name of their preferred candidate or ballot proposition position on a computer screen.

The primary difference with the prototype model is that after votes are entered, a copy of a printed ballot appears behind a clear plastic screen. A voter can look at the printed ballot and press a button to submit it or to make changes. Submitted ballots get dropped in a box at the bottom of the machine for later counting.

Dedier said much of his original design was based on suggestions from Warren Slocum, chief elections officer for San Mateo County, California. Slocum, in turn, said his recommendations were influenced by security concerns raised by computer scientists.

"Part of my goal is to try to influence this public policy," said Slocum, who favors using printed ballots, rather than electronic records of votes, as the official ballot in case of a recount. Slocum said San Mateo, which primarily used optical-scan ballot machines, also made by ES&S, doesn't plan to use the printer-enabled machines this year, but may next year.

He believes touch-screen machines offer some advantages, such as the ability to provide voting in multiple languages without having to pre-print ballots for non-English speakers.

But the main purpose of adding ballot-printing capability, he said, is to ensure voters that in the event of a computer malfunction, their votes will still be accurately recorded on paper.



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108TH CONGRESS
1ST SESSION

H. R. 2239

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Voter Confidence and
5 Increased Accessibility Act of 2003".

6 **SEC. 2. EXTENSION OF TIME PROVIDED FOR STATES TO RE-**

7 **QUEST PAYMENTS UNDER TITLE I.**

8 (a) **PAYMENTS FOR ACTIVITIES TO IMPROVE ADMIN-**
9 **ISTRATION OF ELECTIONS.**—Section 101(a) of the Help

1 America Vote Act of 2002 (42 U.S.C. 15301(a)) is amend-
2 ed by striking "not later than 6 months after the date
3 of the enactment of this Act" and inserting "not later than
4 the Tuesday next after the first Monday in November
5 2003".

6 (b) PAYMENTS FOR REPLACEMENT OF PUNCH CARD
7 OR LEVER VOTING MACHINES.—Section 102(b)(1) of
8 such Act (42 U.S.C. 15301(b)(1)) is amended by striking
9 "not later than the date that is 6 months after the date
10 of the enactment of this Act" and inserting "not later than
11 the Tuesday next after the first Monday in November
12 2003".

13 (c) EXTENSION OF PERIOD OF AUTHORIZATION OF
14 APPROPRIATIONS.—

15 (1) IN GENERAL.—Section 104(a) of such Act
16 (42 U.S.C. 15304(a)) is amended by striking
17 "\$650,000,000" and inserting "an aggregate
18 amount of \$650,000,000 for fiscal years 2003 and
19 2004".

20 (2) DATE FOR TRANSFER TO ELECTION ASSIST-
21 ANCE COMMISSION OF UNOBLIGATED FUNDS.—Sec-
22 tion 104(e)(2)(B) of such Act (42 U.S.C.
23 15304(e)(2)(B)) is amended by striking "September
24 1, 2003" and inserting "January 1, 2004".

1 (d) REQUIREMENT TO DEPLOY INTERIM MEASURE
2 IF WAIVER REQUESTED.—Section 102(a)(3)(B) of such
3 Act (42 U.S.C. 15301(a)(3)(B)) is amended by striking
4 the period at the end and inserting the following: “, except
5 that any State requesting any such waiver shall accept and
6 implement a paper system for use on an interim basis as
7 provided in section 5(b) of the Voter Confidence and In-
8 creased Accessibility Act of 2003 in time for use in the
9 November 2004 general election.”.

10 **SEC. 3. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE**
11 **COMMISSION FROM CERTAIN GOVERNMENT**
12 **CONTRACTING REQUIREMENTS.**

13 (a) IN GENERAL.—Section 205 of the Help America
14 Vote Act of 2002 (42 U.S.C. 15325) is amended by strik-
15 ing subsection (e).

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply with respect to contracts entered
18 into by the Election Assistance Commission on or after
19 the date of the enactment of this Act.

20 **SEC. 4. PROMOTING ACCURACY, INTEGRITY, AND SECU-**
21 **RITY THROUGH VOTER-VERIFIED PERMA-**
22 **NENT RECORD OR HARD COPY.**

23 (a) IN GENERAL.—Section 301(a)(2) of the Help
24 America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is
25 amended to read as follows:

1 “(2) VOTER-VERIFICATION AND AUDIT CAPAC-
2 ITY.—

3 “(A) VOTER-VERIFICATION IN GENERAL.—

4 The voting system shall produce a voter-verified
5 paper record suitable for a manual audit equiv-
6 alent or superior to that of a paper ballot box
7 system, as further specified in subparagraph
8 (B).

9 “(B) MANUAL AUDIT CAPACITY.—

10 “(i) The voting system shall produce a
11 permanent paper record, each individual
12 paper record of which shall be made avail-
13 able for inspection and verification by the
14 voter at the time the vote is cast, and pre-
15 served within the polling place in the man-
16 ner in which all other paper ballots are
17 preserved within the polling place on Elec-
18 tion Day for later use in any manual audit.

19 “(ii) The voting system shall provide
20 the voter with an opportunity to correct
21 any error made by the system before the
22 permanent record is preserved for use in
23 any manual audit.

24 “(iii) The voter verified paper record
25 produced under subparagraph (A) and this

1 subparagraph shall be available as an offi-
2 cial record and shall be the official record
3 used for any recount conducted with re-
4 spect to any election in which the system
5 is used.

6 “(C) SOFTWARE AND MODEMS.—

7 “(i) No voting system shall at any
8 time contain or use undisclosed software.
9 Any voting system containing or using
10 software shall disclose the source code of
11 that software to the Commission, and the
12 Commission shall make that source code
13 available for inspection upon request to
14 any citizen.

15 “(ii) No voting system shall contain
16 any wireless communication device at all.

17 “(iii) All software and hardware used
18 in any electronic voting system shall be
19 certified by laboratories accredited by the
20 Commission as meeting the requirements
21 of clauses (i) and (ii).”.

22 (b) VOTER VERIFICATION OF RESULTS FOR INDIVID-
23 UALS WITH DISABILITIES.—Section 301(a)(3) of such
24 Act (42 U.S.C. 15481(a)(3) is amended—

1 (1) in the heading, by inserting "AND VOTER-
2 VERIFICATION OF RESULTS" after "ACCESSIBILITY";

3 (2) in subparagraph (B), by striking "; and"
4 and inserting the following: ", and such voting sys-
5 tem shall provide a mechanism for voter-verification
6 of results which separates the function of vote gen-
7 eration from the function of vote casting in a man-
8 ner analogous to that described in section 4 with re-
9 spect to the separation of paper ballot generation
10 and paper ballot verification and preservation, but
11 does not require the use of paper.";

12 (3) by amending subparagraph (C) to read as
13 follows:

14 "(C) The equipment deployed in accord-
15 ance with subparagraph (B) shall meet the vot-
16 ing system standards for disability access and
17 voter-verification of results as outlined in this
18 paragraph in accordance with the deadline set
19 forth in section 5(a), provided that if it does
20 not and an interim paper system is deployed in
21 accordance with section 5(b), disabled voters
22 shall have the option of using the interim paper
23 system with the assistance of an aide of the vot-
24 er's personal selection or using the voting sys-
25 tem otherwise put in place for use by disabled

1 voters at the time in question in accordance
2 with the Help America Vote Act of 2002, as in
3 effect prior to the enactment of this Act, except
4 that the deadline set forth in section
5 301(a)(3)(C) of such Act (42 U.S.C.
6 15481(a)(3)(C)) is moved forward from Janu-
7 ary 1, 2007, to January 1, 2006.”; and

8 (4) by adding at the end the following new sub-
9 paragraph:

10 “(D) Election officials shall be instructed
11 in the rights of the disabled to vote with the as-
12 sistance of an aide of their selection under the
13 Voting Rights Act of 1965.”.

14 (c) SPECIFIC, DELINEATED REQUIREMENT OF
15 STUDY, TESTING, AND DEVELOPMENT OF BEST PRAC-
16 TICES.—In addition to any other requirements under the
17 Help America Vote Act of 2002, the Election Assistance
18 Commission shall study, test, and develop best practices
19 to enhance accessibility and voter-verification mechanisms
20 for disabled voters.

21 **SEC. 5. CHANGE IN DEADLINE FOR COMPLIANCE WITH**
22 **STANDARDS.**

23 (a) IN GENERAL.—Section 301(d) of the Help Amer-
24 ica Vote Act of 2002 (42 U.S.C. 15481(d)) is amended
25 by striking “on and after January 1, 2006” and inserting

1 "in time for elections for Federal office beginning with the
2 regularly scheduled general election to be held in Novem-
3 ber 2004".

4 (b) INTERIM PAPER SYSTEM.—Each State and juris-
5 diction that certifies in the manner described in section
6 102(a)(3)(B) that it shall be unable to comply with the
7 requirements of section 301 in time for the regularly
8 scheduled general election for Federal office to be held in
9 November 2004 shall receive a paper voting system, based
10 on paper systems in use in the jurisdiction, if any, at the
11 expense of the Commission that shall be deemed compliant
12 with section 301 by the Commission for use in the Novem-
13 ber 2004 general elections.

14 **SEC. 6. REQUIREMENT FOR FEDERAL CERTIFICATION OF**
15 **TECHNOLOGICAL SECURITY OF VOTER REG-**
16 **ISTRATION LISTS.**

17 Section 303(a)(3) of the Help America Vote Act of
18 2002 (42 U.S.C. 15483(a)(3)) is amended by striking the
19 period at the end and inserting the following: ", as cer-
20 tified by the Commission."

21 **SEC. 7. REQUIREMENT FOR MANDATORY RECOUNTS.**

22 The Election Assistance Commission shall conduct
23 manual mandatory surprise recounts of the voter-verified
24 records of each election for Federal office (and, at the op-
25 tion of the State or jurisdiction involved, of elections for

1 State and local office) in .5 percent of the jurisdictions
2 in each State and .5 percent of the overseas jurisdictions
3 in which voter-verified records are preserved in accordance
4 with this section immediately following each general elec-
5 tion for Federal office, and shall promptly publish the re-
6 sults of those recounts. The treatment of the results of
7 the recount shall be governed by applicable Federal, State,
8 or local law, except that any individual who is a citizen
9 of the jurisdiction involved may file an appeal with the
10 Commission if the individual believes that such law does
11 not provide a fair remedy.

12 **SEC. 8. EFFECTIVE DATE.**

13 Except as provided in section 3(b), the amendments
14 made by this Act shall take effect as if included in the
15 enactment of the Help America Vote Act of 2002.

○

S 1980 IS

108th CONGRESS

1st Session

S. 1980

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES**December 9, 2003**

Mr. GRAHAM of Florida introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the 'Voter Confidence and Increased Accessibility Act of 2003'.

SEC. 2. EXTENSION OF TIME PROVIDED FOR STATES TO REQUEST PAYMENTS UNDER TITLE I.

(a) PAYMENTS FOR ACTIVITIES TO IMPROVE ADMINISTRATION OF ELECTIONS- Section 101(a) of the Help America Vote Act of 2002 (42 U.S.C. 15301(a)) is amended by striking 'not later than 6 months after the date of the enactment of this Act' and inserting 'not later than the Tuesday next after the first Monday in November 2003'.

(b) PAYMENTS FOR REPLACEMENT OF PUNCH CARD OR LEVER VOTING MACHINES- Section 102(b)(1) of such Act (42 U.S.C. 15301(b)(1)) is amended by striking 'not later than the date that is 6 months after the date of the enactment of this Act' and inserting 'not later than the Tuesday next after the first Monday in November 2003'.

(c) EXTENSION OF PERIOD OF AUTHORIZATION OF APPROPRIATIONS-

(1) IN GENERAL- Section 104(a) of such Act (42 U.S.C. 15304(a)) is amended by striking '\$650,000,000' and inserting 'an aggregate amount of \$650,000,000 for fiscal years 2003 and 2004'.

(2) DATE FOR TRANSFER TO ELECTION ASSISTANCE COMMISSION OF UNOBLIGATED FUNDS- Section 104(c)(2)(B) of such Act (42 U.S.C. 15304(c)(2)(B)) is amended by striking 'September 1, 2003' and inserting 'January 1, 2004'.

(d) REQUIREMENT TO DEPLOY INTERIM MEASURE IF WAIVER REQUESTED- Section 102(a)(3)(B) of such Act (42 U.S.C. 15301(a)(3)(B)) is amended by striking the period at the end and inserting the following: ', except that any State requesting any such waiver shall accept and implement a paper system for use on an interim basis as provided in section 5(b) of the Voter Confidence and Increased Accessibility Act of 2003 in time for use in the November 2004 general election.'

SEC. 3. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS.

(a) IN GENERAL- Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325) is amended by striking subsection (e).

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply with respect to contracts entered into by the Election Assistance Commission on or after the date of the enactment of this Act.

SEC. 4. PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH VOTER-VERIFIED PERMANENT RECORD OR HARD COPY.

(a) IN GENERAL- Section 301(a)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is amended to read as follows:

(2) VOTER-VERIFICATION AND AUDIT CAPACITY-

(A) VOTER-VERIFICATION IN GENERAL- The voting system shall produce a voter-verified paper record suitable for a manual audit equivalent or superior to that of a paper ballot box system, as further specified in subparagraph (B).

(B) MANUAL AUDIT CAPACITY-

(i) The voting system shall produce a permanent paper record, each individual paper record of which shall be made available for inspection and verification by the voter at the time the vote is cast, and preserved within the polling place in the manner in which all other paper ballots are preserved within the polling place on Election Day for later use in any manual audit.

(ii) The voting system shall provide the voter with an opportunity to correct any error made by the system before the permanent record is preserved for use in any manual audit.

(iii) The voter verified paper record produced under subparagraph (A) and this subparagraph shall be available as an official record and shall be the official record used for any recount conducted with respect to any election in which the system is used.

“(C) SOFTWARE AND MODEMS-

“(i) No voting system shall at any time contain or use undisclosed software. Any voting system containing or using software shall disclose the source code of that software to the Commission, and the Commission shall make that source code available for inspection upon request to any citizen.

“(ii) No voting system shall contain any wireless communication device at all.

“(iii) All software and hardware used in any electronic voting system shall be certified by laboratories accredited by the

Commission as meeting the requirements of clauses (i) and (ii).’.

(b) VOTER VERIFICATION OF RESULTS FOR INDIVIDUALS WITH DISABILITIES-
Section 301(a)(3) of such Act (42 U.S.C. 15481(a)(3) is amended--

(1) in the heading, by inserting ‘AND VOTER-VERIFICATION OF RESULTS’ after ‘ACCESSIBILITY’;

(2) in subparagraph (B), by striking ‘; and’ and inserting the following: ‘, and such voting system shall provide a mechanism for voter-verification of results which separates the function of vote generation from the function of vote casting in a manner analogous to that described in section 4 with respect to the separation of paper ballot generation and paper ballot verification and preservation, but does not require the use of paper.’;

(3) by amending subparagraph (C) to read as follows:

“(C) The equipment deployed in accordance with subparagraph (B) shall meet the voting system standards for disability access and voter-verification of results as outlined in this paragraph in accordance with the deadline set forth in section 5(a), provided that if it does not and an interim paper system is deployed in accordance with section 5(b), disabled voters shall have the option of using the interim paper system with the assistance of an aide of the voter’s personal selection or using the voting system otherwise put in place for use by disabled voters at the time in question in accordance with the Help America Vote Act of 2002, as in effect prior to the enactment of this Act, except that the deadline set forth in section 301(a)(3)(C) of such Act (42 U.S.C. 15481(a)(3)(C)) is moved forward from January 1, 2007, to January 1, 2006.’; and

(4) by adding at the end the following new subparagraph:

“(D) Election officials shall be instructed in the rights of the disabled to vote with the assistance of an aide of their selection under the Voting Rights Act of 1965.’.

(c) SPECIFIC, DELINEATED REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF BEST PRACTICES- In addition to any other requirements under the Help America Vote Act of 2002, the Election Assistance Commission shall study, test, and develop best practices to enhance accessibility and voter-verification mechanisms for disabled voters.

SEC. 5. CHANGE IN DEADLINE FOR COMPLIANCE WITH STANDARDS.

(a) **IN GENERAL-** Section 301(d) of the Help America Vote Act of 2002 (42 U.S.C. 15481(d)) is amended by striking 'on and after January 1, 2006' and inserting 'in time for elections for Federal office beginning with the regularly scheduled general election to be held in November 2004'.

(b) **INTERIM PAPER SYSTEM-** Each State and jurisdiction that certifies in the manner described in section 102(a)(3)(B) that it shall be unable to comply with the requirements of section 301 in time for the regularly scheduled general election for Federal office to be held in November 2004 shall receive a paper voting system, based on paper systems in use in the jurisdiction, if any, at the expense of the Commission that shall be deemed compliant with section 301 by the Commission for use in the November 2004 general elections.

SEC. 6. REQUIREMENT FOR FEDERAL CERTIFICATION OF TECHNOLOGICAL SECURITY OF VOTER REGISTRATION LISTS.

Section 303(a)(3) of the Help America Vote Act of 2002 (42 U.S.C. 15483(a)(3)) is amended by striking the period at the end and inserting the following: ', as certified by the Commission.'

SEC. 7. REQUIREMENT FOR MANDATORY RECOUNTS.

The Election Assistance Commission shall conduct manual mandatory surprise recounts of the voter-verified records of each election for Federal office (and, at the option of the State or jurisdiction involved, of elections for State and local office) in .5 percent of the jurisdictions in each State and .5 percent of the overseas jurisdictions in which voter-verified records are preserved in accordance with this section immediately following each general election for Federal office, and shall promptly publish the results of those recounts. The treatment of the results of the recount shall be governed by applicable Federal, State, or local law, except that any individual who is a citizen of the jurisdiction involved may file an appeal with the Commission if the individual believes that such law does not provide a fair remedy.

SEC. 8. EFFECTIVE DATE.

Except as provided in section 3(b), the amendments made by this Act shall take effect as if included in the enactment of the Help America Vote Act of 2002.

END

Distributed by Rep. Les Gara

Los Angeles Times
latimes.com.

<http://www.latimes.com/news/local/la-me-machines10mar10,1,2347867.story?coll=la-headlines-california>

THE REGION

O.C. Supervisor Wants Audit of Flawed Electronic Voting

About 7,000 voters cast ballots in wrong precincts, but officials don't believe outcomes were affected.

By Stuart Pfeifer
Times Staff Writer

March 10, 2004

An Orange County supervisor on Tuesday said he wants an investigation into last week's election, marred when poll workers using new electronic voting equipment gave thousands of voters ballots from the wrong precincts.

Supervisor Bill Campbell said he would ask the county's Internal Audit Department to review the March 2 ballot irregularities and also would welcome a probe by the county Grand Jury.

A Latino-rights organization last week also requested that the Grand Jury look into the voting problems.

A Times analysis found that about 7,000 voters cast ballots in the wrong precincts last week, affecting vote counts in many state and federal races.

"Even one error is bad. Seven thousand is terrible," Campbell said.

He said he wanted the review to search for solutions, not blame.

One solution Campbell sees is reducing the number of polling places that include multiple precincts with different ballots.

The bulk of last week's problems came when poll workers searching through a list of precinct numbers gave voters access codes for the wrong precincts.

If each polling place had only one precinct, such problems should not occur, officials said.

The irregularities did not appear to be widespread enough to jeopardize the outcome of any state or federal races. Registrar of Voters Steve Rodermund said some voters were given ballots with wrong precinct numbers, but that the ballots still displayed the correct contests.

But many other voters did cast ballots in races in which they were ineligible, The Times analysis found.

Rodermund said he would move to certify the results only if he were confident the irregular votes had not swayed the outcome.

He said he would invite the Grand Jury to review the procedures and equipment his staff used in the election.

"We would like to ask them to come and look at our processes and ask them what they think," Rodermund said.

"You always want a fresh perspective to look at what we're doing."

The civil rights advocacy group Los Amigos of Orange County suggested last week that the Grand Jury investigate.

It noted that "no one will ever know to a certainty the intent of Orange County voters as they tried to express it in a mis-administered election."

Rodermund said he and his staff hoped to estimate the number of ballots cast in improper races and report March 30 to the Board of Supervisors.

Once the election is certified, Rodermund said, the county will host a barbecue at the registrar's Santa Ana offices for all poll workers from last week's election to reward them for their service and to gather comments about the electronic voting system.

"These are the people from the trenches who rarely get the recognition that they should, so we're going to give it to them," he said.

Campbell said he wanted outside agencies to look into last week's election so the county could learn from its mistakes and prevent them from reoccurring.

"We have some very good talent in the internal audit area in looking at management systems, the way we run things," Campbell said.

"There's a lot of things we'll go back and rethink, I'm sure of that."

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CS FOR HOUSE BILL NO. 460(STA)

Rep. Weyhrauch

IN THE LEGISLATURE OF THE STATE OF ALASKA

Cap. 102

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE KERTTULA

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to absences to provide care for certain family members for purposes of**
2 **permanent fund dividend eligibility; and providing for an effective date."**

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

4 *** Section 1. AS 43.23.008(a) is amended to read:**

5 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
6 is absent from the state during the qualifying year remains eligible for a current year
7 permanent fund dividend if the individual was absent

8 (1) receiving secondary or postsecondary education on a full-time
9 basis;

10 (2) receiving vocational, professional, or other specific education on a
11 full-time basis for which, as determined by the Alaska Commission on Postsecondary
12 Education, a comparable program is not reasonably available in the state;

13 (3) serving on active duty as a member of the armed forces of the
14 United States or accompanying, as that individual's spouse, minor dependent, or

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- 1 disabled dependent, an individual who is
- 2 (A) serving on active duty as a member of the armed forces of
- 3 the United States; and
- 4 (B) eligible for a current year dividend;
- 5 (4) serving under foreign or coastal articles of employment aboard an
- 6 oceangoing vessel of the United States merchant marine;
- 7 (5) receiving continuous medical treatment recommended by a
- 8 licensed physician or convalescing as recommended by the physician that treated the
- 9 illness if the treatment or convalescence is not based on a need for climatic change;
- 10 (6) providing care for a family member [PARENT, SPOUSE,
- 11 SIBLING, CHILD, OR STEPCHILD] with a critical life-threatening illness or injury
- 12 [WHOSE TREATMENT PLAN, AS RECOMMENDED BY THE ATTENDING
- 13 PHYSICIAN, REQUIRES TRAVEL OUTSIDE THE STATE FOR TREATMENT
- 14 AT A MEDICAL SPECIALTY COMPLEX];
- 15 (7) providing care for the individual's terminally ill family member;
- 16 (8) settling the estate of the individual's deceased parent, spouse,
- 17 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- 18 (9) serving as a member of the United States Congress;
- 19 (10) serving on the staff of a member from this state of the United
- 20 States Congress;
- 21 (11) serving as an employee of the state in a field office or other
- 22 location;
- 23 (12) accompanying a minor who is absent under (5) of this subsection;
- 24 (13) accompanying another eligible resident who is absent for a reason
- 25 permitted under (1), (2), (5) - (12), or (14) of this subsection as the spouse, minor
- 26 dependent, or disabled dependent of the eligible resident;
- 27 (14) for any reason consistent with the individual's intent to remain a
- 28 state resident, provided the absence or cumulative absences do not exceed
- 29 (A) 180 days in addition to any absence or cumulative absences
- 30 claimed under (3) of this subsection if the individual is not claiming an absence
- 31 under (1), (2), or (4) - (13) of this subsection;

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1 (B) 120 days in addition to any absence or cumulative absences
 2 claimed under (1) - (3) of this subsection if the individual is not claiming an
 3 absence under (4) - (13) of this subsection but is claiming an absence under (1)
 4 or (2) of this subsection; or

5 (C) 45 days in addition to any absence or cumulative absences
 6 claimed under (1) - (13) of this subsection if the individual is claiming an
 7 absence under (4) - (13) of this subsection.

8 * Sec. 2. AS 43.23.008(d) is amended to read:

9 (d) For purposes of (a)(6) and (7) [(a)(7)] of this section, "family member"
 10 means a person who is

11 (1) legally related to the individual through marriage or guardianship;

12 or

13 (2) the individual's sibling, parent, grandparent, son, daughter,
 14 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin.

15 * Sec. 3. This Act takes effect January 1, 2005.



Representative Beth Kerttula

Alaska State Legislature District 3

Sponsor Statement

House Bill 460

Permanent Fund Dividend Allowable Absences

To receive a Permanent Fund Dividend, an Alaskan must meet certain criteria, including a requirement that the person not be absent from the state more than 180 days. The legislature has defined certain "allowable absences," circumstances in which an Alaskan can claim an exception to the 180-day rule.

In 1996, House Bill 198 expanded the list of allowable absences to include, among other things, "providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex."

This past summer I was contacted by a constituent who had to travel out of state to care for her son who lives in the Lower 48 and was critically injured in an accident. Unfortunately, since the son did not *travel* out of state for treatment, my constituent was denied her dividend because of the current language.

The intent of the original legislation was to ensure that people who sacrificed and put their lives on hold to care for a loved one were not denied their dividend for doing so. House Bill 460 would allow a person to care for a critically ill family member who either lives out of state or happened to be out of state when they became ill. Whether someone had to travel for treatment or not should not be the critical issue in determining eligibility for the Permanent Fund Dividend.

Most Alaskans have at least one close family member living outside the state of Alaska. When a family member is in critical condition, it is a difficult and trying time. Let us give them one less thing to worry about.

*incorporated
into
revision D*

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 460

1 Page 1, line 1:

2 Delete "relatives"

3 Insert "family members"

4

5 Page 2, lines 10 - 13:

6 Delete all material and insert:

7 "(6) providing care for a family member [PARENT, SPOUSE,
8 SIBLING, CHILD, OR STEPCHILD] with a critical life-threatening illness or injury
9 [WHOSE TREATMENT PLAN, AS RECOMMENDED BY THE ATTENDING
10 PHYSICIAN, REQUIRES TRAVEL OUTSIDE THE STATE FOR TREATMENT
11 AT A MEDICAL SPECIALTY COMPLEX];"

12

13 Page 3, following line 6:

14 Insert a new bill section to read:

15 "* Sec. 2. AS 43.23.008(d) is amended to read:

16 (d) For purposes of (a)(6) and (7) [(a)(7)] of this section, "family member"
17 means a person who is

18 (1) legally related to the individual through marriage or guardianship;

19 or

20 (2) the individual's sibling, parent, grandparent, son, daughter,
21 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin."

22

23 Renumber the following bill section accordingly.

5915 Gibson S.E.
Albuquerque, New Mexico,
87108

1 April 2004

To the members of the Alaska House State Affairs Committee:

Greetings from Albuquerque, New Mexico where we are expecting a sunny high today of 74 degrees! .

Thank you for allowing this time for testimony on HB 460, a bill "relating to absences to provide care for certain relatives for purposes of permanent fund dividend eligibility."

My name is Iris Manya Pungowiyi-Reed, and I am proud to be a long-time Alaskan, having arrived in the state on 8 January 1970, as a 21-year-old with a 3 week old baby, Bryce, in hand. My then husband had just received a Realty Specialist position with the Bureau of Land Management, and we were being sent to Glennallen, a very small community in those pre-pipeline days, of 300 folks from many varied backgrounds. We started our new lives in one of the old highway camp buildings behind the RCA tower, but knew within the first year and a half of our residency in the Copper Basin that it was home. So we got some land from the state, complete with permafrost 6" underground, and we, who were probably the least experienced carpenters in the 190 miles between our home and Anchorage, built a 12 x 24 plywood cabin and outhouse. No matter where we were residing for work or school---be it Anchorage, Dillingham, the Fairbanks area, Valdez or Palmer--- until we had to sell this property in 1989 our Home was always there.

In August, 1990, having recently divorce and while living in Anchorage, I was hired as an intern by Perseverance Theater in Juneau. My daughter was in grade 5, and with her approaching middle school, I knew I didn't want us remaining in The Big City.

Clarissa fit in well at Marie Drake, and I was impressed by the child-friendliness of the town, as well as the community's commitment to the arts. Bryce was in the Marines at the time, and so just the two of us moved. Ultimately I remarried, and my husband, Ron Reed, and I bought a home on Douglas Island that has large picture windows overlooking the channel, which offer ever-changing scenarios of birds rising, falling and gliding on the currents of air around the bridge. It is very beautiful.

-2-

In 2001, after 17 years service at the State library, Ron took early retirement and had entered UAF's Rural Educators Preparation Partnership Program to train as a teacher. My niece, had injured her leg while attending the University of New Mexico as an exchange student from UAS, and required surgery. She would be laid up for two weeks post-op, and, as a single mom, needed help. The logical time for this to happen seemed to be during the break between semesters. Bryce was living in Denver, and since the two of them were 'best friends,' and his birthday was on December 15th we all decided to rendezvous in Albuquerque for a birthday/Christmas/recuperation/ 'mini-vacation' before we moved to Bristol Bay.

At 7:30am, December 13th, 14 miles out of Albuquerque, Bryce hit black ice, his car spun out of control, hit the bumper of a pickup, and then an eighteen wheeler T-Boned him.

Bryce was rushed to the Trauma ICU at UNMH. His spleen had ruptured immediately on contact. He had 2 punctured lungs & 4 broken ribs, a tear in his liver, two tears to his diaphragm, a sub-dural hematoma, and most importantly, an aortic aneurysm. When one has a traumatic brain injury, as is the sub-dural hematoma, the treatment involves amongst other things, immediate flooding of the brain with oxygen. Due to the aneurysm in his aorta, Bryce needed immediate heart surgery, but because of the massive loss of blood he had experienced, coupled with the unstableness of his condition he would not have been able to tolerate a traditional procedure. Dr. Kasirahjan, the vascular surgeon approached me about inserting an experimental aortic stint into Bryce's aorta, and I signed the consent. While waiting for the FDA's approval, and the actual arrival of the stint his blood pressure was kept artificially low, and his brain, rather than being saturated with Oxygen, was starved for it—a condition known as apoxia. He experienced seizures during this period, and because of increased pressure and swelling of his brain, the neurosurgeons were forced to insert a shunt into Bryce's brain.

During this period he had many surgeries, and his abdomen was left open and packed with gauze, because the internal bleeding was so severe from the hepatic tear. The surgeons were uncertain if one of the repairs to his diaphragm would be successful as it was very close to the aorta, but, knock on wood, it has been, and so far there have also been no complications from the stint. He had complications while he was still on the respirator which resolved themselves, and his lower legs developed blood clots which were successfully treated.

-3-

When one is admitted to the trauma ICU, he or she is given an alias until the time they are stable. For the month that Bryce was in the TICU he was only referred to, and all his paperwork was in the name of Trauma Yasser. It was a cause for celebration when, once again he became known as Bryce Pungowiyi. I am very grateful that he had wonderful care early in his hospitalization, and that there are no serious side effects from all the internal injuries he suffered. However, the impact from the Traumatic Brain Injury and the apoxia are extremely severe.

Bryce is non-verbal and only initiates movement to a small degree. He is fed through a g-tube which was surgically inserted in his abdomen, and his arms, wrists and hands are very contracted. He is 100% dependent on others for his care, and has no communication system by which to make his needs known. Positioning is very important, and his muscle tone can increase dramatically if it is inappropriate. He currently resides in a good nursing home, but it is a situation I would very much like to change, as I would like him home with us. When I was in Juneau last year I explored that possibility. Unfortunately there is no longer a cardiac physician practicing there, and Bryce needs to have either a cardiac surgeon or vascular surgeon available to him. The stint is still unapproved as there has been a high incidence death due emboli forming around it. Appropriate emergency care and periodic monitoring are necessities that can not be met locally.

Bryce is a millennium vet, who has a 100% service connected disability and uses the VA hospital as his primary care facility in Albuquerque. When I was in Anchorage, I explored the resources of the VA hospital there being able to meet his needs, and was informed that he would have to travel to Seattle if there was a cardiac emergency due to his stint. I don't feel comfortable taking that level of risk, and I am not willing to abandon my son so that I can return home. Hopefully, in the future we will have a full service VA hospital, as our Alaskan veterans are deserving of the best.

The past 2 years have been very difficult. Until May of 2003, Ron was living in Dillingham as a student finishing up his teacher certification. I was down here by myself without support or family, and fighting an ongoing battle to try to get my son the services he needs, and those that I know would benefit him. We have financially had a desperate struggle: supporting 3 households with our home in Douglas unrented most of that time, and Ron's retirement and my part time work our only source of income. This past Fall we had to re-roof our formerly flat roof on the Douglas home as it was leaking badly. We still have no idea how we are going to pay for it.

-4-

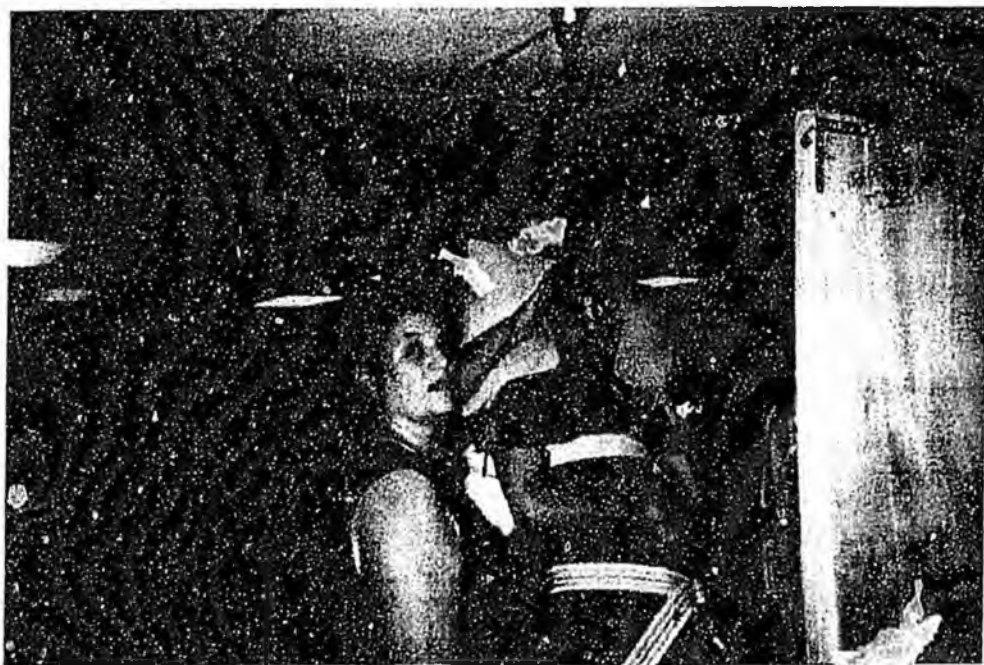
I received my AAS in Developmental Disabilities from Prince William Sound Community College in 1987, served on the advisory board for Parents, Inc., and have been active as an advocate in Alaska for people who experience disabilities for a good 20 years. You may have seen me during the Key campaign or heard me testify to a Senate sub-committee on the need for increased funding and shorter wait lists for families whose children need services. Never in a million years did I expect to need to use these skills with one of my adult children. Even in the best of long term care facilities, patients without active family members advocating for consistency of care and normalization lose out on services, and those whose families live in villages far removed frequently die. I am a very active member of my son's care team, and even with my background it has been very difficult to transverse the maze of service providers in order to get his needs met. I don't plan to leave until he is either living at home with us in Alaska, or I feel very secure in his living arrangement here, which I don't at this time.

Representative Kertulla's office has some photo's to share with you. The first ones show Bryce on some typical days when I am present in Albuquerque. The second batch were taken on the day I returned from 4 weeks in Alaska in May 2002. As you can see, Bryce appears to be in pain. His skin is broken down on his face, and his lips are swollen and caked with blood. He was not positioned at all appropriately, and had almost completely slid out of his wheelchair. His therapeutic boots were not velcroed snugly, and provided him no support. When I saw him, my heart broke. I am his mom and next of kin, as well as guardian of the person. He needs me here as his advocate.

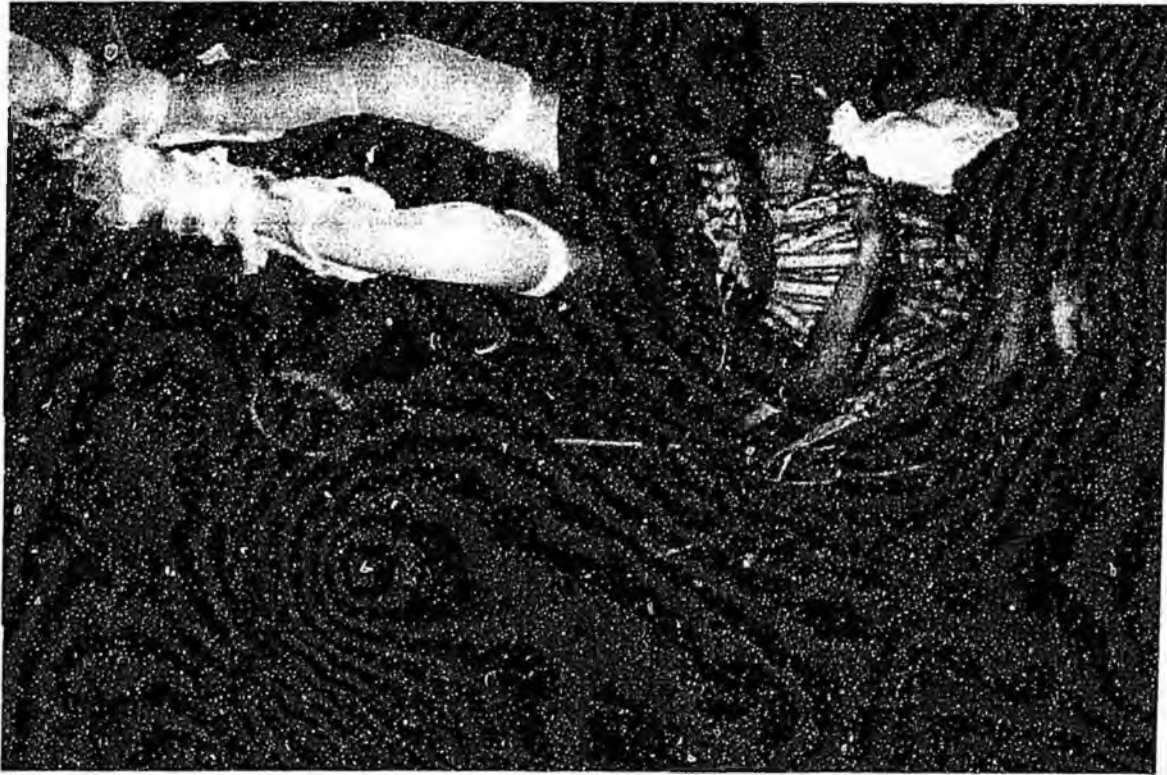
This doesn't mean that I've given up my Alaskan residency. My voter registration is still in Alaska, we own property in Alaska and pay local tax on it, and my driver's license is still Alaskan. We love Alaska and have always been active in the community. My husband even ran for a Juneau city council seat and I am very involved in the arts community there. We would not be residing here if not for these extreme circumstances, and feel that the language currently in effect regarding absences, does not address those such as ourselves who need to leave the state to care for a family member injured outside of Alaska. We as much as anyone, applaud the intent to prevent PFD fraud, but feel circumstances such as ours need to be included as an exception. HB 460 addresses these issues.

Thanks for this opportunity to testify, and for your consideration of this bill.

Bryce when his mom is around



Bryce after his mom was gone to Alaska for several weeks for her daughter's wedding





Geriatrics Associates, P.C.

H. Huson Middleton III, MD, CMD
April H. Volk, MD

5353 Wyoming Blvd, NE
Suite 5
Albuquerque, NM 87109-3132

Phone: 505-797-5630
Fax: 505-858-1224
Email: geriatricsapc@msn.com

February 24, 2003

Manya Pungowiyi
Mother of Bryce Pungowiyi

RE: **Bryce Pungowiyi**
DOB: December 15, 1969
SSN: 574-58-1594

To Whom It May Concern:

Ms. Pungowiyi is the mother of Bryce Pungowiyi who was involved in a T-bone motor vehicle accident on December 13, 2001. He suffered life-threatening injuries including head trauma, chest and abdominal injuries and had to undergo multiple surgical procedures. For a time he was intubated and on life support. Since this accident and the ensuing hospitalizations, physicians' appointments and rehabilitation therapies Ms. Pungowiyi's presence with her son has been of paramount importance to his rehabilitation and recovery.

She is his only advocate and spokesperson. She is communicating with him as no other individual can and is certainly motivating him toward the maximum recovery possible. His condition is still tenuous and he is continuing to receive physical and occupational therapy. He is still being followed by the specialists at the Veterans Administration Hospital in Albuquerque, NM and Ms. Pungowiyi is in consistent contact with the physicians there as well as myself.

Although she is here in New Mexico while her son is undergoing these intensive rehabilitation efforts she wishes to retain her residency status in Alaska. This is certainly her wish to see her son recover enough to allow she and her son to return to Alaska as soon as possible.

Sincerely,



H. Huson Middleton III, MD, CMD

HHM/khm



**Department of Veterans Affairs
New Mexico VA Healthcare System
1501 San Pedro Drive SE
Albuquerque NM 87108-5184**

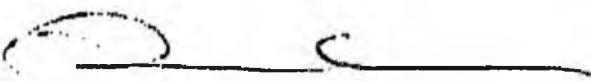
March 30, 2004

Bryce Pungowiyi

In Reply Refer To:

To Whom It May Concern:

- Bryce Pungowiyi, is a 33 year old veteran and son of Many Pungowiyi-Reed who was in a motor vehicle accident December 13, 2001. The veteran sustained a traumatic and anoxic brain injury. He has been in a persistent vegetative state since that time and has been in a nursing home in Albuquerque, New Mexico.
- The veteran's next-of-kin is his mother, Many Pungowiyi-Reed. Ms. Pungowiyi-Reed has been physically available as the veteran's medical/treatment guardian and only advocate since the motor vehicle accident.


Rebecca Gonzales, LISW
Clinical Social Worker
VA Medical Center



Healthcare To Whom It May Concern,

This letter is on behalf of Manya Pungowiyi, who is the POA and Guardian of Bryce Pungowiyi. She has requested that I compose a letter to you to share some of the ways that she has advocated for Bryce's care.

Bryce has been a resident of Laurel View Healthcare since . From the beginning, Manya has been a leader in inservicing our staff in the most appropriate ways to care for Bryce, from an easier way to put his shoes on, to the types of music he likes to listen to while he is in bed. She has privately hired a massage therapist to work with Bryce and encourage relaxation, a technique that we do not offer ourselves in our facility. Bryce is 100% dependent, and relies on his mother to maintain his physical and financial well being. She accompanies Bryce on every appointment that he has, and assists the physicians in communicating information back and forth from the VAMC and maintains a continuous level of care for Bryce.

We have several resident's in our facility who have a POA and Guardian, but who are not fortunate enough to have them as active in their care as Manya is for Bryce. Manya works with the facility in a team effort to maintain the best possible care that Bryce could receive. I personally am thankful for the effort that Manya is able to put into Bryce's care, and look forward to working with her for Bryce for many years to come. Thank you for your attention to this letter and Manya's efforts for Bryce Pungowiyi.

Sincerely,

Hillary M. Smith
Director of Social Services
Laurel View Healthcare
505-822-6206
4/1/04

TESTIMONY OF RON REED ON HB 410
Thank you for this opportunity to testify on the bill before you. 1 of 2

My name is Ron Reed, and I moved to Alaska in 1975. My wife moved there even earlier, in 1970. We both consider Alaska to be our home, and under ordinary circumstances, we would be residing in the state at this time. Just to give you a brief background of our situation: in 2000, I took early retirement after 16 and a half years working for the State Library in Juneau, where we bought a house in 1998.

My intention was to enroll in the UAS Master of Arts in Teaching program in order to begin a second career as a high school English teacher. For a number of reasons, this initial plan didn't work out, and I arranged as an alternative to participate in the Rural Educator Preparation Partnership or REPP program, run out of Fairbanks. We were to move to Dillingham in Jan. 2002 for a one year internship in the Dillingham Middle High School.

Meanwhile, our niece, a single mother with an at the time, six-year-old son, had moved to Albuquerque as an exchange student from UAS to the University of New Mexico in her senior year. She sustained a knee injury in Sept. of 2001, and was due to have surgery just before Christmas. We arranged to fly down to help her take care of her son while she recuperated, and planned to return to Alaska at the beginning of the year. I was going directly to Dillingham for the start of the spring semester, while Manya was to proceed to Juneau to put our things in storage and arrange to prepare our home for rental.

Mid-December happened to also be our son Bryce's 31st birthday, and he was going to join us in Albuquerque, driving over from Dallas, Texas, for the occasion. (Although he was three weeks old when he came to Alaska, and was raised here, he has not lived up north for over a decade.) Well, the best laid plans and all that. On his way into Albuquerque on I-40, he hit a patch of ice in the canyon just outside of town at 7 in the morning, slid into the opposing lane and was hit on the driver's side by an 18-wheeler, which demolished his car and came very close to killing him - it was touch and go for a few days whether he would survive at all, with extensive internal injuries.

We were overnighting in Tucson on our way to Albuquerque and needed to check our email to get the confirmation code for our flight two days later. Our daughter, whose number had been on Bryce's cell phone, had been notified by the Trauma ICU of UNM Hospital of his accident, and that his condition was critical. Not knowing exactly where we were, she had emailed us with an "emergency" subject line. Thank God for modern technology! When we heard, we modified our plans on the fly, and ended up deciding that Manya would stay in Albuquerque with Bryce to help take care of and advocate for him - she has a degree in developmental disabilities - while I would go ahead up to Dillingham and complete the Rural Educator program.

For the next year and a half we lived apart, and basically maintained three households, as we hadn't been able to pack up our personal items and furniture to make our Juneau house rentable. Since I was taking classes and interning as a student teacher, we had only retirement income from state services to live on, and it has, needless to say, not been easy. In May of last year, I finally completed my course of studies for certification, and flew down to Albuquerque to be with the rest of my family.

Bryce has been living in a nursing home ever since he got out of the traumatic intensive care unit at the hospital, and his internal injuries have mostly healed. However, he now has a stint in his aorta due to a tear that was one of his injuries from the accident. He also suffered a head injury in the accident, and that combined with apoxia due to the aortic tear's having

TESTIMONY OF RON REED ON HB 460 2 OF 2
mandated that his blood pressure be maintained artificially low has resulted in his being non-verbal, and non-mobile, although responsive to some degree.

The VA is paying for the facilities - he was a fully disabled Marine vet before the accident - for which we are grateful, but this means that he cannot be brought back to Alaska, as the requisite facilities are not available up there. And we have been constantly struggling with the VA in an effort to convince them that rehabilitative therapy would do him good; their Chief of Rehabilitation disagrees, and would just as soon he simply continue in what he is convinced is a persistent vegetative state. Should we return in the near future to our home in Alaska, that would be Bryce's final outcome.

Obviously, we do not consider this an option. We don't plan on staying in Albuquerque for the long term; we would like to return to our chosen home as soon as it's feasible - but this may not be for a while. If Bryce were simply dying, or had officially resided in Alaska at the time of the accident, we would be eligible for the dividend under the Permanent Fund's guidelines with no question. Yet because we are here to take care of our son, who is not dying but who would be much worse off were we to leave, the administrator has ruled that we are no longer Alaskans.

I would like to emphasize that my voter registration is in Alaska, my vehicle is registered in Alaska, my driver's license is issued by the State of Alaska, and we maintain property in Alaska - our house in Juneau, as well as a small piece of land near Cathedral Bluffs I obtained and surveyed under the Open to Entry program around 1980. And we both consider Alaska our home; that is, after all, where most of our friends still live. We believe that the residential restrictions on the PFD distribution were not intended to apply to people in our situation, and would like to see this oversight in the regulations rectified, through Rep. Kerttula's bill or through other means.

Thank you again for this opportunity to testify.

HB

461

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

April 30, 2004

Letter of Intent

It is the intent of the House State Affairs Committee that a Statewide "911" Coordinator be established to coordinate and facilitate the implementation and operation of enhanced 911 emergency communications systems throughout the state and enable the receipt of federal funds.

A handwritten signature in cursive script that reads "Bruce Weyhrauch".

Representative Bruce Weyhrauch
Chair, House State Affairs Committee

STATE OF ALASKA



Interim:

119 North Cushman, Rm. 205
Fairbanks, Alaska 99701
(907) 456-7423
Fax: (907) 451-9293

Session:

State Capitol Building
Juneau, Alaska 99801
(907) 465-3466
Fax: (907) 465-2937

REPRESENTATIVE JIM HOLM DISTRICT 9

MEMO

To: Representative Berkowitz
CC: House State Affairs Committee

Date: 4/29/04

RE: HB 461, EMERGENCY SERVICES DISPATCH/911 SURCHARGE

From: Matthew Rudig, Staff to Rep. Holm

This is a response to a couple of your questions regarding HB 461 that you heard in the House State Affairs committee on Thursday April 9th.

1. The question about residential consumers covering the costs of business in the case of multi-line, per-billing address situation.

The sponsor believes that, in the "Z" version of HB 461, this concern is alleviated. It is the intent of the language added to pg. 4, line 27 that residential phone users who have multiple lines in their households, would only get one surcharge per billing address. For commercial use, the business would pay for the surcharge on all existing lines. The sponsor feels that this is the fairest way to handle this issue, and it is one of the key differences between the "Z" version and CSHB 461(CRA).

2. The question of what emergency service dispatch is and the definition.

In the present "Z" version of the bill, page 4, line 16, it defines the surcharge as something that can only pay "for the actual labor and equipment used to provide emergency services dispatch..." and then lists the exceptions of what that surcharge cannot pay for. The sponsor believes that emergency services dispatch would be everything else involved in the Enhanced 9-1-1 dispatch.

You may also note that in current statute, AS 29.35.137 there are many definitions of enhanced 9-1-1 equipment, service areas, systems, and access lines. It is the sponsor's understanding that these current statutes adequately cover the surcharge we are trying to cover.

If you have further questions to this memorandum, I would be more than happy to discuss them in more detail and work out any possible solutions. Thank you very much for your time in this matter.

23-LS1633Z
Cook
4/28/04

CS FOR HOUSE BILL NO. 461()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to enhanced 911 surcharges and to 911 and emergency services**
2 **dispatch systems."**

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

4 *** Section 1.** AS 09.50.250 is amended to read:

5 **Sec. 09.50.250. Actionable claims against the state.** A person or corporation
6 having a contract, quasi-contract, or tort claim against the state may bring an action
7 against the state. A person who may present the claim under AS 44.77 may not bring
8 an action under this section except as set out in AS 44.77.040(c). A person who may
9 bring an action under AS 36.30.560 - 36.30.695 may not bring an action under this
10 section except as set out in AS 36.30.685. However, an action may not be brought if
11 the claim

12 (1) is an action for tort, and is based upon an act or omission of an
13 employee of the state, exercising due care, in the execution of a statute or regulation,
14 whether or not the statute or regulation is valid; or is an action for tort, and based upon

1 the exercise or performance or the failure to exercise or perform a discretionary
2 function or duty on the part of a state agency or an employee of the state, whether or
3 not the discretion involved is abused;

4 (2) is for damages caused by the imposition or establishment of a
5 quarantine by the state;

6 (3) arises out of assault, battery, false imprisonment, false arrest,
7 malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or
8 interference with contract rights;

9 (4) arises out of the use of an ignition interlock device certified under
10 AS 33.05.020(c); [OR]

11 (5) arises out of injury, illness, or death of a seaman that occurs or
12 manifests itself during or in the course of, or arises out of, employment with the state;
13 AS 23.30 provides the exclusive remedy for such a claim, and no action may be
14 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.
15 688), in admiralty, or under the general maritime law; or

16 (6) is based on the exercise or performance of a duty in connection
17 with an emergency services dispatch system or an enhanced 911 system,
18 including providing, maintaining, or operating any toll-free, statewide default
19 public safety answering point, and is not based on an intentional act or omission
20 amounting to misconduct or on an act or omission amounting to gross negligence.

21 * Sec. 2. AS 09.65.070(d) is amended to read:

22 (d) An action for damages may not be brought against a municipality or any of
23 its agents, officers, or employees if the claim is based on

24 (1) [IS BASED ON] a failure of the municipality, or its agents,
25 officers, or employees, when the municipality is neither owner nor lessee of the
26 property involved, to

27 (A) [TO] inspect property for a violation of any statute,
28 regulation, or ordinance, or a hazard to health or safety;

29 (B) [TO] discover a violation of any statute, regulation, or
30 ordinance, or a hazard to health or safety if an inspection of property is made;

31 or

1 (C) [TO] abate a violation of any statute, regulation, or
2 ordinance, or a hazard to health or safety discovered on property inspected;

3 (2) [IS BASED UPON] the exercise or performance or the failure to
4 exercise or perform a discretionary function or duty by a municipality or its agents,
5 officers, or employees, whether or not the discretion involved is abused;

6 (3) [IS BASED UPON] the grant, issuance, refusal, suspension, delay,
7 or denial of a license, permit, appeal, approval, exception, variance, or other
8 entitlement, or a rezoning;

9 (4) [IS BASED ON] the exercise or performance during the course of
10 gratuitous extension of municipal services on an extraterritorial basis;

11 (5) [IS BASED UPON] the exercise or performance of a duty or
12 function upon the request of, or by the terms of an agreement or contract with, the
13 state to meet emergency public safety requirements; or

14 (6) [IS BASED ON] the exercise or performance of a duty in
15 connection with an emergency services dispatch system or enhanced 911 emergency
16 system and is not based on an intentional act of misconduct or on an act of gross
17 negligence.

18 * Sec. 3. AS 29.10.200(37) is amended to read:

19 (37) AS 29.35.131 (emergency services dispatch system and
20 enhanced 911 system);

21 * Sec. 4. AS 29.35.131(a) is amended to read:

22 (a) A municipality may, by resolution or ordinance, elect to provide an
23 emergency services dispatch system or an enhanced 911 system at public safety
24 answering points, may purchase or lease the enhanced 911 equipment or service
25 required to establish or maintain an enhanced 911 system at public safety answering
26 points from a local exchange telephone company or other qualified vendor, and may
27 impose an enhanced 911 surcharge, in an amount to be determined by the
28 municipality, on all local exchange access lines that provide telephone service to
29 wireline telephones in the area to be served by the enhanced 911 system. A
30 municipality that provides services under an enhanced 911 system may also by
31 resolution or ordinance impose an enhanced 911 surcharge on each wireless telephone

1 number that is billed to an address within the enhanced 911 service area. The [FOR A
2 MUNICIPALITY WITH A POPULATION OF 100,000 OR MORE, AN] enhanced
3 911 surcharge may be imposed each [MAY NOT EXCEED 50 CENTS PER] month
4 for each wireless telephone number or each [50 CENTS PER] month for each local
5 exchange billing address [ACCESS LINE] for wireline telephones. [FOR A
6 MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN ENHANCED 911
7 SURCHARGE MAY NOT EXCEED 75 CENTS PER MONTH FOR EACH
8 WIRELESS TELEPHONE NUMBER OR 75 CENTS PER MONTH FOR EACH
9 LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES.] An
10 enhanced service area may be all of a city, all of a unified municipality, or all or part
11 of the area within a borough and may include the extraterritorial jurisdiction of a
12 municipality in accordance with AS 29.35.020. The governing body of a municipality
13 shall review an enhanced 911 surcharge annually to determine whether the current
14 level of the surcharge is adequate, excessive, or insufficient to meet anticipated
15 enhanced 911 system needs. The municipality may [ONLY] use the enhanced 911
16 surcharge for the enhanced 911 system and for the actual labor and equipment
17 used to provide emergency services dispatch, but not for costs of providing the
18 medical, police, fire, rescue, or other emergency service, or for any other
19 purpose.

20 * Sec. 5. AS 29.35.131(b) is amended to read:

21 (b) A local exchange telephone company providing service in a municipality
22 that has imposed an enhanced 911 surcharge shall bill each month and collect the
23 surcharge from customers in the enhanced 911 service area. A wireless telephone
24 company that provides telephone service to wireless telephone customers with billing
25 addresses within the enhanced 911 service area shall impose the [AN ENHANCED
26 911] surcharge each month and collect the surcharge from customers in the enhanced
27 911 service area. A residential local exchange telephone customer may not be subject
28 to more than one enhanced 911 surcharge on a local exchange billing address
29 [ACCESS LINE] for a wireline telephone. A wireless telephone customer may not be
30 subject to more than one enhanced 911 surcharge for each wireless telephone number.
31 [A CUSTOMER THAT HAS MORE THAN 100 LOCAL EXCHANGE ACCESS

1 LINES FROM A LOCAL EXCHANGE TELEPHONE COMPANY IN THE
2 MUNICIPALITY IS LIABLE FOR THE ENHANCED 911 SURCHARGE ONLY
3 ON 100 LOCAL EXCHANGE ACCESS LINES.]

4 * Sec. 6. AS 29.35.131(c) is amended to read:

5 (c) A local exchange telephone company or wireless telephone company shall
6 include the appropriate enhanced 911 surcharge, stated separately and included in the
7 total amount owed, in the bills delivered to its customers. The Regulatory
8 Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the
9 telephone company [AND HAS NO JURISDICTION OVER AN ENHANCED 911
10 SYSTEM]. A customer is liable for payment of the enhanced 911 surcharge in the
11 amounts billed by the telephone company until the amounts have been paid to the
12 telephone company.

13 * Sec. 7. AS 29.35.131 is amended by adding new subsections to read:

14 (i) A municipality may by ordinance elect to impose a point-of-purchase 911
15 surcharge from prepaid wireless telephone accounts not to exceed one percent of the
16 purchase value. The surcharge must apply to initial purchases and to subsequent
17 purchases of air time. The retailer of the wireless account is responsible for remitting
18 the surcharge to the municipality.

19 (j) To enable each municipality to qualify for grant funding, the governor is
20 responsible for certifying the collection and use of all 911 surcharges.

21 * Sec. 8. AS 29.35.133(a) is amended to read:

22 (a) The establishment, funding, use, operation, or maintenance of enhanced
23 911 or emergency services dispatch systems and all activities associated with those
24 actions are specifically found to be within the ambit of AS 09.50.250(1) and
25 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
26 service supplier, local exchange telephone company, or wireless telephone company
27 and their employees and agents are also immune from tort liability that might
28 otherwise be incurred in the course of installing, training, maintaining, or providing
29 enhanced 911 systems or transmitting or receiving calls on the system.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB461CS-DPS-A STD-04-28-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept Affected: Public Safety
 Title Act relating to 911 Svcs and Emergency Svcs RDU Alaska State Troopers
 Component AST Detachment
 Sponsor Rep. Holm
 Requester (H) Community & Regional Affairs Component No. 2325

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	*	*	*	*	*	*

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

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	*	*	*	*	*	*

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)

This bill, will allow municipalities to, by resolution or ordinance, elect to provide an emergency services dispatch system. It also establishes rates that municipalities can collect as a 911 surcharge which will be limited in use to the 911 system and for the actual labor and equipment used to provide emergency services dispatch, but not for costs of providing the medical, police, fire, rescue, or other emergency service, or for any other purpose.

This bill also amends the current statute to improve the immunity protection to municipalities that provide emergency services dispatch capabilities.

(continued)

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 4/28/04 5:35 PM
 Approved by: Commissioner William Tandeske Date 4/28/2004
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB461CS-DPS-ASTD-04-28-04

ANALYSIS CONTINUATION Page 2 of 2

Section 8 amends AS 42.05.295 to read: Routing 911 calls. Notwithstanding AS 42.05.711, to insure statewide access by all residents to 911 wireline services, traditional or enhanced, for areas where there is no local or regional public safety answering point, the state shall provide a toll-free, statewide default public safety answering point to which each local exchange telephone company must route all 911 calls originating from within its customer service base.

This last provision, in essence, will require the State of Alaska to develop 911 procedures and implement processes to have Public Safety Answering Points (PSAP's) established, in areas where the 911 service is not currently present, so that all phones in Alaska will have 911 emergency services capability.

Currently the Alaska State Troopers (AST) have a number of formal and informal procedures established to insure that emergency calls for service are answered and responded to in a timely fashion. The AST work with local agencies as well as state and federal agencies to insure a proper response to calls for assistance. It is recognized that the needs of the state vary widely from region to region and that there is not a "one size fits all" solution to providing quality emergency services dispatch capabilities across the state. The needs for the western regions are different from the needs of southeast Alaska. Similarly, the needs for the North Slope Borough are different from the needs of smaller communities in south central Alaska.

In some locations, local police departments provide emergency services dispatch capabilities for the AST. This is especially true for the AST after normal duty hours. These call takers screen the calls and initiate an appropriate response. In other areas of the state, the AST may receive the calls directly, even after hours. Yet at other locales, request for emergency services may go to a larger centralized AST dispatch center such as Anchorage or Fairbanks.

This current system of receiving calls for emergency services is an ongoing effort to insure that no call goes unanswered and that responses are timely. The call takers are usually located close to the communities expected to need the services so that there is common shared knowledge about the locations between the call taker and the person placing the call.

The impact of the proposed provision, while laudable, could have immediate far-reaching fiscal implications as it applies to providing the capability that would be required. Many of the current AST dispatch centers are not equipped or manned in a way that could assume the additional duties of answering 911 calls originating from other parts of the state.

In locations where the AST works with the local agencies to provide the current call taking capability, it is believed that those agencies are also not equipped or manned in a way that would allow them to assume a much larger role as 911 call takers. It could certainly be expected that those agencies will ask for compensation for providing that service or increased compensation if they are already providing some call taker service.

This provision was brought forth at a late date in the legislative process. Because of the limited time that has been allowed to discuss the issue of how the PSAP's would be established, the equipment and personnel that would be required to properly operate these PSAP's, and the potential costs that will arise to connect the system to PSAP's, the AST have no viable way in which to determine the fiscal impact to the department. It is expected that the costs could be substantial as the department works to enhance currently existing processes, or moves to establish systems that do not currently exist. It could logically be expected that this would take a considerable amount of staff hours to plan, negotiate with other involved agencies, procure equipment if needed, hire additional dispatchers/call takers, and implement the effort on a statewide basis.

Also, while the legislature establishes procedures and rates that municipalities can follow to collect funds to help finance emergency services dispatch systems, there is no similar provision for the AST to receive funds to assist in providing the same service.

There is no question that a consistent process for accessing emergency services is desirable. A formal comprehensive plan addressing all aspect of the system, including specific goals and objectives is needed. The plan must include the areas of responsibility for all the involved agencies and the procedures to be followed. The plan must also include the expected costs for personnel and equipment. It should also reflect anticipated funding sources. Once the plan is completed, it can be implemented in a coordinated fashion with the end result being a properly managed emergency services dispatch capability that serves the needs of all communities.

Without such a plan, there is no viable means of determining the fiscal impact to the Alaska State Troopers.

The fiscal impact to the Department of Public Safety is indeterminate at this time.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
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COPIES

Sec. 7. AS 29.35.133(a) is amended to read:

(a) No civil action for damages may be brought against the state or an incorporated unit of local government, or their employees, based on the establishment, funding, use, operation, or maintenance of an enhanced 911 or emergency services dispatch system or any toll-free, default public safety answering point, and all activities associated with these systems, which is not based on an intentional act of misconduct or on an act of gross negligence.

Post-It® Fax Note 7671		Date 4/29	# of pages ▶
To Home STA	From G. Owens		
Co./Dept.	Co		
Phone #	Phone #		
Fax # 465-2273	Fax #		

CS FOR HOUSE BILL NO. 461(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/28/04

Referred: State Affairs

Sponsor(s): REPRESENTATIVE HOLM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to enhanced 911 surcharges and to 911 and emergency services
2 dispatch systems."

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

4 * Section 1. AS 09.65.070(d) is amended to read:

5 (d) An action for damages may not be brought against a municipality or any of
6 its agents, officers, or employees if the claim is based on

7 (1) [IS BASED ON] a failure of the municipality, or its agents,
8 officers, or employees, when the municipality is neither owner nor lessee of the
9 property involved, to

10 (A) [TO] inspect property for a violation of any statute,
11 regulation, or ordinance, or a hazard to health or safety;

12 (B) [TO] discover a violation of any statute, regulation, or
13 ordinance, or a hazard to health or safety if an inspection of property is made;

14 or

1 (C) [TO] abate a violation of any statute, regulation, or
2 ordinance, or a hazard to health or safety discovered on property inspected;

3 (2) [IS BASED UPON] the exercise or performance or the failure to
4 exercise or perform a discretionary function or duty by a municipality or its agents,
5 officers, or employees, whether or not the discretion involved is abused;

6 (3) [IS BASED UPON] the grant, issuance, refusal, suspension, delay,
7 or denial of a license, permit, appeal, approval, exception, variance, or other
8 entitlement, or a rezoning;

9 (4) [IS BASED ON] the exercise or performance during the course of
10 gratuitous extension of municipal services on an extraterritorial basis;

11 (5) [IS BASED UPON] the exercise or performance of a duty or
12 function upon the request of, or by the terms of an agreement or contract with, the
13 state to meet emergency public safety requirements; or

14 (6) [IS BASED ON] the exercise or performance of a duty in
15 connection with an emergency services dispatch system or enhanced 911 emergency
16 system and is not based on an intentional act of misconduct or on an act of gross
17 negligence.

18 * Sec. 2. AS 29.10.200(37) is amended to read:

19 (37) AS 29.35.131 (emergency services dispatch system and
20 enhanced 911 system);

21 * Sec. 3. AS 29.35.131(a) is amended to read:

22 (a) A municipality may, by resolution or ordinance, elect to provide an
23 emergency services dispatch system or an enhanced 911 system at public safety
24 answering points, may purchase or lease the enhanced 911 equipment or service
25 required to establish or maintain an enhanced 911 system at public safety answering
26 points from a local exchange telephone company or other qualified vendor, and may
27 impose an enhanced 911 surcharge, in an amount to be determined by the
28 municipality, on all local exchange access lines that provide telephone service to
29 wireline telephones in the area to be served by the enhanced 911 system. A
30 municipality that provides services under an enhanced 911 system may also by
31 resolution or ordinance impose an enhanced 911 surcharge on each wireless telephone

1 number that is billed to an address within the enhanced 911 service area. An [FOR A
 2 MUNICIPALITY WITH A POPULATION OF 100,000 OR MORE, AN] enhanced
 3 911 surcharge may not exceed \$1 a [50 CENTS PER] month for each wireless
 4 telephone billing statement [NUMBER] or \$1 a [50 CENTS PER] month for each
 5 local exchange billing address [ACCESS LINE] for wireline telephones. [FOR A
 6 MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN ENHANCED 911
 7 SURCHARGE MAY NOT EXCEED 75 CENTS PER MONTH FOR EACH
 8 WIRELESS TELEPHONE NUMBER OR 75 CENTS PER MONTH FOR EACH
 9 LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES.] An
 10 enhanced service area may be all of a city, all of a unified municipality, or all or part
 11 of the area within a borough and may include the extraterritorial jurisdiction of a
 12 municipality in accordance with AS 29.35.020. The governing body of a municipality
 13 shall review an enhanced 911 surcharge annually to determine whether the current
 14 level of the surcharge is adequate, excessive, or insufficient to meet anticipated
 15 enhanced 911 system needs. The municipality may [ONLY] use the enhanced 911
 16 surcharge for the enhanced 911 system and for the actual labor and equipment
 17 used to provide emergency services dispatch, but not for costs of providing the
 18 medical, police, fire, rescue, or other emergency service, or for any other
 19 purpose.

20 * Sec. 4. AS 29.35.131(b) is amended to read:

21 (b) A local exchange telephone company providing service in a municipality
 22 that has imposed an enhanced 911 surcharge shall bill each month and collect the
 23 surcharge from customers in the enhanced 911 service area. A wireless telephone
 24 company that provides telephone service to wireless telephone customers with billing
 25 addresses within the enhanced 911 service area shall impose the [AN ENHANCED
 26 911] surcharge each month and collect the surcharge from customers in the enhanced
 27 911 service area. A local exchange telephone customer may not be subject to more
 28 than one enhanced 911 surcharge on a local exchange billing address [ACCESS
 29 LINE] for a wireline telephone. A wireless telephone customer may not be subject to
 30 more than one enhanced 911 surcharge for each billing statement [FOR EACH
 31 WIRELESS TELEPHONE NUMBER. A CUSTOMER THAT HAS MORE THAN

1 100 LOCAL EXCHANGE ACCESS LINES FROM A LOCAL EXCHANGE
2 TELEPHONE COMPANY IN THE MUNICIPALITY IS LIABLE FOR THE
3 ENHANCED 911 SURCHARGE ONLY ON 100 LOCAL EXCHANGE ACCESS
4 LINES].

5 * Sec. 5. AS 29.35.131(c) is amended to read:

6 (c) A local exchange telephone company or wireless telephone company shall
7 include the appropriate enhanced 911 surcharge, stated separately and included in the
8 total amount owed, in the bills delivered to its customers. The Regulatory
9 Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the
10 telephone company [AND HAS NO JURISDICTION OVER AN ENHANCED 911
11 SYSTEM]. A customer is liable for payment of the enhanced 911 surcharge in the
12 amounts billed by the telephone company until the amounts have been paid to the
13 telephone company.

14 * Sec. 6. AS 29.35.131 is amended by adding new subsections to read:

15 (i) A municipality may by ordinance elect to impose a point-of-purchase 911
16 surcharge from prepaid wireless telephone accounts not to exceed one percent of the
17 purchase value. The surcharge must apply to initial purchases and to subsequent
18 purchases of air time. The retailer of the wireless account is responsible for remitting
19 the surcharge to the municipality.

20 (j) To enable each municipality to qualify for grant funding, the governor is
21 responsible for certifying the collection and use of all 911 surcharges.

22 * Sec. 7. AS 29.35.133(a) is amended to read:

23 (a) The establishment, funding, use, operation, or maintenance of enhanced
24 911 or emergency services dispatch systems and all activities associated with those
25 actions are specifically found to be within the ambit of AS 09.50.250(1) and
26 AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a
27 service supplier, local exchange telephone company, or wireless telephone company
28 and their employees and agents are also immune from tort liability that might
29 otherwise be incurred in the course of installing, training, maintaining, or providing
30 enhanced 911 systems or transmitting or receiving calls on the system.

31 * Sec. 8. AS 42.05 is amended by adding a new section to read:

1 **Sec. 42.05.295. Routing 911 calls.** Notwithstanding AS 42.05.711, to ensure
2 statewide access by all residents to 911 wireline services, traditional or enhanced, for
3 areas where there is no local or regional public safety answering point, the state shall
4 provide a toll-free, statewide default public safety answering point to which each local
5 exchange telephone company must route all 911 calls originating from within its
6 customer service base.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 461(CRA)
 (H) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Emergency Services Dispatch/911 RDU Regulatory Commission of Alaska (399)
Surcharge Component Regulatory Commission of Alaska
 Sponsor Representative Holm
 Requester House Community & Regional Affairs Component No. 2417

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)

This legislation would allow municipalities, certain villages and public corporations established by municipalities to expand an enhanced 911 system to also provide and charge for an emergency dispatch system.

This legislation has no impact on the operations of the Regulatory Commission of Alaska.

Prepared by: Mark K. Johnson, Commissioner, Chair Phone (907) 276-6222
 Division Regulatory Commission of Alaska Date/Time 3/1/04 3:01 PM
 Approved by: Edgar Blatchford, Commissioner Date 3/1/2004
 Agency Department of Community & Economic Development