

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11174 SENATE JUDICIARY

ALASKA STATE SENATE



Session:
State Capitol
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Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 323 Sponsor Statement

“An Act relating to a project’s liability for workers’ compensation and the exclusiveness of liability for workers’ compensation.”

Senate Bill 323 revises the Workers’ Compensation Act as it applies to contractors and subcontractors. The two principal modifications are as follows:

1. Responsibility for payment of workers’ compensation is extended up the chain of contracts to include project owners; and,
2. Injured parties in receipt of benefits under the Workers’ Compensation Act would be barred from “double dipping” via a tort liability claim.

Under AS 23.30.045(a), an injured employee only has recourse for workers’ compensation benefits against his immediate employer and if the employer is a subcontractor, against the contractor who retained the subcontractor. The proposed legislation allows recourse for the payment of compensation benefits against *project owners*, as well as contractors and subcontractors.

This extension of the rights of injured employees is sensible inasmuch as the project owner is the beneficial user of the work performed by the injured employee. It should be noted that a project owner does not include individuals who have engaged the services of contractors to build or renovate a residential home.

Finally, the proposed legislation extends the exclusivity protection set forth in AS 23.30.055 to all parties in the contracting chain relating to a project. This includes the employer of the injured employee, and those parties, which are upstream in the chain of contracts from the employer of the injured employee.

In other words, if an injured employee works for a subcontractor, then the subcontractor, the contractor and the project owner would be free of tort liability so long as the injured employee receives the benefits set forth in the Alaska Workers’ Compensation Act.

Senate Bill 323 will encourage all parties participating in a project to identify and enforce strict safety standards for the benefit of all workers rather than deflecting responsibility through the use of indemnity agreements as is common practice currently. At the same time, it ensures that injured workers will receive all benefits available under the Alaska Workers’ Compensation Act.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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 25, 2004

SUBJECT: Sectional Summary of SB 323 (Work Order No. 23-LS1498\D)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: Barbara R. Craver 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. AS 23.30.045(a) is amended to provide that the contractor or the project owner is liable for the subcontractor's employees on a job if the subcontractor doesn't secure payment for the subcontractor's employees. Similarly for the contractor's own employees, the project owner is responsible for workers' compensation if the contractor does not cover the contractor's employees.

Section 2. AS 23.30.045(f) adds a new definition; one for "project owner."

Section 3. AS 23.30.055 is amended to add a person responsible for providing workers' compensation coverage under AS 23.30.045(a) to the description of employers who are protected by the exclusive remedy provisions of workers' compensation.

If I may be of further assistance, please advise.

BRC:med
04-231.med

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 323
(S) Publish Date: 3/10/04

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Workers Compensation and Contractors RDU: Workers' Compensation
Component: Workers' Compensation
Sponsor: Senator Senkins
Requester: Senate L&C Component Number: 344

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: None
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)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Paul Lisankie, Director Phone 465-2790
Division: Workers' Compensation Division Date/Time 2/27/04 2:38 PM
Approved by: Greg O'Claray, Commissioner Date 2/27/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 323
(S) Publish Date: 3/10/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Liability for Workers' Compensation RDU Administration & Support
Component Commissioner's Office
Sponsor Seekins
Requester Senate Labor and Commerce Component No. 530

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)

Prepared by: Nona Wilson Phone 465-6973
Division Legislative Liaison Date/Time 3/1/04 2:53 PM
Approved by: John MacKinnon Date 3/1/2004
Agency Deputy Commissioner

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 323
(S) Publish Date: 3/10/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to a project owner's liability for workers' compensation BRU Risk Management
Component Risk Management
Sponsor Senator Seekins
Requester Senate Labor and Commerce Component No. 71

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)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1007 I/A 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 2004 budget proposal:

POSITIONS

Full-time	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This legislation has no fiscal impact to Risk Management who administers the state self insurance program protecting all state agencies.

23.30.045(d) already precludes a state agency from awarding a contract without evidence of current workers' compensation coverage, and 23.30.045(e) already enables the state to use contract funds to renew or obtain replacement insurance coverage in the event of insurance carrier cancellation or non-renewal within the contract period.

Prepared by: J. Brad Thompson, Director Phone _____
Division: Risk Management Date/Time 3/1/04 2:29 PM
Approved by: _____ Date 3/1/2004
Agency: Administration



March 4, 2004

Senator Ralph Seekins
Chairman, Senate Judiciary Committee
State Capitol, Room 125
Juneau, AK 99801-1182
907-465-2327
FAX: 907-465-5241

Dear Senator Seekins,

I support the proposed revisions to AS 23.30.045 for Workmen's Compensation that includes protection for the other participants in construction projects such as the General Contractor and the Project Owner. The Workmen's Compensation Program was originally designed to protect the injured worker and his employer by requiring workmen's compensation insurance to be in place to take care of the reasonable costs of their injuries without regard to cause or fault of the injury. The injured worker should not be allowed to recover additional costs for this same injury through lawsuits to other parties on the construction project including the owners. These lawsuits are becoming more frequent in their occurrence and owners (including the State of Alaska) deflect these costs back to the employer through the use of indemnity provisions in their contracts. Therefore, the employer essentially has to pay far in excess of the reasonable cost of the injury for the costs of these injuries through the litigation and court system. These costs are hitting all of our company's bottom lines and our insurance premiums continue to increase exponentially because of these risks. The proposed revisions should help get these cases back under control while still providing the worker with the just compensation he deserves while recovering from a jobsite incident.

Sincerely,

William W. Morrow
President

Subject: SB 323

Date: Mon, 8 Mar 2004 16:56:59 -0900

From: "Patti Juliussen" <pjuliussen@eidemil.alaska.net>

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

Please see e-mail from Jack Miller below. Thank you.

Patti J. Juliussen

Legal Secretary to Jack Miller

Senator Bunde: I am writing because Pam LaBolle of the State Chamber said you had asked a question regarding SB 323 at the recent hearing before your L&C Committee. As I understand it, you asked whether all contracting parties, including project owners, contractors and subcontractors, would be required to carry their own workers' compensation insurance if the Bill passes into law. Actually, the Bill should have no effect on the obligation of the parties to procure WC coverage. As you know, with very few exceptions, current law requires all employers operating in Alaska to carry WC insurance that is consistent with the WC statutes and regulations. That requirement is not affected by SB 323. In fact, the Bill will have a positive impact for both workers and employers because it will emphasize the importance of confirming that all parties in the chain of contracting have the required insurance in place. That, in turn, will force project owners to use only qualified and fully insured contractors and subcontractors on their projects. If they fail to do so and a contractor or subcontractor does not have the required insurance the claim would be covered under the project owner's policy. Extending the obligation for paying WC benefits for an injured worker to the project owner, contractor and its subcontractors is one of the primary objectives of the Bill. Again, that is a significant benefit for Alaska labor.

Hopefully this answers your question. If not, I plan on attending tomorrows hearing and will be glad to address questions at that time. -- Jack Miller --

S B

3 3 3

ALASKA STATE LEGISLATURE

SENATOR

Gene Therriault

119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



While in Juneau

State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
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Senate
Senate District F

Memorandum

To: Senator Ralph Seekins / Chairman Senate Judiciary Committee

From: Senator Gene Therriault / Sponsor SB 333

Gene Therriault

Date: February 18, 2004

Re: Hearing for Senate Bill 333

.....
Please accept this memo as my respectful request that your committee take up SB 333 for deliberation.

Thank you.

ALASKA STATE LEGISLATURE

SENATOR

Gene Therriault

119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



Senate
Senate District F

While in Juneau
State Capitol
Juneau, Alaska
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Sponsor Statement Senate Bill 333

Judicial Extraction From Administrative Review

Senate Bill 333 allows a person (petitioner) who is unable to obtain a final administrative decision from a government agency to ask the Superior Court for assistance.

Under the present system, the agency regulators have the power to keep a petitioner tied up in its process for extended periods of time. Long delays can mean high costs to the state, the petitioner and damage to the integrity of the administrative process itself. High costs are especially onerous to smaller businesses or individuals.

The legislature does not intend that agencies be able to tie up petitioners for unreasonable lengths of time. Since the judiciary requires administrative remedies to be exhausted before taking the matter up in court, abuse of agency authority can actually block or unduly delay due process.

For instance, if a state agency fears losing a contested rule in court, it has the ability to effectively delay judicial review by refusing to issue a final administrative decision.

Senate Bill 333 is an integral part of three-phase regulation reform package.

- Senate Bill 203 reforms the internal administrative hearing process.
- Senate Bill 287 reforms the initial phases of the regulatory process.
- Senate Bill 333 reforms the final phases of the administrative process.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB333-ACS-TC-2-24-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title If Unreas. Agency Delay/Ct. Decides BRU Alaska Court System
 Component Trial Courts
 Sponsor Senator Therriault
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Senate Bill 333 allows a person proceeding through the administrative adjudication process under AS 44.62.330 - 44.62.630 to move his or her case to the superior court if the person alleges that the agency has unreasonably delayed the process and further delay will cause the person significant and irreparable damage. Once a case is before the court it may either determine the case on its merits, order that the dispute be handled by another form of dispute resolution or establish a deadline for the agency to issue a final administrative decision. This bill changes existing law by allowing a person to bring an administrative adjudication to the superior court prior to the issuance of a final agency decision. The court will be impacted by the number of cases that come before it under this provision. However, estimating the number of such cases is too speculative to support a fiscal note. Should the number of cases prove to be significant then the court may return to the legislature for additional funding.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 2/24/04 9:09 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/24/2004
 Agency: Alaska Court System

23-LS1707H
Bannister
3/1/04

CS FOR SENATE BILL NO. 333()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the state's administrative procedures and to judicial oversight of
2 administrative matters."

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

4 * Section 1. AS 22.10.020(d) is amended to read:

5 (d) The superior court has jurisdiction in all matters appealed to it from a
6 subordinate court, or administrative agency, when appeal is provided by law, and has
7 jurisdiction over petitions for relief in administrative matters under
8 AS 44.62.305. The hearings on appeal from a final order or judgment of a subordinate
9 court or administrative agency, except an appeal under AS 43.05.242, shall be on the
10 record unless the superior court, in its discretion, grants a trial de novo, in whole or in
11 part. The hearings on appeal from a final order or judgment under AS 43.05.242 shall
12 be on the record.

13 * Sec. 2. AS 44.62 is amended by adding a new section to read:

14 Sec. 44.62.305. Judicial relief in administrative matters. (a)

1 Notwithstanding any other provision of law to the contrary and except as provided in
2 (f) of this section, a person may obtain judicial relief in an administrative matter by the
3 superior court before the state agency handling the administrative proceeding on the
4 matter issues a final administrative decision if

5 (1) the person is a party to the administrative proceeding;

6 (2) the person has satisfied the procedural requirements of the
7 administrative proceeding up to the time that the person petitions for judicial relief
8 under (b) of this section;

9 (3) the state agency has unreasonably delayed the progress of the
10 administrative proceeding; and

11 (4) further delay in reaching a final administrative decision will cause
12 the person significant and irreparable damage.

13 (b) A person may seek judicial relief under (a) of this section by filing a
14 petition in the superior court.

15 (c) In a proceeding begun under (b) of this section, if the superior court
16 determines that the person is eligible for judicial relief under (a) of this section, the
17 superior court may

18 (1) enjoin the administrative proceeding and determine the
19 administrative matter in the superior court;

20 (2) order that the administrative matter be handled by another form of
21 dispute resolution; or

22 (3) establish a deadline for the state agency to issue a final
23 administrative decision.

24 (d) After a person files a petition under (b) of this section, the state agency
25 shall continue with the administrative proceeding unless the superior court

26 (1) enjoins the administrative proceeding under (c)(1) of this section;

27 or

28 (2) issues an order under (c)(2) of this section.

29 (e) If the superior court decides that a person is not eligible for judicial relief
30 under (a) of this section, a party to the administrative proceeding may exercise any
31 right of appeal allowed under law for the final administrative decision as if the person

1 had not filed a petition under (b) of this section.

2 (f) A person may not obtain judicial relief under this section in a personnel
3 decision by a state agency.

4 (g) In this section,

5 (1) "administrative matter" means the subject matter of an
6 administrative proceeding;

7 (2) "administrative proceeding" means

8 (A) a proceeding subject to AS 44.62.330 - 44.62.630; and

9 (B) a proceeding that is not subject to AS 44.62.330 -
10 44.62.630, that is authorized by statute for the adjudication of a state agency
11 matter by the state agency handling the matter or by a person appointed by the
12 state agency, and that involves a matter that directly affects the personal,
13 professional, or business interests of a specific person who is named in the
14 adjudication;

15 (3) "damage" means damage to the personal, professional, or business
16 interests of a person;

17 (4) "party" means a specific person whose personal, professional, or
18 business interests are the subject of an administrative proceeding and who is named in
19 the administrative proceeding;

20 (5) "person" does not include a state agency or other governmental
21 agency;

22 (6) "state agency" means a department, an institution, a board, a
23 commission, a division, an authority, and any other administrative unit of the
24 executive branch of state government, except a public corporation; the term includes
25 the University of Alaska.

SB

336

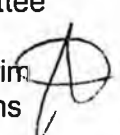
STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF CORRECTIONS
Office of the Commissioner

P.O. Box 112000
Juneau, AK 99811-2000
PHONE: (907) 465-4652
FAX: (907) 465-3390

TO: Senator Ralph Seekins, Chairman
Senate Judiciary Committee

FROM: Commissioner Marc Antrim 
Department of Corrections

DATE: February 26, 2004

RE: Senate Judiciary Committee Hearing Request for SB336, An Act Relating to
Corrections Fees/Surcharges

At the convenience of the Chairman, I respectfully request that the Senate Judiciary Committee schedule a hearing to discuss SB336, An Act Relating to Corrections Fees/Surcharges.

Thank you for your consideration of this request. Please contact me or Portia Parker at 465-4652 if you have any concerns, questions or would like supplemental information about SB336.

Attachments: Governor's Transmittal Letter and SB336.

SB336



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill that would impose a surcharge on persons convicted of an offense and on persons whose probation is revoked. The bill also would require a person under state probation or parole supervision to pay an application fee for a requested transfer of that supervision to another state.

Alaska has an urgent need to mitigate the cost of its correctional facilities. The bill imposes a surcharge on a person who pleads guilty or nolo contendere to, or is convicted of, a crime if the person was arrested and taken to a correctional facility or is sentenced to a term of imprisonment. The amount of the surcharge depends on the seriousness of the crime: \$100 for a felony and \$50 for a misdemeanor.

The bill also would impose a surcharge on a person placed on probation after conviction of a crime. The surcharge is collected only if the defendant's probation is revoked for a probation violation and the person was either arrested and taken to a correctional facility for the violation, or sentenced to prison for it.

Alaska participates in the Interstate Compact for Adult Offender Supervision (Compact), which regulates the transfer of supervision for persons under state probation and parole. The bill would establish an application fee for persons under active probation or parole supervision who request an interstate transfer of supervision under the Compact. According to the Department of Corrections, the great majority of other states already impose a fee for similar services. The bill also would require the applicant to post a bond or deposit cash, which would be forfeited if the state must escort the person back to Alaska for confined supervision.

I urge your prompt and favorable consideration of this proposal.

Sincerely yours,

A handwritten signature in black ink that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

AMENDMENT

OFFERED IN THE SENATE

TO: SB 336

Page 2, lines 5 and 6:

Delete: “, as a condition of probation,”

Page 2, line 14:

Between “under” and “this” insert: “(a) of”

Page 2, line 15:

After “conviction.” insert: “The court shall include the imposition of a surcharge under (c) of this section in the order revoking probation.”

Page 2, line 20:

After “28.30.032(o).” insert: “The state may enforce payment of a surcharge under this section under AS 09.38 as if it were a civil judgment enforceable by execution. This subsection does not limit the authority of the court to enforce fines.”

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 336
(S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act imposing a correctional facility surcharge....." RDU Criminal
Sponsor Rules Component Collections and Support
Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	40.0	40.0	40.0	40.0	40.0	40.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	4.0	4.0	4.0	4.0	4.0	4.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	1.5	1.5	1.5	1.5	1.5	1.5
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	46.5	46.5	46.5	46.5	46.5	46.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	200.5	449.5	657.3	719.3	740.4	767.4
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	46.5	46.5	46.5	46.5	46.5	46.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	46.5	46.5	46.5	46.5	46.5	46.5

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 bill amends AS 12.55 by adding a requirement that a defendant who pleads guilty or nolo contendere to, or is convicted of a crime under state law shall pay a correctional facility surcharge if the defendant is incarcerated in connection with the crime. The surcharge imposed by the court shall be \$100 if the judgment includes a felony sentence; and \$50 if not. The bill also includes a provision for a surcharge if the defendant is placed on probation. It includes a provision for a fee in the event a person on probation or parole applies for transfer of supervision to another state, and it includes a requirement for a bond or cash deposit to be forfeited in the event the state is required to assist in the applicant's return to the state for continued supervision.

Passage of this legislation will have a fiscal impact on the Department of Law if the Court System

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division Administrative Services Division Date/Time 2/3/04 7:55 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/3/2004
Agency Department of Law

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 336

ANALYSIS CONTINUATION

begins to transfer the responsibility to collect surcharges - both those that are proposed in this legislation, and those that currently exist in AS 12.55.039 - to the Collections Unit. At this time, the data base and system that is used in the collections effort is at full capacity and cannot be reprogrammed to handle different types of obligations. Thus the basis for this fiscal note is the assumption that the new surcharges will be commingled with the cost of incarceration amounts the Department of Law currently collects and transfers to the Department of Corrections.

The collections unit collects unsecured debts owed to the state. The majority of these debts are criminal judgments (fines, judgments for the cost of appointed counsel, judgments for the cost of incarceration on DUI charges, and court and collection costs in minor offense cases). The collections unit also collects civil judgments, including attorney fee awards, on behalf of the State and civil penalties issued by agencies such as OSHA and APOC. Effective January 1, 2002, the collections unit expanded its work to include the collection of restitution on behalf of victims in criminal and juvenile delinquency proceedings. Passage of the victim restitution legislation with a reduced fiscal note has challenged the unit to resolve system capacity issues. A rebuilt, expandable database that could handle additional types of collection items as well as those already under collection is planned for, but because the plan entails no new financial or human resources, the timeline for completion is uncertain. A second significant issue is the implementation of the Court System's new management information system which will begin to allow the Courts to transfer uncollected surcharges to the Department of Law at a yet uncertain point in the future. Up until now, the Court System has not transferred responsibility to collect any surcharges to the unit.

In the event this legislation passes and the court system begins sending these debts to the collections unit, an additional Administrative Clerk would be needed to deal with the added workload, since at this juncture we are still manually entering judgments into our computerized database.

Any additional revenues that will be generated through passage of this legislation are uncertain, however we have estimated as follows:

Number of Felony Convictions resulting in Jail Time - 2,000 x \$100= \$200,000

Number of Probation Revokees - 2,000 x \$100=\$200,000

Number of Misdemeanor Convictions resulting in jail time - 18,000 x \$50= \$900,000

Total surcharges imposed through this legislation would thereby reach \$1,300,000 annually. We have used collection statistics based on years of actual experience collecting fines and other types of debts to the state to come up with the numbers shown as annual anticipated revenues. In the first year, our historical collection rate has been 18.23%. In the second year it has been 19.32%, in the third year it has been 15.38%. Then it drops to 2.84%, 1.4%, and 2.2% in years four through six. However in the first year we anticipate no new revenues from felony probation revocations because such revocations will apply to felonies committed before the effective date of the legislation. Revenue collections quickly climb in the 2nd through 4th year, and then begin to level off where presumably they will hover around \$750,000 per year provided no major swings in the amount of the permanent fund dividend or changes to the laws that govern the garnishment order for certain debts to the state, and no new laws that would require collection of new types of debt that may supersede a criminal judgment.

In terms of new revenues, it is important to note that because the Department of Law does not presently have the capability to track a new type of debt, it will not be possible to distinguish between cost of incarceration charges and the surcharges proposed in this legislation. Whatever positive effects the general fund may see as a result of the surcharges will be in the form of revenues in excess of fee supported services authority in the Department of Corrections operating budget.

S B

3 3 8

SB 338



FRANK H. MURKOWSKI
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to: (1) indemnification of tort claims against state employees; and (2) the attorney general's decision whether to indemnify an employee and arbitration of that decision.

Current Alaska law addresses lawsuits against the state in AS 09.50.250. However, the statutes fail to address a core concept of the Federal Tort Claims Act (FTCA). Under the FTCA, if a lawsuit is filed against a federal employee, and the attorney general of the United States certifies the employee was acting in the scope of employment, the United States is substituted as the defendant for the employee. The individual employee is no longer a defendant in the case. This bill adds this critical concept to Alaska law.

This bill would allow state employees to carry out their duties knowing that if there is a lawsuit filed against them for an act or omission within the scope of their employment, the lawsuit will not proceed against them as an individual. They will not be subject to the burdens court rules place on a "party" including being subject to an award of costs and fees to a prevailing party. The public would benefit as services would not be interrupted while state employees participate in lawsuits.

The bill would further provide that the decision of the attorney general whether to indemnify an employee is not subject to arbitration. An employee who is denied indemnification can contest that decision in the courts.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 338
 (S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating claims against RDU Civil
state employees and claims arising.... Component Torts & Workers' Compensation
 Sponsor Rules
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 09.50 by converting claims against state employees acting within the scope of their employment into claims against the state."

Passage of this legislation is not anticipated to have any foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone _____
 Division Administrative Services Date/Time 2/13/04 3:22 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/13/2004
 Agency Department of Law

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Public Safety Employees Association, Inc.
"Representing Alaska's Finest"

March 23, 2004

Senator Cun Bunde, Chairman
Senate Judiciary Committee
Alaska Legislature

Re: Senate Bill 338

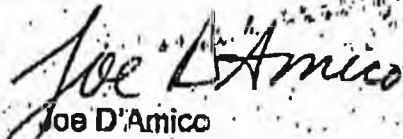
Dear Senator Bunde,

The Public Safety Employees Association (PSEA) represents over 1,300 Law Enforcement Officers from 8 different agencies throughout Alaska. We have been following Senate Bill 338 and its counterpart in the House with great interest. As you know, oftentimes a law enforcement officer has to make a life-and-death decision in a split-second. Too often, litigious suspects are able to bring a lawsuit against these public servants with little or no merit hoping for a big settlement.

In the original form, Senate Bill 338 raised concerns for our members, as some protections provided for in the Collective Bargaining Agreement would have been lost. However, after working with representatives of the Attorney General, we were pleased to see amendments which resulted in the adoption of the Committee Substitute. The CS actually increases the level of protection for Law Enforcement Officers from these types of suits.

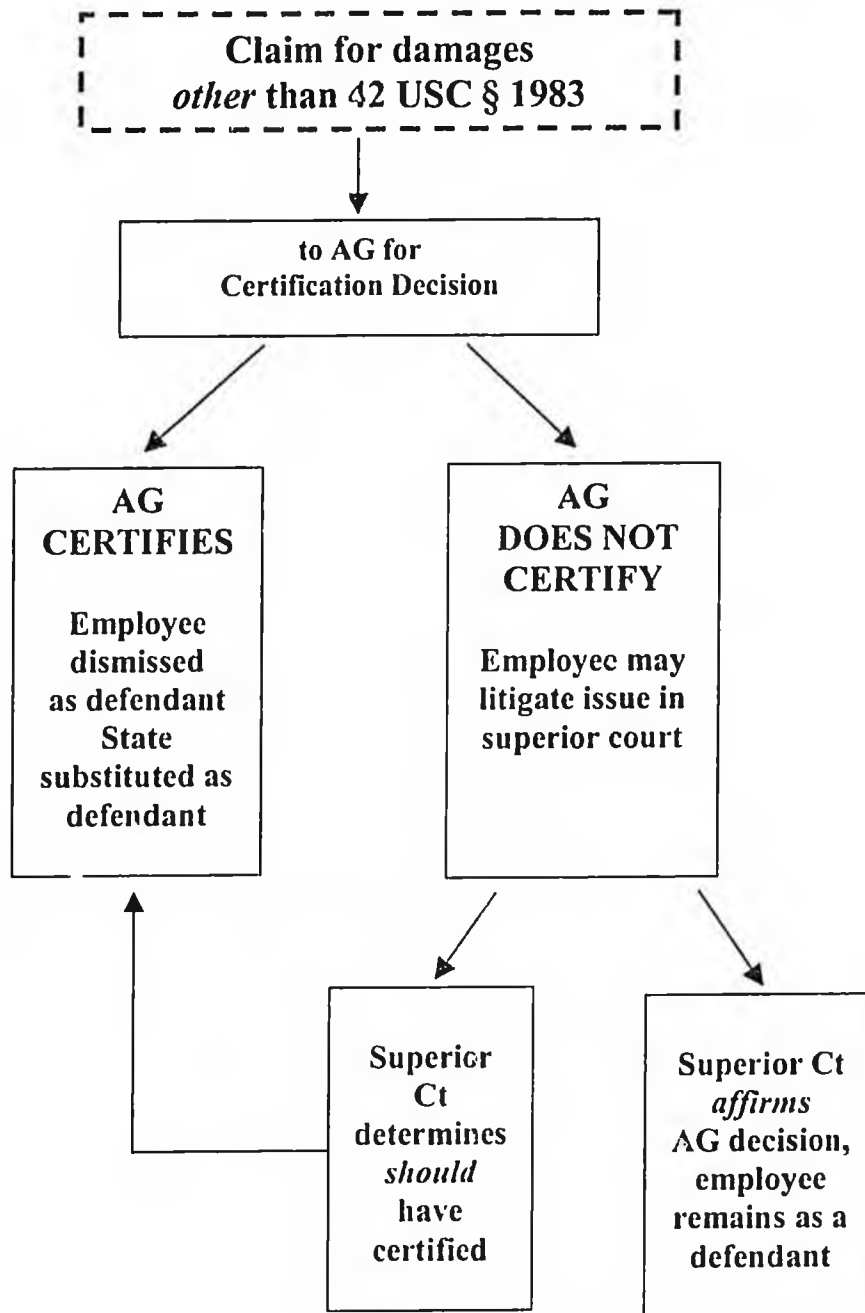
The Public Safety Employees Association supports the CS for Senate Bill 338 in its current form. If you or any other members of the Judiciary Committee have any questions, please feel free to contact me.

Sincerely,


Joe D'Amico
Business Manager
Public Safety Employees Association

SB 338 -- HOW IT WORKS

State employee individually sued for damages



CS FOR SENATE BILL NO. 338 (STA)
"AN ACT RELATING TO ACTIONABLE CLAIMS
AGAINST STATE EMPLOYEES"

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Creates new sections in Title 9. Proposed 09.50.253 converts lawsuits and claims against individual state employees,¹ when acting within the scope of the employee's office or employment, into a claim against the state. The state is substituted as the defendant in the action. It provides that the Attorney General determines whether the claim arose within the scope of the employee's office or employment. ("acting within the scope of the employee's office or employment" is defined on page 3, following line 12 in (h) of the bill). The Attorney General then certifies the action and the individually sued state employee is dismissed from the lawsuit with the state substituted as the defendant. The attorney general or the attorney general's designee then defends the action. All defenses and limitations applicable to the state are then applicable to the action.

If the Attorney General does not certify that the state employee was acting within the scope of the employee's office or employment, the state employee may petition the superior court for relief. If the superior court finds that the state employee was acting within the scope of office or employment, the state is substituted as the defendant and the state employee is

¹ Excluded from the definition of "state employee" are the University of Alaska, the Alaska Railroad Corporation, and a political subdivision of the state. The Attorney General does not provide representation to these entities and each may sue and be sued pursuant to its own authorizing statutes. (University of Alaska, AS 14.40.040; Alaska Railroad Corporation, AS 42.40.010, AS 42.40.900; and political subdivisions of the state, AS 09.65.070)

entitled to reimbursement by the state for the employee's reasonable costs and attorney fees incurred in filing the successful superior court petition.

The section does not apply to civil actions or proceedings against a state employee for a violation of the United States Constitution or in violation of a state statute expressly authorizing an action.

Subsection (g) provides that the certification process is in addition to and does not supercede legal defense and indemnity terms in state collective bargaining agreements.

Section 2: This is a conforming amendment to AS 09.50.300.

Section 3: This section applies the law prospectively, to causes of action arising after it is enacted.

Section 4: Includes instructions to the Revisor to change the heading of art. 3 of AS 09.50.

Section 5: Provides an immediate effective date.

SB

340



SB340

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

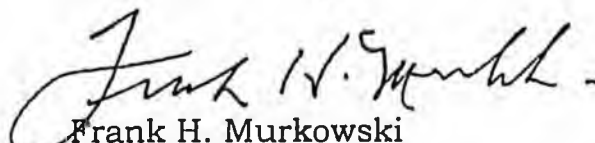
Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the detention of delinquent and other juveniles.

The 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP A) went into effect on October 1, 2003. The JJDP A has traditionally prohibited incarceration of non-offenders and status offenders in adult jails and "lock-ups." New language in the 2002 reauthorization prohibits the use of juvenile detention facilities for these non-offenders and status offenders as of October 1, 2003.

This bill would modify AS 47.12.240, AS 47.30.705, and AS 47.37.170 to come into compliance with the federal requirements set out in the Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2003. Under these amendments, emergency protective custody of minors may not include placement in a jail or other secure facility. This language is also found in current law relating to placement of children in need of aid in AS 47.10.141(c), and has been interpreted by both state and federal officials to provide sufficient flexibility for holding minors until a more appropriate facility can be found or until transportation to such a facility is feasible. The purpose of this draft bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money through the federal office of juvenile justice and delinquency prevention.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 340
 (S) Publish Date: 2/16/04
 Dept. Affected: Health & Social Services
 RDU Juvenile Justice
 Component Delinquency Prevention

Revision Date/Time (Note if correction):
 Title RELATING TO DETENTION OF JUVENILES

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 248

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						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
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: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed changes to statute will have no fiscal impact on the Division of Juvenile Justice. The proposed changes will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDA) formula grant program.

Prepared by: Karen Forrest
 Division Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-2339
 Date/Time 02/11/2004
 Date 02/12/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 340
 (S) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: Juvenile Detention RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Rules Committee
 Requester: Governor 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	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 bill will amend AS 47.12.240, AS 47.30.705 and AS 47.37.170. The stated purpose of this bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money. The bill, in essence, states that "emergency protective custody under these sections may not include placement of a minor in a jail or secure facility". The bill addresses minors who are taken into protective custody for mental health issues or those in protective custody due to intoxication because of drugs or alcohol.

The Department of Health and Social Service, Division of Juvenile Justice, has committed to supplying training and training materials to law enforcement officers to insure compliance with this statute.

There is no fiscal impact anticipated by the Department of Public Safety.

Prepared by: Lt. Al Storey
 Division: Alaska State Troopers
 Approved by: Commissioner William Tandeske
 Agency: Department of Public Safety

Phone: 269-4532
 Date/Time: 2/12/04 3:19 PM
 Date: 2/12/2004

SB

344

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax



Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 344 Sponsor Statement

“An Act relating to the Uniform Probate Code and trusts, including pleadings, orders, nonprobate assets, estates of decedents, minors, protected persons, incapacitated persons, guardians, conservators, trustees, foreign trusts, principal and income, and transfer restrictions; relating to corporate voting trusts.”

A vital characteristic of any highly developed economy is the ease with which financial resources flow from one market to another. In fact, the magnet-like attraction between money and the market that offers the most advantageous terms at a particular moment in time is, perhaps, best demonstrated within the financial services industry itself.

Over the years, the Alaskan banking industry has attracted funds to our state as a result of a particular niche we have successfully developed in an obscure corner of the industry known as trust and estate services. Much of this success can be attributed to the prescience demonstrated by the Alaska State Legislature.

Since 1997 this body has passed numerous bills effectively making Alaska a premier jurisdiction for this financial specialty. Just last year Senate Bill 87 adopted a more recent version of the Uniform Principal & Income Act. And House Bill 212 updated other portions of Alaska's trust laws. Both were signed into law last summer.

While Senate Bill 344 may not be as far reaching, it accomplishes much the same purpose. It does this by making a host of small technical revisions to current statutes. It updates provisions relating to virtual representation. It clarifies when a trustee can be relieved of liability. And it adds provisions which other jurisdictions have already adopted.

Keeping our trust statutes current has had a direct positive impact on our state's economy. Over the years, these periodic revisions have helped to bring hundreds of millions of dollars of trust assets into the state and added tens of millions of dollars to local bank deposits. Furthermore, it has increased business activity for attorneys, accountants, life insurance agents and brokerage firms. This, in turn, creates jobs.

Necessity, ingenuity and routine advances in technology collaborate on a daily basis to reinvent the world of financial products and services. To date, Alaska has successfully staked out a place in this world through our contemporary set of trust and estate laws. Senate Bill 344 seeks to preserve our position in what amounts to a highly fluid marketplace unrestricted by geographical boundaries. It seems reasonable to keep that money flowing this direction.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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Mail Stop 3101

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

MEMORANDUM

February 26, 2004

SUBJECT: Sectional summary of SB 344 relating to the Uniform Probate Code and to trusts (Work Order No. 23-LS1694\A)

TO: Senator Ralph Seekins
Attn: Brian

FROM: *ab*
Theresa L. Bannister
Legislative Counsel

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

Section 1. Deletes the ten-year limit on the duration of a voting trust under the state's for-profit corporations code.

Section 2. Amends the Uniform Probate Code section that establishes rules on pleadings, on when a person is bound by an order, on notice, and on representation. Adds to the general coverage of the section proceedings that involve non-probate assets and non-judicial proceedings and settlements. Adds language stating that the coverage of the section applies to proceedings brought under the Uniform Probate Code and the chapter on the principal and income of trusts.

Changes the description of powers of appointments to general or non-general powers of appointment. States that orders binding an agent having authority to act with respect to the particular question or dispute bind the principal. Expands the category covering unborn or unascertained persons to unborn persons, minors, incapacitated persons, and persons with unknown or not reasonably ascertainable identities or locations. Adds three situations where orders binding certain persons bind others as well.

Makes some related changes to the notice provisions of the section and the guardian ad litem appointment authority provisions.

Section 3. Makes more specific a cross-reference that establishes part of the criteria for determining when the situs of a trust is considered to be moved to this state.

Section 4. Changes the event that triggers a six-month time period within which a claim may be brought against a trustee for breach of trust; the event must provide adequate

disclosure of the claim and the time allowed to begin the proceeding. Requires that all claims against a trustee who has issued a certain final account or statement, even if there is not adequate disclosure, be brought within three years after the beneficiary's receipt of the final account or statement. With regard to receipt of a report, final account, or statement, includes references to the representation and binding effect of other persons under AS 13.06.120.

Section 5. Adds a provision that indicates when a report is considered to adequately disclose to a beneficiary a potential claim for a breach of trust by a trustee.

Section 6. Changes the rules to be used from AS 13.38.510 to determine the share to be distributed to certain beneficiaries or trusts. Makes a reference correction to AS 13.38.800 or 13.38.810.

Section 7. Requires that the income interest for a marital deduction trust described in the section be paid at least annually.

Section 8. States that a trust provision that provides the transfer restrictions described in this subsection is to be considered a restriction on the transfer of the transferor's beneficial trust interest and enforceable under applicable non-bankruptcy law.

Section 9. Makes changes to two of the categories under which certain creditors may satisfy claims out of a beneficiary's interest in a trust when there is a transfer restriction.

Section 10. Explains that within the subsection the preparation or funding of a trust is considered to include the preparation and funding of a limited partnership or a limited liability company if interests in the entities are transferred to the trust.

Section 11. States that an action for attachment or other provisional remedy against property of a trust subject to this section, or an action to avoid a property transfer to a trust that is the subject of this section, may not be brought unless it meets certain criteria identified in the subsection. Gives this state's superior court exclusive jurisdiction over a cause of action or a claim for relief that is based on a property transfer to a trust that is the subject of this section.

Section 12. Provides guidance on which proceedings, and which reports, final accounts, and statements received by a beneficiary, will be affected by two of the sections in this Act.

Section 13. Provides that three of the bill sections take effect immediately.

If I may be of further assistance, please advise.

Sectional Analysis of Proposed Trust & Estate Law Amendments

AS 13.38.500(2) is a technical amendment.

AS 13.38.500(5) is a technical amendment.

AS 13.38.730 clarifies that a trust will qualify for the federal estate or gift tax marital deduction.

AS 13.06.120 makes amendments to Alaska's current virtual representation statutes. The amendments are to modernize Alaska's statutes by incorporating provisions Washington State, New York state have adopted and provisions of the Uniform Trust Code.

AS 13.36.100 is amended to limit when a beneficiary may assert a claim against a trustee. The current limitation is inadequate in that it does not limit when a beneficiary may assert a claim against a trustee which may be evident from a yearly or other account or report provided by the trustee. This could lead to costly and lengthy litigation. The proposed amendment will limit the time in which a beneficiary may assert a claim for breach of trust so long as the beneficiary receives a report from the trustee that adequately discloses the existence of a potential claim for breach of trust and informs the beneficiary of the time allowed for commencing a proceeding.

This change is necessary because under current statute a trustee can only be relieved of liability by a final account or at the termination of a relationship. Since Alaska has perpetual trusts there may never be a final accounting.

AS 13.36.035(c) This change is to clarify what needs to be done to transfer a trust to Alaska.

AS 34.40.110(a) this provision clarifies that the spendthrift provisions provided by AS 34.40.110 are intended to come under the exceptions for spendthrift trusts contained in the bankrupts code (11U.S.C. §541(c)). Similar provisions exist in Delaware and Utah.

AS 34.40.110 these changes add spendthrift protection for two commonly used types of Estate planning approaches, residence trusts and GRATs. Additional language has been added to the introductory language of paragraph (3) to make it clear that a beneficiary's interest in such distributions is protected until the distributions occur. Similar statutes exist in the Delaware.

AS 34.40.110(e) Subsection (e) was intended to protect professionals who assist in the planning and formation of self-settled discretionary spendthrift trusts. Subsequent experience with the formation of these trusts indicates that frequently assets are first placed into a limited partnership or limited liability company and then interests in such companies are transferred to the trust. The purpose of the additional language is to protect professionals with respect to the formation of these entities as well as the formation of the trusts.

AS 34.40.110(b)(1) this provision is similar to provisions which have been added to the Delaware and Rhode Island statutes. This provision clarifies that if a cause of action or claim is asserted that a transfer to a trust is a fraudulent transfer, then the claim must be made under and processed pursuant to Alaska law.

AS 10.06.425 Voting trusts are often used in closely held family situations for control of the business for a period of time. Often, it is desired that such voting trusts last longer than the existing ten-year limitation. The existing statute places a ten-year limitation on the duration of voting trusts but does not place any time duration on voting agreements. This is inconsistent.

DETAILED SECTIONAL ANALYSIS OF

PROPOSED TRUST AND ESTATE LAW AMENDMENTS

Technical Amendments to Recently Enacted Uniform Principal and Income Act. Senate Bill 87, passed in 2003, enacted a version of the Uniform Principal and Income Act. Two drafting technical errors exist in the enacted version. They are as follows:

Alaska Statute 13.38.500(2)

Subsection .500(2) provides that a beneficiary or trust that receives a pecuniary amount shall also receive a proportionate share of the net income. This subsection refers to subsection .510 for various rules used in that section for determining such net income. However, one of the provisions in subsection .510 is inconsistent with this reference and should therefore be excluded.

Alaska Statute 13.38.500(5), in the second and third lines, references are made to AS 13.38.710 or 13.38.720. These references are incorrect. The references should be to AS 13.38.800 or 13.38.810.

Alaska Statute 13.38.730,

Existing subsection .730 is a statutory savings clause to ensure that trusts designed to qualify for the federal estate or gift tax marital deduction do so qualify. The payment of income at least annually is one of the qualifications required for the federal estate or gift tax marital deduction.

Virtual Representation Amendment.

Explanation. The proposed amendment to AS 13.06.120 expands both the types of proceedings in which notice to one person who may represent another person may bind another person and the circumstances under which substitute notice may be given. Expanding the scope of the proceedings to include non-judicial settlements and informal proceedings under this chapter will streamline the process for resolving issues relating to trusts and estates and minimize the costs associated with formal court proceedings. The proposed amendments incorporate the doctrine of "virtual representation" in which representation by one person having a substantially identical interest with respect to a particular issue may bind another person. Representation is not permitted, however, if there is a conflict of interest. See Uniform Trust Act § 304.

Limitations on Proceedings against Trustees

As 13.36.100 expands the reach of the limitations period for claims of breach of trust against a trustee. Under current law, a claim against a trustee for breach of trust is barred as to any beneficiary who receives a final account that terminates the trust relationship if a proceeding to assert the claim is not commenced within six months after receipt of the final account. Trusts now may continue in perpetuity under Alaska law; therefore there may never be a final account.

The current limitation is inadequate in that it does not limit when a beneficiary may assert a claim against a trustee which may be evident from a yearly or other account or report provided by the trustee. This could lead to costly and lengthy litigation. The proposed amendment will limit the time in which a beneficiary may assert a claim for

breach of trust so long as the beneficiary receives a report from the trustee that adequately discloses the existence of a potential claim for breach of trust and informs the beneficiary of the time allowed for commencing a proceeding.

Change of Trust Situs to Alaska.

At present, reference to only AS 13.36.035(c) is ambiguous and creates the possible argument that the original trust instrument must state that the laws of the State of Alaska govern the validity, construction, and administration of the trust before the trust could be moved to Alaska. This is not the intent of AS 13.36.043. Rather, if the requirements of AS 13.36.035(c)(1)-(4) are met then the trust can be moved to the State of Alaska. At that time, if the trust instrument allows or is modified then a governing law provision may be added which states that Alaska's laws will apply to the trust.

Intention Regarding Spendthrift Restriction. AS 34.40.110(a)(3)

This new provision clarifies the Legislature's intent that the spendthrift provisions provided by AS 34.40.110 are intended to come under the exception for spendthrift trusts contained in § 541(c)(2). Similar provisions exist in the Delaware and Utah statutes.

Protection for Interests in Qualified Personal Residence Trusts, Grantor Retained Annuity Trusts, and Grantor Retained Unitrusts.

AS 34.40.110(b)(3)

These changes add spendthrift protection for two commonly used types of estate planning approaches, residence trusts and GRATs. Additional language has been added to the introductory language of paragraph (3) to make it clear that a beneficiary's interest in such distributions is protected until the distributions occur. Similar protections for residence trusts exist in the Delaware statute.

Protection for Persons Assisting With Creation of Trusts

AS 34.40.110(e)

Subsection (e) was intended to protect professionals who assist in the planning and formation of self-settled discretionary spendthrift trusts. Subsequent experience with the formation of these trusts indicates that frequently assets are first placed into a limited partnership or limited liability company and then interests in such companies are transferred to the trust. The purpose of the additional language is to protect professionals with respect to the formation of these entities as well as the formation of the trusts.

Procedure for Asserting Fraudulent Transfer Claim.

AS 34.40.110(b)(1),

This provision is similar to provisions which have been added to the Delaware and Rhode Island statutes. This provision clarifies that if a cause of action or claim is asserted that a transfer to a trust is a fraudulent transfer, then the claim must be made under and processed pursuant to Alaska law.

Elimination of Duration Restriction for Voting Trusts. AS 10.06.425

Voting trusts are often used in closely held family situations for control of the business for a period of time. Often, it is desired that such voting trusts last longer than the existing ten-year limitation. The existing statute places a ten-year limitation on the duration of voting trusts but does not place any time duration on voting agreements. This is inconsistent.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 344
(S) Publish Date: 3/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Trusts/Estates/Property RDU Banking, Securities & Corp (115)
Component Banking, Securities & Corp
Sponsor Senator Seekins
Requester Senate Labor & Commerce Component No. 1233

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						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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 applies to the Uniform Probate Code. It codifies new federal tax provisions and applies informal probate proceedings to all parties. This legislation has no impact on the operations of the division.

Prepared by: Mark Davis, Director Phone (907) 465-2521
Division Banking, Securities & Corporations Date/Time 3/4/04 4:19 PM
Approved by: Edgar Blatchford, Commissioner Date 3/4/2004
Agency Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 344
(S) Publish Date: 3/12/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the Uniform Probate Cor RDU CIVIL
trusts, including pleasings, order, nonprobate assets, estates..." Component Commercial & Fair Business
Sponsor Senator Seekins
Requester Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Robert Meiners, Administrative Services Manager Phone 465-3673
Division Administrative Services Date/Time 3/8/04 11:33 AM
Approved by: Robert Meiners for Gregg D. Renkes, Attorney General Date 3/8/2004
Agency Department of Law

S B

3 4 5

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax

Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 345 Sponsor Statement

“An Act relating to civil liability associated with aircraft runways, airfields and landing areas.”

Senate Bill 345, and its companion House Bill 474, amends Alaska Statute 09.65.093 relating to civil liability associated with aircraft runways. The proposed legislation removes the qualifying term “natural” from language describing the type of person to whom the law applies.

The current statute dates back three years when Representative Harris shepherded through the 22nd Legislature a bill that, among other things, removed the threat of civil liability where the non-compensated performance of maintenance or repair activities to aircraft runways is concerned.

Additionally, Representative Harris' bill shielded owners or operators of runways located on private land from civil litigation related to aircraft accidents occurring on those runways clearly indicated as being closed to air traffic. The bill enjoyed strong bi-partisan support in both the House and the Senate.

Obviously flying is a popular avocation in Alaska. But it certainly is not without risk. The ability to safely put down on a remote strip may be crucial in an emergency situation. Alaska Statute 09.65.093 recognizes the important public interest served by restricting the civil liability attached to the operation or ownership of private runways throughout the state.

The proposed legislation holds that civil liability is barred as a remedy in cases involving aircraft accidents on certain runways which are maintained, repaired, owned or operated by a person, natural or otherwise. Civil liability continues to be available where gross negligence or reckless or intentional misconduct may be a cause for an aircraft accident on such a runway.

In summary, Senate Bill 345 seeks to revise the current statute through the removal of the single word “natural”. This will allow the same degree of protection to non-natural persons. It is sensible that the same public interest is served regardless of the type of entity associated with the runway.

23-LS1776D
Bullock
3/22/04

CS FOR SENATE BILL NO. 345()

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

BY

Offered:
Referred:

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability associated with aircraft runways, airfields, and landing
2 areas."

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

4 * Section 1. AS 09.65.093 is amended to read:

5 Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and
6 landing areas. (a) A [NATURAL] person who without compensation constructs,
7 maintains, or repairs an aircraft runway, airfield, or landing area may not be held
8 civilly liable, except for an act or omission that constitutes gross negligence or
9 recklessness or intentional misconduct, for the injury to or death of a person or for
10 damage to an aircraft, resulting from the use of the runway, airfield, or landing area to
11 take off, land, park, or operate an aircraft.

12 (b) A [NATURAL] person who is the owner or operator of an aircraft runway,
13 airfield, or landing area [THAT IS LOCATED ON PRIVATE LAND] is not civilly
14 liable, except for an act or omission that constitutes gross negligence or recklessness

1 or intentional misconduct, for the injury to or the death of a person or for damage to an
2 aircraft, resulting from the use or attempted use of the runway, airfield, or landing area
3 to take off, land, park, or operate an aircraft while the runway, airfield, or landing
4 area [IS]

5 (1) is marked as closed by placement of a large "X" on the runway, in
6 accordance with Federal Aviation Administration guidelines [THAT IS READILY
7 VISIBLE FROM THE AIR]; and

8 (2) if listed or charted, is designated as closed in the appropriate
9 aeronautical charts and publications published by the Federal Aviation Administration.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB345-DOT-CO-3-13-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Civil Liability Associated with Airfields RDU Administration & Support
Component Commissioner's Office
Sponsor Seekins
Requester Senate Transportation Component No. 530

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						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)

Prepared by: Nona Wilson Phone 465-6973
Division: Legislative Liaison Date/Time 3/13/04 4:36 PM
Approved by: John MacKinnon Date 3/13/2004
Agency: Deputy Commissioner



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

March 4, 2004

Senator Ralph Seekins
State Capitol, Room 125
Juneau, AK 99801-1182

Dear Senator Seekins:

The Aircraft Owners and Pilots Association (AOPA) is a membership association consisting of over 400,000 pilots and aircraft owners nationwide, 4,600 of whom reside in the state of Alaska. AOPA is committed to ensuring the continued viability, growth, and development of aviation and airports in Alaska and the United States.

The Aircraft Owners and Pilots Association strongly supports Senate Bill 345, regarding civil liability relating to runways, airfields, and landing areas. This bill will help protect airport owner and operators that devote their time and resources to operate and maintain airstrips and landing areas in Alaska.

We anticipate that this bill will help protect the operation of these vital components of our transportation infrastructure.

On behalf of the 4,600 AOPA members in Alaska, thank you for sponsoring this bill.

Sincerely,

Tom George
Alaska Regional Representative

TOM GEORGE
ALASKA REGIONAL REPRESENTATIVE
PERSONAL ADDRESS: P.O. Box 83750 FAIRBANKS, AK 99708
907-388-9955 (PHONE) 907-455-9001 (FAX)
E-MAIL: tom.george@aopa.org

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ALASKA MINERS ASSOCIATION, INC.

3705 Arctic Blvd. #105 Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 503-9225 • www.alaska-miners.org

March 24, 2004

Honorable Ralph Seekins
Alaska State Senate
Capitol Building
Juneau, AK 99801

RE: Senate Bill 345, Civil Liability Associated with Airfields

Dear Senator Seekins,

Thank you for the opportunity to comment on this bill. We support Senate Bill 345.

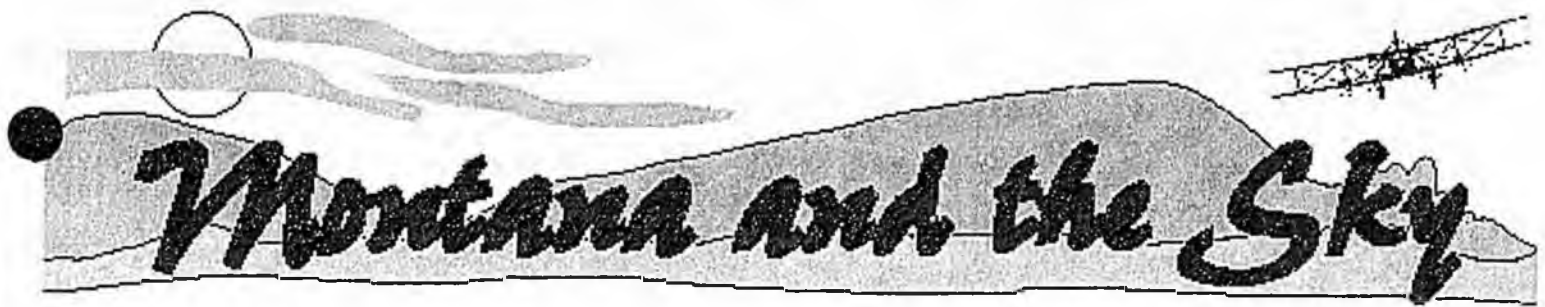
Over the past several years, many of our members have expressed concern that if they repaired or maintained an runway, airfield or other landing area, they could be potentially be held responsible if some other party was to have an accident while using the area. One miner was even warned by his insurance carrier that this could possibly be the case. This could happen even if the miner had built a landing area for his personal use associated with his mining operation.

This bill, with the changes being proposed, will answer our concerns. It does not change the liability if there is gross negligence or recklessness or intentional misconduct but the bill makes it clear that a person acting in good faith will not be liable. The change being proposed also make the State law conform with the Federal Aviation Administration rules for marking and closing an airfield. These are all important changes.

Thank you for the opportunity to comment on this bill. We urge that this bill become law at the earliest possible date.

Sincerely,

Steven C. Borell, P.E.
Executive Director



Montana and the Sky

MDT - Department of Transportation

Aeronautics Division

Vol. 54 No. 8 August 2003

Rock Creek Airport Re-Opens

By: Jim Greil, Chief, Airports/Airways Bureau

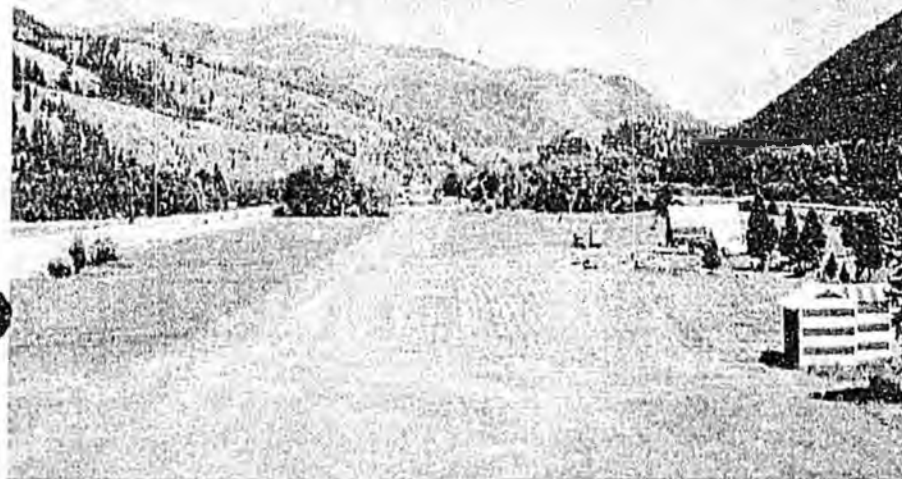
For all of you who always wondered just what happened to that great little landing strip just outside of Clinton, MT, located at the junction of the Rock Creek and Clark Fork Rivers, The Montana Aeronautics Division is proud to announce the reopening of the Rock Creek Airstrip.

The Rock Creek airstrip, also formally known as Elliott field, was built several years ago through a joint venture of the then Montana Aeronautics Commission and several local public and private landowners. The airstrip is located just East of the Rock Creek exit on Interstate 90, about 5 miles East of Clinton Montana. Actually, the airstrip was built just prior to the construction of the interstate, and a few years after construction, the airstrip had to be moved in order to accommodate the interstate construction and the adjoining Rock Creek exit. After many years of lease agreements with various owners of a large portion of privately owned land on which much of the runway was situated, the land was purchased by Mr. Gary Lundberg. Gary tried with the support of the Montana Aeronautics Division to develop an airpark with the runway similar to many others where individuals could purchase lots to accommodate hangar homes and enjoy this unique airstrip, however, much of the effort was denied by the Missoula County commissioners who felt for some reason that the airstrip might be a threat to the local wildlife and nearby residences. This move by the Missoula County commissioners effectively stopped

the airpark plans. As a direct result of this, Gary was forced to re-evaluate his options for the airstrip and look for alternate ideas for his property and in the end, the airstrip was closed to the general public and the Aeronautics Division withdrew from the operation.

A few years later, the idea of reopening the airstrip was brought forth once again by Gary and some other interested pilots within the local community which sought refuge from the hassles associated with flying small general aviation aircraft out of the Missoula airport. Of course, the Montana Aeronautics Division welcomed the chance to see the Rock Creek airport reopened and after a long period of initial logistics, leases, engineering, right of way issues and some other minor problems were sorted out, the big day finally came on July 14, when Mike Rogan and myself met at the airport with representatives from the Missoula Department of Transportation, Gary Lundberg and Bob Brunson in order to "re-open" the airport by surveying, mowing and coning the new runway.

The airstrip is now open once again, although it's total length has been shortened slightly to 3600' due to a still unresolved lease for the farthest East end with the Bureau of Land Management, however, we hope to have a full 4000' runway in the near future. Many thanks are in order to Mr. Gary Lundberg for his renewed interest in seeing the airport open to the flying public. Thanks also to Mr. Bob Brunson of East Missoula. Bob has been a firecracker of support for this project and was the catalyst in bringing all of the parties together to get this accomplished.



See page 7 of the Newsletter for a Directory Page of the Rock Creek Airport.

Administrator's Column

Senator Burns and Congressman Rehberg appointed to FAA committee: Montana's Congressman Denny Rehberg and Senator Conrad Burns will both sit on a joint House-Senate conference committee to oversee the reauthorization of important programs related to the FAA that impact Montana transportation and commerce. Both representatives look forward to working together to make sure Montana's interests are protected and the important programs such as EAS and AIP are maintained. Montana is very fortunate and proud to have these gentlemen play such a key role in looking out for Montana aviation interests. †

Small airport service losses continue: Demand for air travel remains weak, regional jets and low-cost airlines continue to grow and smaller airports show the biggest losses in service according to a recent report issued by DOT Inspector General Kenneth Mead. Even larger airports recorded traffic losses in June 2003, compared with June 2000. Montana continues to enjoy excellent air service and is fairing very well compared to the information contained in this "doom and gloom" report. Through June 2003, Montana carried just 1.9% less passengers compared to June 2002. Fourteen airports report statistics for passengers on and off each month to the Aeronautics Division for compilation. Of these 14 airports, eight airports are proudly reporting increases over 2002 traffic with six airports slightly below last years numbers. Thanks to the airports for providing the facilities to attract and retain the airline companies and to all who support these efforts. †

Support for AOPA Airport Watch Program: Senior U.S. Senator Fritz Hollings has offered praise and funds for AOPA's Airport Watch program and its toll-free security hotline. Sen. Hollings successfully offered an amendment directing the Department of Homeland Security to continue funding the 1-866-GA-SECURE hotline to report suspicious activities at an airport. Sen. Hollings said, "Airport Watch is a common-sense and effective approach

to securing our nation's general aviation airports. AOPA and TSA have got it right on this one." Airport Watch is modeled after the popular neighborhood watch program and asks general aviation pilots and others on GA airports to watch for and report any possible criminal or terrorist activity. †

Airmen Email Address Registry: The FAA Airmen Certification Branch has developed a system for on-line services whereby airmen may register an email address and setup an on-line account for communicating with Airmen Records in Oklahoma City. The first feature that this service provides is the ability to change a permanent address on-line. Additional features and functionality are currently being developed. To learn more, visit <http://registry.faa.gov/amsvcs.asp>. †

Contract let to demolish Meigs Field: A \$1.5 million contract for the final destruction of Meigs Field to tear up the runway and remove electrical infrastructure could see work beginning within 30 days. AOPA will continue to pursue its formal FAA complaint against the city for improperly closing the airport. A Chicago City alderman has called for public hearings to question Mayor Daley's secret midnight destruction of the airfield. Alderman Joe Moore has suggested the city reconsider a plan proposed by AOPA that would have the city buy the airport from the park district using federal funds. Moore is not likely to get the hearings. Many organizations have partnered in the fight and supporters have tried everything from public, legislative, and congressional pressure to lawsuits to get Mayor Daley to see reason. How the mayor closed the airport may have been illegal, but the courts so far have affirmed that he had the legal right to do so. †



Montana and the Sky
Department of Transportation
Judy Martz, Governor
David A. Galt, Director

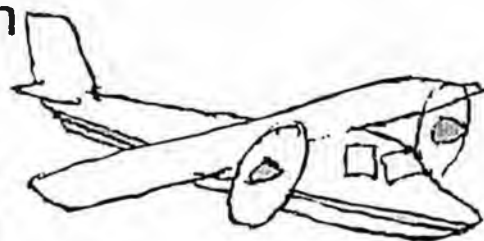
Official monthly publication of the
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P.O. Box 200507
Helena, MT 59620-0507
<http://www.mdt.state.mt.us/aeronautics/>

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Aeronautics Board
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Craig Denney, Member
Lanny Hanson, Member
Lonnie Leslie, Member
Chuck Manning, Member
Will Metz, Member
Kenneth Tolliver, Member
George Warner, Member

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Editor: Patty Kautz

Schafer Meadows Work Session Another Big Success!



Pictured are (l-r) Deb Mucklow & Al Koss, USFS; Loren Smith, Prairie Kraft Specialties, Great Falls & Debbie Alke. Loren outdoes himself each year by providing a great meal for the volunteers on Saturday night and this year was no exception, thanks again Loren! Al Koss announced that he will be transferring with USFS to another area; we will miss him and appreciate his assistance throughout the years.



Lanny Hanson, Aeronautics Board member from Glasgow; Bob Brown, Secretary of State; and Joe Roberts and Jeff Morrison of Helena took some time out after a busy day to relax in the shade – with the sweltering temperatures we've been having shade has become a valuable commodity.



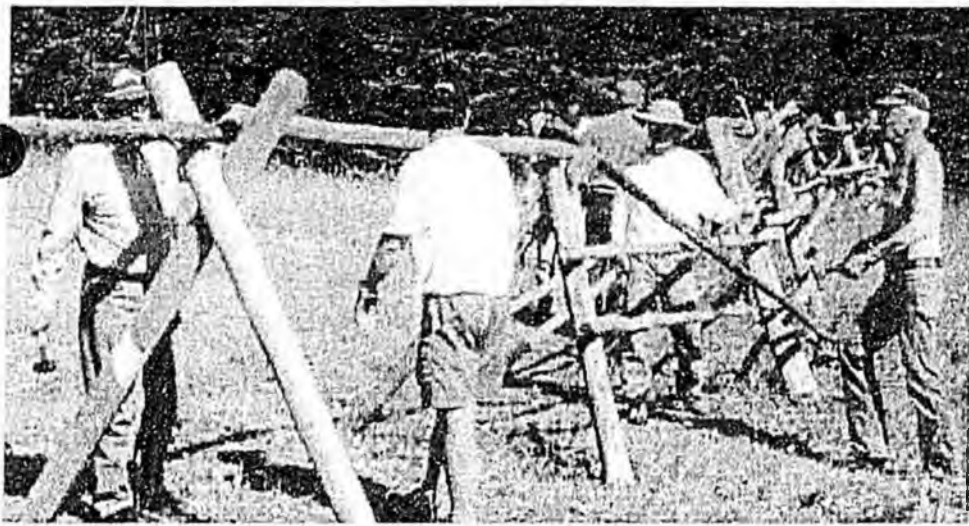
A Schweizer 269C Helicopter flew into the work session and behind the controls was Representative Denny Rehberg along with his instructor Kent Potter of Laurel. Pictured are Kent, Denny's son A.J., Denny and John Giacometto of Stevensville. We certainly appreciate all of the assistance we receive from Representative Rehberg and thank him for his outstanding support.



Wade Cebulski of Seeley Lake and Guy Willson of Moore hung new windsocks during the work session. Windsocks are a very important reference for pilots when flying into these backcountry strips.



We are always happy to see our international visitor Bram Tilroe of Leduc Alberta Canada show up to lend a helping hand; he and Bill Gallea of Helena take time out for a much needed water break.



These hardworking fencing volunteers did a first-rate repair job!!

Volunteers gathered at Schafer to repair fence, pick up rocks, fill gopher holes, replace the windsocks and clear brush on the airfield. The Schafer airstrip is maintained through a cooperative effort between the US Forest Service and the Montana Aeronautics Division. The Division coordinates with the Montana Pilots Association and the US Forest Service to organize this annual volunteer work session.



The runway maintenance crew had quite a job ahead of them 3,200' to be exact!



Chuck Manning, Aeronautics Board Member, Kalispell and Secretary of State Bob Brown are just the kind of volunteers you like to see, always a smile no matter how big the task.



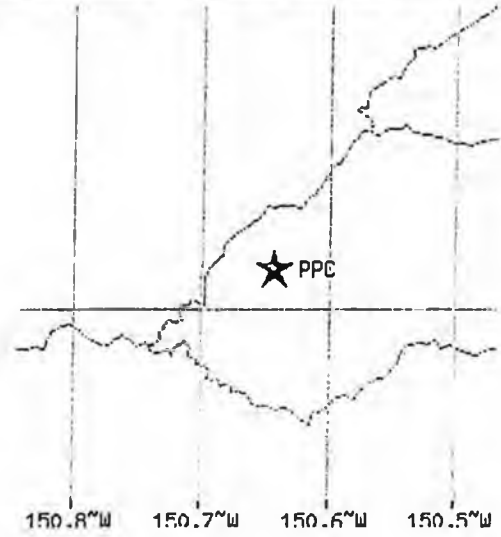
After a hard day's work volunteers finally get a chance to kick back and visit with friends old and new. Thank you to all of the people that work so hard to make this backcountry strip a safe place for pilots to enjoy, you couldn't ask for more beautiful surroundings.



Dog Days of Summer

General Info.	Services & Facilities	Based Aircraft & Operations	Runway Info.	Remarks
----------------------	-----------------------	-----------------------------	--------------	---------

CBD to Airport (NM): 03 NE
 County: UPPER YUKON
 REG/ADO: AAL NONE
 SECT AERO CHT: FAIRBANKS
 Ownership: PUBLIC
 Owner: STATE OF AK DOTPF
 Address: 2301 PEGER RD
 FAIRBANKS, AK 99701
 Phone No: 907-451-2200
 Manager: ALYESKA PIPELINE CO
 Address: 1835 S BRAGAW ST, MILTON CROS
 FAIRBANKS, AK 99701
 Phone No.: 907-4512207
 Attendance UNATNDD
 Schedule:
 Airport Use: PUBLIC
 Airport Lat: 66-48-46.373N ESTIMATED
 Airport Long: 150-38-37.653W
 Airport Elev.: 1099 SURVEYED
 Acreage: 0
 Right Traffic: NO
 Non-Comm Landing NO
 Fee:
 NASP/Federal N
 Agreement:
 FAR 139 Index: LU 12/1974



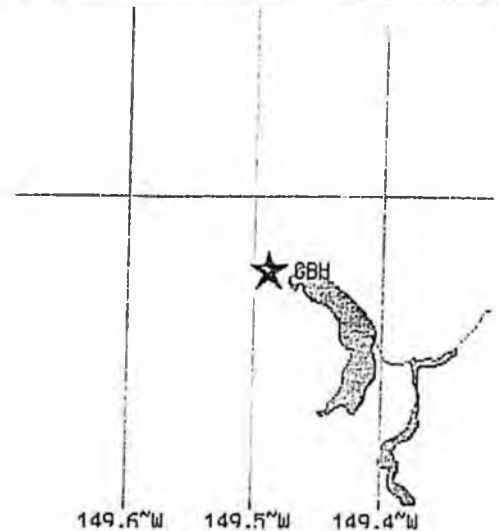
Airport Name: PROSPECT CREEK
 FAA Site Number: 50620.2*A
 Data Effective Date: 02/19/2004

Associated City: PROSPECT CREEK
 Location Identifier: PPC
 provided by g.c.r. & associates, inc.



General Info.	Services & Facilities	Based Aircraft & Operations	Runway Info.	Remarks
----------------------	-----------------------	-----------------------------	--------------	---------

CBD to Airport(NM): 02 N
 County: NOME
 REG/ADO: AAL NONE
 SECT AERO CHT: POINT BARROW
 Ownership: PUBLIC
 Owner: STATE OF ALASKA DOTPF
 Address: 2301 PEGER RD
 FAIRBANKS, AK 99701
 Phone No: 907-451-2207
 Manager: MILTON CROSS
 Address: FAIRBANKS, AK 99507
 Phone No.: 907-451-2207
 Attendance UNATNDD
 Schedule:
 Airport Use: PUBLIC
 Airport Lat: 68-28-44.627N ESTIMATED
 Airport Long: 149-29-24.077W
 Airport Elev.: 2670 ESTIMATED
 Acreage: 0
 Right Traffic: NO
 Non-Comm Landing NO
 Fee:
 NASP/Federal N
 Agreement:
 FAR 139 Index: LU 12/1974

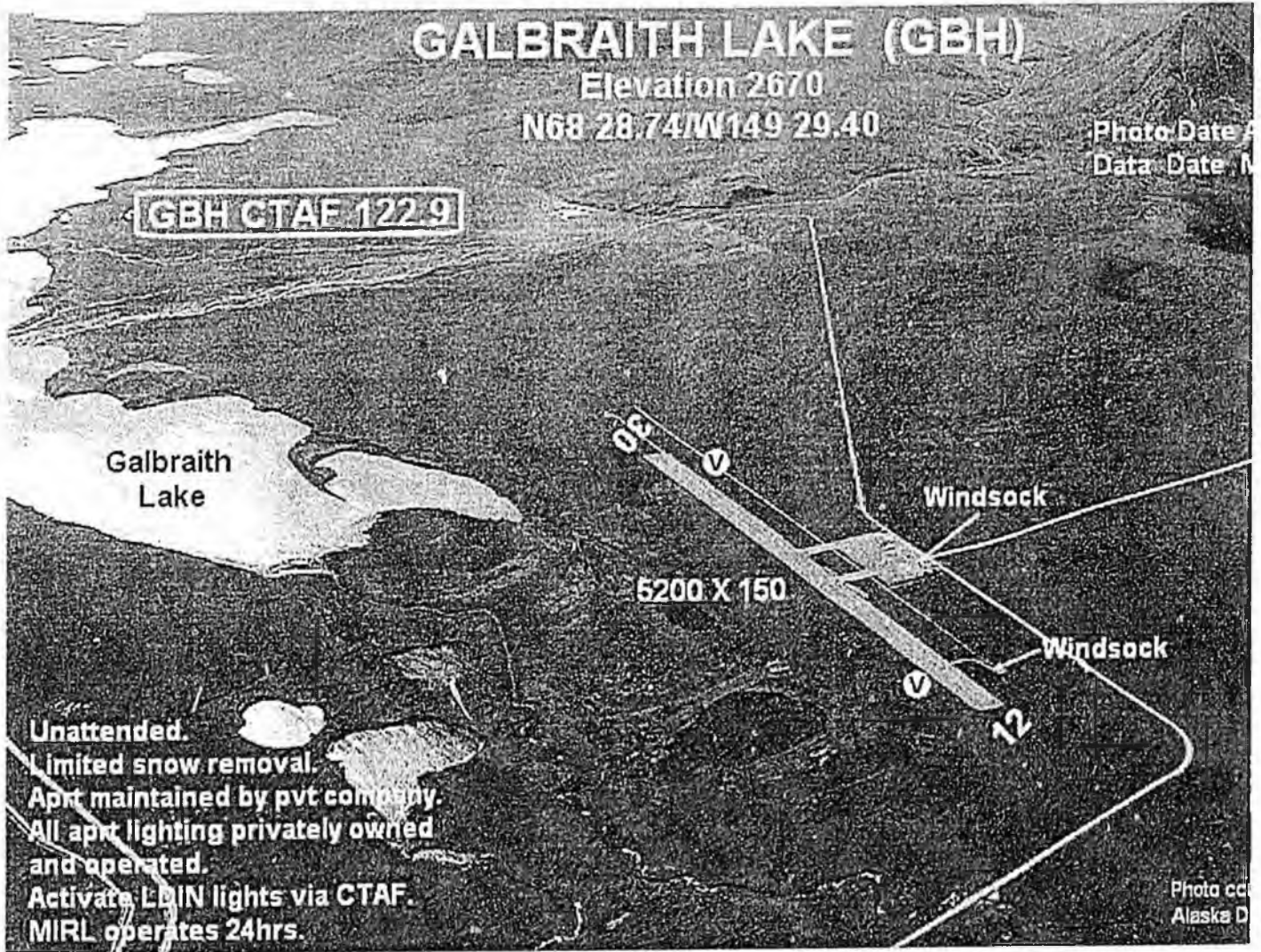


g.c.r. & associates, inc. 2000

Page 1 of 1

Airport Name: GALBRAITH LAKE
 FAA Site Number: 50257.5*A
 Data Effective Date: 02/19/2004

Associated City: GALBRAITH LAKE
 Location Identifier: GBH
 provided by g.c.r. & associates, inc.



SB

354

STATE OF ALASKA

Frank H. Murkowski, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075

April 5, 2004

APR 5 2004

Senator Ralph Seekins
Chair, Senate Judiciary Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, Alaska 99801

Re: SB 354 – “An Act relating to complaints filed with, and investigations, hearings, and orders of, the State Commission for Human Rights; making conforming amendments; and providing for an effective date.”

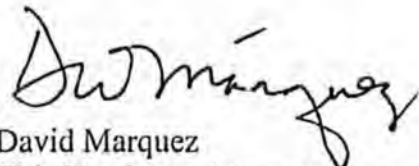
Dear Senator Seekins:

I am writing this letter to request that you schedule the above bill for a hearing at your earliest convenience.

If you have any questions, please feel free to contact me.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By: 
David Marquez
Chief Assistant Attorney General

DWM/lcc

cc: Mike Tibbles, Legislative Director, Office of the Governor
Deborah Behr, Legislation and Regulations Attorney, Department of Law

58354



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 25, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill that would amend the investigation and procedure laws of the State Commission for Human Rights (commission). The bill would amend the investigation and hearing procedures to enhance efficiency and to give the commission more enforcement discretion to increase its effectiveness in combating unlawful discrimination.

The bill would add a new statutory provision, AS 18.80.112, to provide the staff of the commission with greater authority to evaluate complaints of discrimination and to choose the complaints that it pursues to hearing before the commission. The purpose of the amendment is to reverse the Alaska Supreme Court's decision in Department of Fish and Game v. Meyer, 906 P.2d 1365 (Alaska 1995), that a hearing is mandatory if a complaint is supported by substantial evidence. The court concluded that the state human rights laws did not give the commission staff discretion to discontinue action on a complaint after an investigator found substantial evidence of unlawful discrimination. *Id.*, at 1373. The effect of this decision was to require the commission to commit its resources to any complaint supported by substantial evidence without regard to such factors as the weakness of the evidence, the strength of an employer's affirmative defenses, or the significance of the alleged violation. Providing the commission with genuine prosecutorial discretion would allow the commission to commit its resources to complaints it determines merit pursuit, based on such factors as, for example, the strength of the evidence, the severity of the alleged violation, an employer's history before the commission, or the complaint's value in establishing precedent guiding future conduct.

The discretion of the staff of the commission would also be expanded to allow it to compromise a claim for damages in the conciliation (or prehearing) phase of the procedures. The bill would avoid conflicts between staff's exercise

of its expanded discretion to compromise, dismiss, or pursue a complaint and the concerns of the victims of unlawful discrimination by allowing a complainant to opt out of commission procedures. A complainant may withdraw the complaint at any time before the executive director of the commission makes the decision to go to hearing and, after withdrawal, pursue the claim independently of the commission in another forum.

The bill also would change the hearing procedures. These changes include requiring the commission to follow the procedures in the Administrative Procedure Act, AS 44.62.330 - 44.62.630, unless AS 18.80 provides a different procedure. The bill would eliminate from AS 18.80 some duplicative procedural requirements that are addressed in the Administrative Procedure Act, such as the admissibility of evidence and the requirement that testimony be under oath. Another change would be the addition of a provision similar to a motion for summary judgment in the civil rules of court to allow a summary decision on the law if the facts are not disputed. The reason for allowing a summary decision would be that it is a faster procedure than a hearing, and it would provide a sufficient opportunity to be heard on the legal issues when the facts are not in dispute. The bill would add a provision tying the rate of interest when the commission awards interest to the legal rate in AS 09.30.070 to bring the commission into conformity with other administrative agencies and the courts. It would limit amendments to a complaint after a case is referred for hearing to ensure that all changes are supported by substantial evidence and that a respondent has an opportunity to address all charges informally before being required to defend them in a formal hearing. The bill would move the statute of limitations for bringing a claim from regulation (6 AAC 30.230) to statute.

Finally, the bill would amend AS 18.30.130, which addresses the authority of the commission to remedy unlawful discrimination, to establish that the appropriate remedy for unlawful employment discrimination normally would be to restore the actual benefit that was deprived -- hiring, promotion, or reinstatement to a position. In the unusual case where the relationship is so poisoned that the employee cannot return to work, the bill would allow an award of up to two years of compensation, minus the wages that the employee should be able to earn. Additionally, under the bill the commission would be able to order training regarding discriminatory practices.

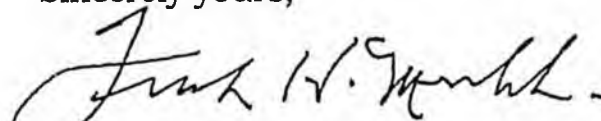
This bill, by increasing the commission's discretion in handling complaints, would enable the commission to allocate its diminishing resources to cases in which the commission could be the most effective in addressing and eliminating unlawful discrimination. By streamlining commission procedures,

The Honorable Gene Therriault
February 25, 2004
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the bill would help contain costs and ensure that the procedures are equitable to both complainants and the persons, businesses, labor organizations, and employment agencies charged before the commission with unlawful discrimination.

I urge your prompt and favorable action on this bill.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 354
 (S) Publish Date: 2/27/04

Revision Date/Time (Note if correction): _____ Dept. Affected: COG
 Title: "An Act relating to complaints filed with the State Commission for Human Rights.." RDU: Executive Operations
 Component: Human Rights
 Sponsor: Rules Committee
 Requester: Governor Component No. 1

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 has no fiscal impact on the Alaska Human Rights Commission.

Prepared by: Gail Fenumiai, Asst. Admin. Director LP Phone 465-3885
 Division: Office of the Governor, Administrative Services Date/Time 2/24/04 9:17 AM
 Approved by: Paula Haley, Executive Director Date 2/24/2004
 Agency: Alaska Human Rights Commission

CS FOR SENATE BILL NO. 354 (STA)
"AN ACT RELATING TO COMPLAINTS FILED WITH,
AND INVESTIGATIONS, HEARINGS, AND ORDERS OF,
THE STATE COMMISSION FOR HUMAN RIGHTS"

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Amends AS 18.80.100 to ensure that a complainant may withdraw a complaint of unlawful discrimination during the investigative and conciliation phases of the procedures and before the executive director issues an accusation, which begins formal procedures.

Section 2: Adds new subsections to 18.80.100. The power of the executive director to file a complaint is moved to proposed subsection (b).

Proposed subsection (c) adds to 18.80.100 the limitation period for filing a complaint set out in 6 AAC 30.230. The limitation period established allows the filing of a complaint for 180 days after the discriminatory act or practice ends.

Section 3: Amends 18.80.110 to require a written and signed agreement if a complaint is resolved in the conciliation phase, to make that agreement the equivalent of a commission order for purposes of enforcement, and to authorize the compromise of a damages claim in the agreement.

Section 4: Adds a new section expanding the discretion of the executive director to dismiss complaints in appropriate circumstances. The purpose of the section is to reverse the Alaska Supreme Court's decision in *Department of Fish and Game v. Meyer*, 906 P.2d 1365 (Alaska 1995), that a hearing is mandatory if a complaint is supported by substantial evidence. The Court concluded that the law did not give the commission

staff discretion to discontinue action on a complaint after an investigator found substantial evidence of unlawful discrimination. *Id.*, at 1373. The effect of this decision was to require the commission to commit its resources to any complaint supported by substantial evidence without regard to such factors as the weakness of the evidence, the strength of an employer's affirmative defenses, or the significance of the alleged violation.

Subsection (a) expands the discretion of the executive director to pursue complaints based on such factors as, for example, the strength of the evidence, the severity of the alleged violation, an employer's history before the commission, the complainant's cooperation, or the complaint's value in establishing precedent guiding future conduct.

Subsection (b) ensures that the executive director's administrative dismissal is not a dismissal on the merits and that a complainant may file an action with a court or another agency or even file a new complaint with the commission if the reason for the administrative dismissal can be resolved.

Section 5: Repeals and reenacts 18.80.120, which sets out the requirements for a hearing on a complaint of discrimination.

Subsection (a) implements the expanded discretion of the executive director to choose the complaints that commission staff pursue to hearing and provides that the commission may not review the executive director's exercise of that discretion. It also provides that, if the executive director refers a complaint for hearing, the executive director must issue an accusation based on the investigator's determination of substantial evidence.

Subsection (b) adds a requirement that the hearing follow the procedures in the Administrative Procedure Act, AS 44.62.330 - 44.62.630, except where the statutes applying to the commission provide otherwise.

Subsection (c) allows reasonable and fair amendments to an accusation, but it requires that substantial evidence support an amendment naming a different discriminatory practice and that the parties be provided an opportunity to resolve the different discriminatory practice in conciliation before the hearing may proceed.

Subsection (d) establishes the burden of proof at a hearing by requiring that the elements of an accusation or defense be proven by a preponderance of the evidence.

Subsection (e) authorizes the commission to issue a summary decision without a hearing in the same manner that a court may issue a summary judgment -- when the facts are not in dispute and the party petitioning for a summary decision is entitled to an order as a matter of law.

Section 6: Amends the remedial provisions in 18.80.130(a) to authorize the commission to order a remedy after a hearing or after considering a petition for a summary decision. It clarifies the remedial authority of the commission by providing that the commission may not order awards of noneconomic or punitive damages in any cases.

Paragraph (1), addressing employment, is amended to set out the specific remedies that the commission can award to remedy a discriminatory employment practice. To the remedies of hiring, reinstatement or upgrading an employee with or without back pay, it adds the remedy of payment of front pay for a period of one year in special

circumstances: if hiring, reinstatement or upgrading of an employee cannot be accomplished because the employer does not have an appropriate vacancy; if the employer's discriminatory conduct made the employee incapable of returning to work; or if the relationship between the employer and employee has so deteriorated that they cannot work together. The paragraph adds a duty to mitigate. An order for either front pay or back pay must be reduced by the amount that the employee could have earned if the employee made a reasonably diligent effort to obtain comparable employment.

- Section 7: Makes conforming amendments to 18.80.130(c).
- Section 8: Adds a provision tying the rate of interest when the commission awards interest to the legal rate in AS 09.30.070.
- Section 9: Makes conforming amendments to 18.80.140.
- Section 10: Makes conforming amendments to 18.30.270.
- Section 11: Adds a definition of "complainant" to the definition section in 18.80.300.
- Section 12: Adds a paragraph to the Administrative Procedure Act adding the commission to the list of agencies that the Act's hearing provisions cover.
- Section 13: Applies the law prospectively, to complaints filed after it is enacted.
- Section 14: Authorizes the commission to begin adopting regulations to implement the changes before the effective date of the act and provides that the regulations may not take effect before the act's effective date.
- Section 15: Provides an immediate effective date for section 14, which authorizes the commission to begin procedures to adopt regulations.
- Section 16: Provides an effective date of July 1, 2004.

SB

369

ALASKA STATE SENATE



Session:
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119 N. Cushman, Suite 201
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SENATE JUDICIARY COMMITTEE

Senator Ralph Seekins, Chairman
District D

Senate Bill 369 Sponsor Statement

"An Act exempting a person who allows a student of the University of Alaska to gain practical work experience with the person while participating in a practicum from vicarious liability as an employer, and exempting the student participating in a practicum from the Alaska Wage and Hour Act and workers' compensation coverage.

Senate Bill 369 amends current law by exempting University of Alaska students participating in practicum programs from wage and hour provisions. It also provides certain protections relating to vicarious liability. The Bill's intent is to revitalize private sector involvement in a key element of the educational process.

The University offers certain fields of study which require students achieve experience and proficiency in a "real world" setting before a degree can be conferred. By and large, these involve medically oriented endeavors such as the dental profession. Over the years it has become increasingly difficult for the University to entice private sector placement sites to become involved in an internship program.

The legitimate concern expressed by placement sites is that, absent statutory clarification, practicum students could be considered as *employees* with respect to certain labor laws. But of particular distress is the exposure to vicarious liability. High costs associated with potential liability have effectively chilled the private sector's willingness to be involved in vital practicum programs.

Senate Bill 369 proposes a statutory fix designed to protect practicum sites interested in offering their facilities to University interns. The threshold requirement that the students not be paid ensures that sites will not use practicum placement immunity to take advantage of employees who are *also* students. From a liability perspective, this proposal is designed to leave each entity — the university, the student, and the site — responsible for its own liability.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 369(L&C)
 (S) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Dept. Affected: University of Alaska
 Title UNIV. STUDENT PRACTICUM LIABIL RDU Systemwide
 Component _____
 Sponsor JUDICIARY
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would have no fiscal impact on the University

Prepared by: Pat Pitney Phone 907-474-7958
 Division UA Statewide Budget and Institutional Research Date/Time 4/19/04 1:49 PM
 Approved by: Wendy Redman Date 4/19/2004
 Agency University Relations

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 369(L&C)
(S) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Univ. Student Practicum Liability/Wages RDU: Labor Standards & Safety
Sponsor: Senate JUD Component: Wage & Hour
Requester: Senate L&C Component Number: 345

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: None
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)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone 465-4855
Division: Division of Labor Standards & Safety Date/Time 4/16/04 1:56 PM
Approved by: Greg O'Clary, Commissioner Date 4/16/2004
Agency: Department of Labor and Workforce Development

The Legislature should exclude practicum placement situations from the laws that create vicarious liability for damages, liability for workers' compensation, and liability for minimum wages and overtime:

University health and construction programs have had difficulty obtaining sites for unpaid practicum placement. This has been especially problematic with dental students, but can be expected to also be a problem with other professions, especially medical professions where the risk of AIDS or serious injury is a potential. The legitimate concern of placement sites is that the students could arguably be considered as employees of the site for

- A. negligence liability,
- B. Fair Labor Standards Act responsibility for minimum wage and overtime compensation, and
- C. workers compensation responsibility.

Given the current legal structure, practicum placement sites have suggested that the University agree to indemnify the site for claims based on the acts of the students, or to agree that the students will be the employees of the university for liability purposes. From the university's perspective, neither of these suggestions is realistic. The university does not supervise the students. There is a substantial risk that indemnity could be interpreted to cover damages which are caused by the negligence of the site. The time required to negotiate around these potential liabilities is substantial. All of which is counterproductive to training Alaskans for good in-state jobs.

Below I propose three cumulative statutory fixes designed to protect the sites that offer their services to our practicum students on an unpaid basis. The threshold requirement that the students not be paid assures that sites will not use practicum placement immunity to take advantage of employees who are also students.

A. Negligence liability

On the liability side, I would add a new section:

AS 14.40.065 Students not employees. Public or private employers shall not be considered employers of, or be vicariously liable for, the acts or omissions of students participating in work and/or learning activities as part of an unpaid University of Alaska externship, practicum, or other course or program that combines academic instruction with work experience.

From a liability perspective, this proposal is designed to leave each participant--the university, the student, and the site--responsible for its own fault. Thus, this proposal does not alter a party's responsibility for its own negligence, but, it does limit vicarious liability of one party for the fault of another.

B. Fair Labor Standards Act responsibility for minimum wage and overtime compensation

For minimum wage and overtime, I would add a subsection (17) to 23.10.055, to exclude unpaid practicum students of the University of Alaska from the operation of the employment security provisions of Alaska statutes. AS 23.10.055 provides:

Exemptions. The provisions of AS 23.10.050 - 23.10.150 do not apply to

(1) an individual employed in agriculture, which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices, including forestry and lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

(3) an individual employed in the hand picking of shrimp;

(4) an individual employed in domestic service, including a baby-sitter, in or about a private home;

(5) an individual employed by the United States or by the state or political subdivision of the state, except as provided in AS 23.10.065(b), including prisoners not on furlough detained or confined in prison facilities;

(6) an individual engaged in the nonprofit activities of a nonprofit religious, charitable, cemetery, or educational organization or other nonprofit organization where the employer-employee relationship does not, in fact, exist, and where services rendered to the organization are on a voluntary basis and are related only to the organization's nonprofit activities; for purposes of this paragraph, "nonprofit activities" means activities for which the nonprofit organization does not incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

(7) an employee engaged in the delivery of newspapers to the consumer;

(8) an individual employed solely as a watchman or caretaker of a plant or property that is not in productive use for a period of four months or more;