

ALASKA LEGISLATURE COMPILED FILES, 2000-2000 80/2
11646 HOUSE STATE AFFAIRS

1 the group does not pay the full amount due under this section, the group's campaign
2 treasurer in office on the last day of the calendar year audited shall pay to the
3 commission the remaining expenses of the audit."

4

5 Renumber the following bill sections accordingly.

6

7 Page 2, lines 13 - 21:

8 Delete all material.

9 Insert a new bill section to read:

10 "* Sec. 5. AS 24.45.171(10) is amended to read:

11 (10) "lobbyist" means a person who

12 (A) engages in the business, occupation, or profession of
13 influencing legislative or administrative action; or

14 (B) receives wages or other economic consideration, including
15 reimbursement of travel and living expenses, to communicate directly with any
16 public official

17 (i) for the express purpose of influencing legislative or
18 administrative action; and

19 (ii) during more than nine [40] hours in any 30-day
20 period in one calendar year;"

21

22 Renumber the following bill sections accordingly.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

February 20, 2006

SUBJECT: Sectional Summary of CSHB45 relating to contribution limits, lobbyists, and disclosure. (Work Order No. 24-LS0312G)

TO: Representative Bruce B. Weyhrauch
Attn: Terry

FROM: Dan Wayne 
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 requires that groups receiving political contributions of funds, property or services report them on a form provided by APOC in two ways: the aggregate amount of all contributions received during the one-year reporting period, and, for each contribution of more than \$100.00 value received in the one-year reporting period, the name, address, occupation, and employer of the contributor, plus the date and amount of the contribution. This lowers the "exempt" amount from \$250.00 to \$100.00, and clarifies the type of personal information about contributors that must be provided in the report. This section also requires the group to report the group's expenses, including any contributions it makes to others.

Section 2 reduces from \$1,000 to \$500.00 the annual maximum political contribution an individual is allowed to make to a candidate, write-in candidate, non-group entity or a group that is not a political party. Individual annual contribution to a political party is reduced from \$10,000 to \$5,000.

Section 3 reduces from \$2,000 to \$1,000 the annual maximum political contribution a group that is not a political party can make to a candidate, a write-in candidate, another group, or a nongroup entity. It reduces from \$4,000 to \$1,000 the annual political contributions a group that is not a political party is allowed to make to a political party.

Section 4 changes the definition of lobbyist by reducing from 40 to 10 the number of hours in a 30-day period a person (who receives any kind of compensation for their

Representative Bruce B. Wehvrach

February 20, 2006

Page 2

efforts, including reimbursement of travel expenses) may spend communicating directly or indirectly with any public official for the purpose of influencing legislation or administrative action without being required to register as a lobbyist.

Section 5 reduces from \$5,000 to \$1,000 the amount of income legislators, ethics committee public members, and legislative directors can receive as compensation for personal services outside of their position with the legislature without being required to disclose details about the transaction in a report to APOC under AS 39.50.030.

Section 6 would make the bill effective January 1, 2007.

DCW:ljw

06-090.ljw

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 45
 () Publish Date: 1/10/2005

Revision Date/Time (Note if correction): 2/21/2006 12:10p.m. Dept. Affected: Administration
 Title An Act amending the term 'lobbyist...' RDU AK Public Offices Commission
 Component AK Public Offices Commission
 Sponsor Rep. Weyhrauch
 Requester House State Affairs Committee Component No. 70

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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 (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 This bill will have no fiscal impact on the Alaska Public Offices Commission. The bill amends the lobbying law to provide that a part-time lobbyist who is paid to attempt to influence public decision-making is subject to the Regulation of Lobbying Law (AS 14.45) when he or she spends more than ten hours in any 30-day period engaging in lobbying activities. Current law provides 40 hours in a 30-day period.

Prepared by: Brooke Miies, Director Phone 907-334-1726
 Division: AK Public Offices Commission Date/Time 2/21/2007 12:10 P.M.
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/21/2006
 Agency: Department of Administration

24-LS0312VF
Wayne
3/10/06

FOR HOUSE BILL NO. 45()

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

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WEYHRAUCH

*- All campaign committees
brought together previously
- Add 2003 - each contributor to be shown by name + address
Sec 1 - projects to be 2003
A BILL
- 300*

FOR AN ACT ENTITLED

"An Act relating to contribution limits, lobbyists, and disclosure; and providing for an effective date."

*N¹ office
concordia
for info*

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

* Section 1. AS 15 13.040(b) is repealed and reenacted to read:

(b) Each group shall make a full report upon a form prescribed by the commission, listing

- (1) the name and address of each officer and director;
- (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services being contributed; and

- (3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

*position of
the contributor
must be included*

1 * Sec. 2. AS 15.13.070(b) is repealed and reenacted to read:

2 (b) An individual may contribute not more than

3 (1) \$500 per year to a nongroup entity for the purpose of influencing
4 the nomination or election of a candidate, to a candidate, to an individual who
5 conducts a write-in campaign as a candidate, or to a group that is not a political party;

6 (2) \$5,000 per year to a political party.

7 * Sec. 3. AS 15.13.070(c) is repealed and reenacted to read:

8 (c) A group that is not a political party may contribute not more than \$1,000
9 per year

10 (1) to a candidate, or to an individual who conducts a write-in
11 campaign as a candidate;

12 (2) to another group, to a nongroup entity, or to a political party.

13 * Sec. 4. AS 24.45.171(10) is repealed and reenacted to read:

14 (10) "lobbyist" means a person who

15 (A) is employed and receives payments, or who contracts for
16 economic consideration, including reimbursement for reasonable travel and
17 living expenses, to communicate directly or through the person's agents with
18 any public official for the purpose of influencing legislation or administrative
19 action for more than 10 hours in any 30-day period in one calendar year; or

20 (B) engages in the influencing of legislative or administrative

21 action as a business, occupation, or profession. →

22 * Sec. 5. AS 24.60.200(a) is repealed and reenacted to read:

23 (a) A legislator, a public member of the committee, and a legislative director
24 shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska
25 Public Offices Commission giving the following information about the income
26 received by the discloser, the discloser's spouse or domestic partner, the discloser's
27 dependent children, and the discloser's nondependent children who are living with the
28 discloser:

29 (1) the information that a public official is required to report under
30 AS 39.50.030, other than information about gifts;

31 (2) as to income in excess of \$1,000 received as compensation for

Handwritten note:
Face Time
Cynthia
Public
Meeting

Handwritten notes:
add 1st
4 hrs
30 day period

Handwritten note:
w/AFAC - 1 - 1000 - 1000

1 personal services, the name and address of the source of the income, and a statement
 2 describing the nature of the services performed; if the source of income is known or
 3 reasonably should be known to have a substantial interest in legislative,
 4 administrative, or political action and the recipient of the income is a legislator or
 5 legislative director, the amount of income received from the source shall be disclosed;

6 (3) as to each loan or loan guarantee over \$1,000 from a source with a
 7 substantial interest in legislative, administrative, or political action, the name and
 8 address of the person making the loan or guarantee, the amount of the loan, the terms
 9 and conditions under which the loan or guarantee was given, the amount outstanding
 10 at the time of filing, and whether or not a written loan agreement exists.

11 * Sec. 6. This Act takes effect January 1, 2007.

Bank rules
 A Pac Neutral
 No fiscal impact

— Elected = exempt officials are exempt from
 lobby law

—

— Business owner - on own behalf
 employee 1.44M - pay sales regardless
 subject to 10 hour test

→ also for self employed individual - usually not

the not
 clear in statute? → Payment must be for entity
 who is party to contract between

→ If person sleeps that is

24-LS0312VF
Wayne
3/10/06

CS FOR HOUSE BILL NO. 45()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WEYHRAUCH

Representational lobbyist - covers expenses

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to contribution limits, lobbyists, and disclosure; and providing for an
2 effective date."

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

4 * Section 1. AS 15.13.040(b) is repealed and reenacted to read:

5 (b) Each group shall make a full report upon a form prescribed by the
6 commission, listing

7 (1) the name and address of each officer and director;

8 (2) the aggregate amount of all contributions made to it; and, for all
9 contributions in excess of \$100 in the aggregate a year, the name, address, principal
10 occupation, and employer of the contributor, and the date and amount contributed by
11 each contributor; for purposes of this paragraph, "contributor" means the true source
12 of the funds, property, or services being contributed; and

13 (3) the date and amount of all contributions made by it and all
14 expenditures made, incurred or authorized by it.

*Not for Candidate
only for
PHCs*

L

1 * Sec. 2. AS 15.13.070(b) is repealed and reenacted to read:

2 (b) An individual may contribute not more than

3 (1) \$500 per year to a nongroup entity for the purpose of influencing
4 the nomination or election of a candidate, to a candidate, to an individual who
5 conducts a write-in campaign as a candidate, or to a group that is not a political party;

6 (2) \$5,000 per year to a political party.

7 * Sec. 3. AS 15.13.070(c) is repealed and reenacted to read:

8 (c) A group that is not a political party may contribute not more than \$1,000
9 per year

10 (1) to a candidate, or to an individual who conducts a write-in
11 campaign as a candidate;

12 (2) to another group, to a nongroup entity, or to a political party.

13 * Sec. 4. AS 24.45.171(10) is repealed and reenacted to read:

14 (10) "lobbyist" means a person who

15 (A) is employed and receives payments, or who contracts for
16 economic consideration, including reimbursement for reasonable travel and
17 living expenses, to communicate directly or through the person's agents with
18 any public official for the purpose of influencing legislation or administrative
19 action for more than 10 hours in any 30-day period in one calendar year; or

20 (B) engages in the influencing of legislative or administrative
21 action as a business, occupation, or profession.

22 * Sec. 5. AS 24.60.200(a) is repealed and reenacted to read:

23 (a) A legislator, a public member of the committee, and a legislative director
24 shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska
25 Public Offices Commission giving the following information about the income
26 received by the discloser, the discloser's spouse or domestic partner, the discloser's
27 dependent children, and the discloser's nondependent children who are living with the
28 discloser:

29 (1) the information that a public official is required to report under
30 AS 39.50.030, other than information about gifts;

31 (2) as to income in excess of \$1,000 received as compensation for

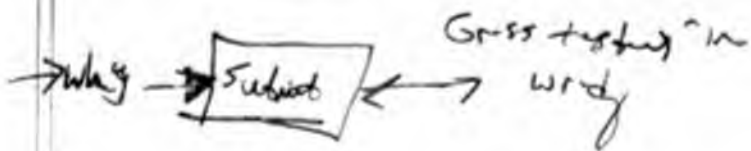
1 personal services, the name and address of the source of the income, and a statement
2 describing the nature of the services performed; if the source of income is known or
3 reasonably should be known to have a substantial interest in legislative,
4 administrative, or political action and the recipient of the income is a legislator or
5 legislative director, the amount of income received from the source shall be disclosed;

6 (3) as to each loan or loan guarantee over \$1,000 from a source with a
7 substantial interest in legislative, administrative, or political action, the name and
8 address of the person making the loan or guarantee, the amount of the loan, the terms
9 and conditions under which the loan or guarantee was given, the amount outstanding
10 at the time of filing, and whether or not a written loan agreement exists.

11 * Sec. 6. This Act takes effect January 1, 2007.

HB

48



→ How fully mechanism will relate to Bill

→ Answer Gross - A.G. under Hammond

Votes vote in all position

Principles: No definition of Capital. ~~etc~~

Capital C to

Capital → build

and clear his for

New higher ~~clubs~~ → set up

Committee

new build for government

→ A.G.

→ ^{when} ~~new~~ ^{new} does it have to be government
 → ^{new} ~~new~~ ^{new} does it have when 50%

it has to be new. How big ~~new~~ ^{new}

Lease agreement. if lease
cost \uparrow 500,000 total cost 0.5
total 2.5 million

Lease not to extend 40 years
Some states for a lease-purchase
agreement

→ have to be approved for lease-purchase
agreement by the legislature

ALASKA STATE LEGISLATURE



Representative Bill Stoltze
House District 16

Representative Carl Gatto
House District 13

House Bill 48

Capitol Cost Disclosure Act

"An Act relating to a determination of costs attributable to relocating the legislature or the state capital or of constructing a new capitol building in the present capital city, and to a determination of all costs of retaining the existing capitol building and keeping the state capital and legislature in the present capital city; relating to voter approval of certain bondable costs; and providing for an effective date."

The most recent version of the FRANK statute was approved by voters in 1994, and has been the key component in thwarting efforts to move the capital out of Juneau in recent statewide elections-most recently in 2002. Existing law only requires voter approval for costs associated with moving the capital from Juneau but does not address costs for constructing a new capitol building in Juneau.

Today, the City of Juneau is moving forward with a plan to build a new legislative hall. Prompted by this action, House Bill 48 will enable the voters of Alaska to decide on any state cost that might be incurred with the moving of the legislature out of its current building.

The changes proposed to the FRANK initiative will:

- Include constructing a new legislative hall or capitol in the current capitol city.
- Expand the scope of the costs examined to include all other costs associated with relocation, not just bondable costs.
- Set the commission to determine all costs attributable to constructing a new capitol in the capital city.

I ask for your consideration and support of HB 48 to enable the voters of Alaska to either approve or disapprove on the costs for construction of a new building or legislative hall in the current capital city. Trust the people.

DISTRICT 16

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

Mulligan

24-LS0185

Handwritten signatures and scribbles

HOUSE BILL NO. 48

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES STOLTZE AND GATTO, Neuman

Introduced: 1/10/05
Referred: State Affairs, Finance

*Bond - Turnover OK
Capitol - \$
who can negotiate
and what \$ amount*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a determination of costs attributable to relocating the legislature or
2 the state capital or of constructing a new capitol building in the present capital city, and
3 to a determination of all costs of retaining the existing capitol building and keeping the
4 state capital and legislature in the present capital city; relating to voter approval of
5 all possible certain bondable costs; and providing for an effective date."

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

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 SHORT TITLE. This Act may be known as the Capitol Cost Disclosure Act.

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

12 LEGISLATIVE INTENT. It is the intent of the legislature that this Act provide all
13 residents the opportunity to know the full and true costs of proposals involving the location of

1 the state capital and construction of a new capitol building in the present capital city so that
 2 the residents will have the opportunity to express their opinions regarding those proposals.

3 * **Sec. 3.** AS 44.06.050 is amended to read:

4 **Sec. 44.06.050. Purpose of AS 44.06.050 - 44.06.060.** The purpose of
 5 AS 44.06.050 - 44.06.060 is to guarantee to the people their right to know and to
 6 approve in advance all costs of relocating the capital or the legislature and all costs of
 7 constructing a new capitol in the present capital city; to ensure [INSURE] that the
 8 people will have an opportunity to make an informed and objective decision on
 9 relocating the capital or the legislature or constructing a new capitol in the present
 10 capital city with all pertinent data concerning the costs to the state; and to ensure
 11 [INSURE] that the costs of relocating the capital or the legislature or constructing a
 12 new capitol will not be incurred by the state without the approval of the electorate.

13 * **Sec. 4.** AS 44.06.055 is amended to read:

14 **Sec. 44.06.055. Relocation expenditures.** State money may be expended to
 15 relocate physically the capital or the legislature from the present location only after a
 16 majority of those voting in a statewide election have approved a bond issue that
 17 includes all bondable costs to the state of the relocation of a functional state legislature
 18 or capital to the new site over the 12-year [TWELVE-YEAR] period following that
 19 [SUCH] approval. State money may be expended to construct or relocate the
 20 legislature or any other state office to a new capitol in the present capital city
 21 only after a majority of those voting in a statewide election have approved a bond ←
 22 issue that includes all bondable costs of constructing the new capitol. The
 23 commission established in AS 44.06.060 shall determine all bondable costs and all
 24 other [TOTAL] costs attributable to a proposal to relocate the legislature or
 25 capital or to a proposal to construct a new capitol in the present capital city
 26 including, [BUT NOT LIMITED TO,] the costs of moving personnel and offices to
 27 the relocation site or the new capitol; the social, economic, and environmental costs
 28 to the present and relocation sites or to the existing and new capitols; and the costs
 29 to the state of planning, building, furnishing, using, and financing facilities at least
 30 equal to those provided by the present capital city in the existing capitol. In
 31 considering a proposal to relocate the legislature or the capital, the commission

1 shall also determine all costs attributable to keeping the state capital and
2 legislature in the present capital city. In considering a proposal to construct a
3 new capitol in the present capital city, the commission shall also determine all
4 costs attributable to retaining the existing capitol and all costs of keeping the
5 state capital and legislature in the present capital city.

6 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 RETROACTIVITY. This Act is retroactive to January 1, 2005.

9 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB48
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
 Title: Capital Cost Disclosure Act RDU: Elections
 Component: Elections
 Sponsor: Representative Stoltze and Gatto
 Requester: (H) State Affairs, Finance Component No.: 21

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		1.5				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1.5	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		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 If this bond question is added to the 2006 ballot, the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58 is \$1.5 (in thousands). Should the addition of this question require printing an 8 1/2 by 18 inch ballot, or multiple cards, the cost will increase to \$22.0.

Prepared by: Gumesindo Rosales, Elections Special Assistant Phone: 465-4611
 Division: Elections Date/Time: 2/18/05 12:32 PM
 Approved by: Laura A. Glaiser, Director Date: 2/18/2005
 Agency: Office of the Lt. Governor, Division of Elections

Sponsor: Assemblymember Kvalheim
Adopted: 03/15/05

**MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 05-035**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING THE CONSTRUCTION OF A NEW LEGISLATIVE OFFICE COMPLEX AND AUTHORIZING THE MANAGER TO PREPARE A PROPOSAL FOR SITING AND FINANCING OF THE LEGISLATIVE COMPLEX.

WHEREAS, the present office building of the Alaska State Legislature is over capacity and poorly suited to handle the routine demands of the Alaska State Legislature; and

WHEREAS, the present office building of the Alaska State Legislature is poorly suited to provide adequate interaction between the residents of the State and their elected Representatives and Senators; and

WHEREAS, the present location of the Alaska State Legislature office building makes it very difficult and expensive for the residents of the State to personally visit with their elected officials; and

WHEREAS, the cost of improving surface access to the present location of the Alaska State Legislature is in excess of \$280 million; and

WHEREAS, there is a critical shortage of housing for the State Legislators and staff and others visiting the present site; and

WHEREAS, a municipality has offered to build a new office complex for the Alaska State Legislature utilizing annual lease payments paid by the state of Alaska to retire the cost of construction; and

WHEREAS, a new office complex for the Alaska State Legislature

should be built in a location that allows for convenient, safe, and affordable travel by the residents of the State; and

WHEREAS, the Matanuska-Susitna Borough is centrally located and allows for convenient and affordable travel by several modes of transportation including highway, air, and rail; and

WHEREAS, the Matanuska-Susitna Borough has a large supply of affordable housing available and the Borough is located within a short distance of the homes of the majority of state legislators; and

WHEREAS, the Matanuska-Susitna Borough is located near the major population centers of the State.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly recommends that the Matanuska-Susitna Borough submit a letter of interest to the Alaska State Legislature to site and construct a new office complex for the Alaska State Legislature; and

BE IT FURTHER RESOLVED, that the Manager is authorized to identify proposed sites and to prepare a proposal to construct the new office complex that utilizes lease payments to fund construction costs or a similar method of financing the construction.

ADOPTED by the Matanuska-Susitna Borough Assembly this 15 day
of March, 2005.

TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:

MICHELLE M. MCGEHEE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Woods, Colberg, Kvalheim, Simpson, Colver, and
Vehrs

HB

62



ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

- Co-Chair, Community and Regional Affairs
- Member, Resources

Official Business

Session: January - May
 State Capitol, #110
 Juneau, AK 99801
 Phone: 907-465-2693 Fax: 907-465-3835

Interim: May - December
 145 Main Street Loop, Ste 221
 Kenai, AK 99611
 Phone: 907-283-2690 Fax 907-283-2763

SPONSOR STATEMENT

HB 62

House Bill 62 will prohibit automated telephone calls for a political advertisement to telephone numbers listed in the National Do Not Call Registry.

The use of automated telemarketing equipment to deliver political messages has grown significantly during recent elections. Many of these systems are designed to target answering machines and will disconnect immediately if the telephone is answered by a person. Answering machines can be filled with these messages in less than 48 hours.

During the first year of the Do Not Call Registry 81,606 Alaskans and 62,083,345 Americans chose to participate in the program. It is estimated that one-third of Alaskan residential telephones are currently participating.

HB 62 will not prohibit calls from a candidate, paid campaign staff, or volunteers. The intent of HB 62 is to prevent political phone spam.

<https://www.donotcall.gov>

Need legal opinion as relates to 1st Amendment rights - free speech -

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB062-LAW-C&FB-2-20
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to prohibiting automated RDU CIVIL
telephone calls for a political advertisement..." Component Labor & State Affairs
 Sponsor Representative Olson
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 45.50.475 by adding a new subsection that would add as a violation of AS 45.50.471(b)(41) (Unlawful acts and practices) automated telephone calls related to elections or candidates that are intended to convince or influence potential voters, if the residential telephone customer has registered with the national do not call registry, or is identified in the telephone directory as not wishing to receive telephone solicitations.

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

Prepared by: Kathryn Daughettee, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/21/05 2:19 PM
 Approved by: K. Daughettee for Scott Nordstrand, Acting Attorney General Date 2/21/2005
 Agency: Department of Law

section.

"charitable organization" has the meaning given in AS 45.68.900;

"customer" means a telephone customer of a telecommunications company;

"do not call registry" means the data base of telephone numbers of

persons who do not wish to receive telephone solicitations established and maintained

by the Alaska State Consumer Protection Division, the Federal Trade Commission and the Federal Communications Commission.

"telephone solicitation"

means the solicitation by a person by telephone of a customer at the residence of

the customer for the purpose of encouraging the customer to purchase property, goods, or

services or to make a donation;

but does not include

(1) calls made in response to a request or inquiry by the called customer or communi-

cation made during a call made by the customer;

(2) calls made by a charitable organization or volunteers on behalf of the charitable

organization to a member of the organization or to a person who, within the last 18

months, has made a donation to the organization or expressed an interest in making a

donation, but only if the charitable organization has not received a request from the

organization or person asking that the telephone solicitations cease;

(3) calls limited to soliciting the expression of ideas, opinions, or votes;

(4) business-to-business calls; or

(5) a person soliciting business from prospective purchasers who have, within the last

18 months, purchased from the person making the solicitation or from the business

enterprise for which the person is calling but only if the person or business enterprise has

received a request from the prospective purchaser asking that telephone solicitations

cease; the person or business enterprise is presumed to have received a written request

no later than 10 days after the prospective purchaser mailed it, properly addressed and

with the appropriate postage. (§ 4 ch 142 SLA 1996; am §§ 64, 65 ch 35 SLA 2003; am

§§ 1 — 8 ch 55 SLA 2004)

Conditional repeal of subsections (a)(1) and

(c). — Under § 35, ch. 55, SLA 2004, subsection (a)(1)

and subsection (c) are repealed. Under § 39, ch. 55,

SLA 2004, the repeal of subsection (a)(1) and the

repeal of subsection (c) take effect "the day after the

date on which the attorney general notifies the govern-

ment and the revisor of statutes that the national do not

call registry is established and enforced by the Fed-

eral Trade Commission and Federal Communications

Commission."

Revisor's notes. — In 1999, in subsections (b) and

(c) "Regulatory Commission of Alaska" was substi-

tuted for "Alaska Public Utilities Commission" in

accordance with § 30(a), ch. 25, SLA 1999.

Paragraph (g)(3) was enacted as paragraph (g)(4)

and renumbered in 2004, at which time former para-

graph (g)(3) was renumbered as (g)(4).

Effect of amendments. — The 2003 amendment,

effective June 3, 2003, substituted "this section" for

"AS 45.50.475" throughout subsections (d) and (e).

The 2004 amendment, effective July 1, 2004, in

subsection (a), inserted paragraphs (2) and (3), redesi-

gnated former paragraph (2) as (4), and inserted "a

telephone" in paragraph (4); and rewrote subsections

(d), (e), (f), and (g).

Effective dates. — Section 4, ch. 142, SLA 1996,

which enacted this section, took effect on November 4,

1996.

Sec. 45.50.477. Use of titles relating to industrial hygiene. (a) A person may not

use the title "industrial hygienist," the initials "I.H.," another term that includes the

phrase "industrial hygiene" or similar words, or represent to the public that the person is

an industrial hygienist, unless the person has a baccalaureate or graduate degree in

industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical

or biological science from a college or university accredited by a national or regional

accreditation association recognized by the Council on Recognition of Postsecondary

accreditation, or a degree based on equivalent academic training, and has acquired

competence in industrial hygiene through special studies or work experience sufficient to

provide the person with the ability and competence to

(1) anticipate and recognize the environmental factors and stresses associated with

work and work operations and to understand their effects on people and their well-being;

candidate. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Telephone conversation not appropriate filing. — Given the text of subsection (c), the legal

meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intentment of subsection (c). *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

Sec. 15.13.065. Contributions. (a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 — 15.13.114, the provisions of AS 15.13.010 — 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or
- (4) a municipality shall be incorporated. (§ 9 ch 48 SLA 1996; am § 7 ch 1 SLA 2002)

Effect of amendments. — The 2002 amendment, effective April 15, 2002, inserted references to nongroup entities in three places in subsection (a) and made minor stylistic changes.

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and
- (4) a nongroup entity that has registered under AS 15.13.050. (§ 9 ch 48 SLA 1996; am § 8 ch 1 SLA 2002)

Effect of amendments. — The 2002 amendment, effective April 16, 2002, added paragraph (4) and made related stylistic changes.

Sec. 15.13.070. Limitations on amount of political contributions. (a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

- (b) An individual may contribute not more than
 - (1) \$1,000 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;
 - (2) \$10,000 per year to a political party for the purpose of influencing the nomination or election of a candidate or candidates.
- (c) A group that is not a political party may contribute not more than
 - (1) \$2,000 per year to a candidate, or to an individual who conducts a write-in campaign as a candidate;

- (2) \$2,000 per year
- (3) \$4,000 per year
- (d) A political party write-in campaign, for
 - (1) \$100,000 per year
 - (2) \$15,000 per year
 - (3) \$10,000 per year
 - (4) \$5,000 per year,
- (A) delegate to a con
- (B) judge seeking re
- (C) municipal office.
- (e) This section does:
 - campaign contribution
 - (1) attendance by a sponsored by a political
 - (2) membership in a within a political party
 - (3) co-sponsorship o subordinate unit of a p
 - (f) A nongroup entit; entity for the purpose candidate, to an indivi or to a political party.

Cross references. — For campaign fund-raising 24.60.030.

Effect of amendments. effective January 1, 1997, re The 1998 amendment, effe subsection (e).

The first 2002 amendment in subsection (b) inserted the nongroup" and ending "of a (1); in subsection (c) inserted paragraph (2); and added st

The second 2002 amendi 2002, in subsection (b) ad influencing the nomination or candidates" at the end of

The 2003 amendment, 2003, increased the allowed tions (b), (c), and (f) and ma

Opinions of attorney ge be no difference between Elections Campaign Act of

Constitutionality. — Th vidual contributions for elect set forth in subsection (b) is, contribution limits do not pl on the ability of candidates t state election campaigns. *St ties Union*, 978 P.2d 597 (Al 528 U.S. 1153, 120 S. Ct. 1 (2000).

Limits on individuals' con political parties are reasona

HB

79

HB79



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

January 14, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a separate "fast-track" supplemental appropriation bill for fiscal year 2005 for the Division of Elections in the Office of the Lieutenant Governor.

The bill would appropriate a total of \$694,900 from the general fund. The appropriation would cover the costs of circumstances that were not within management's control, such as court-ordered costs, unexpected municipal ballot costs, and unexpected citizen-action generated costs. The Division of Elections faced unusual operating costs due to a number of circumstances, including ballot printing and distribution of the Municipality of Anchorage bond questions, an application for recall of a member of the state Legislature, complying with a court order to reprint the general election ballots, and an unusually high number of requests from voters for absentee and facsimile ballots. Due to these additional costs, it now appears that a total of \$694,900 more in general fund money will be needed to meet the state's obligations to administer elections during fiscal year 2005.

The Division of Elections is anticipated to run out of money in late February. Therefore, I request that you put this bill on a "fast track" for final action in February.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
907.465.4611 907.465.3203 FAX
elections@gov.state.ak.us

Regional Offices
Anchorage 907.522.8683
Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

Below are highlighted examples of the unanticipated and/or excessive costs for the 2004 Election cycle incurred by the Division of Elections. While the costs listed below exceed the \$694.9 requested in HB 79, the Division believes the amount requested in the Supplemental will enable the Division to operate through the end of FY 05.

Unanticipated and/or Excessive Costs Related to the 2004 Election Cycle

Additional Personal Services costs incurred in 2004 compared to 2002 **\$304.0**

During the 2004 election cycle, the Division received and processed 5 initiative petitions, one recall petition, and a record number of absentee by-mail applications. This additional workload required the Division to hire an additional 13 temporary workers to process mail, answer phones, process applications and perform data entry. This caused an increase in staff costs and overtime for both temporary and full time employees in 2004 compared to what was incurred in the 2002 elections.

Ballot Reprint costs totaled **\$243.2**

A Superior Court decision mandated the Division reprint the ballots for the 2004 election. The Division absorbed additional costs for reprinting ballots (203.1), expedited freight costs for paper stock (35.6), destruction costs for destroying previously printed ballots (4.3), and Personal Services costs (.2).

To date costs for conducting MOA election **\$104.6**

The Municipality of Anchorage requested that the State include two bond questions on the General Election ballot. The Agreement is authorized by article X, section 13 of the Alaska Constitution, AS 36.30.700 – 36.30.790, Anchorage Municipal Code (AMC) 28.10.050, and conforms to legislative intent in Sec. 1, ch. 82 SLA 2000. Additional costs for conducting this election will be collected through the "Bill of Collection" process and added back into the General Fund.

To date costs for conducting a Statewide Recount **\$ 39.8**

In December of 2004 the Division conducted two recounts - one for House District 5 requested by candidate Tim June, and a statewide recount that was requested by Alaskan's for Fair Elections. The recount total expenditures exceeded the \$750 and \$10,000 deposits "respectively" that are required under AS 15.20.450. Deposits for the recounts were collected and deposited into the General Fund. The total costs for the recounts were absorbed by the Division.

Unanticipated and/or Excessive Costs Related to the 2004 Election Cycle

Independent counsel **\$ 37.6**

Independent Counsel was sought to provide review and advice related to the Ogan recall petition.

Mainframe Chargeback costs **\$ 23.3**

The rise in absentee by-mail applications and voter registration forms increased the Division's chargeback costs for data entry time on the mainframe.

Expedited printing and freight costs for forms **\$ 22.1**

Due to the large number of political mailings of absentee by mail applications to voters that generated higher absentee by mail participation by Alaskans, the Division processed a record number of applications. This unexpected increase required the Division to place last minute orders for additional forms and envelopes needed for mailing ballots.

Increased Postage Costs **\$ 19.0**

The Division's postage costs increased due to higher by-mail turnout.

Additional Fax Press Machines **\$ 11.7**

In 2004, voter turnout for absentee by-fax increased 100% from the last presidential election in 2000. The Division's existing fax press could not handle the demand. The Division installed an additional 16 phone lines and purchased 2 8-line fax press machines to handle the incoming and outgoing faxes.

HB

83

ALASKA STATE LEGISLATURE



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Representative David Guttenberg

MEMO

To: Representative Paul Seaton, Chair
House State Affairs

From: Representative David Guttenberg

Date: February 17, 2005

Re: Hearing request for CS HB 83 (MLV), An Act relating to the Alaska Hazards Safety Commission and providing for an effective date.

I respectfully request a hearing on House Bill 83 in the House State Affairs Committee.

Attached you will find:

- Current version of CS for HB 83 (MLV)
- Sponsor statement
- Additional documentation relating to the bill
- Fiscal notes
- Recent news article that ran in the Anchorage Daily News

I look forward to presenting it before the committee as soon as is convenient. My staff, Danielle Brown-Farrell is assigned to this legislation if there are any questions, 465-4708.

ALASKA STATE LEGISLATURE

Representative
David Guttenberg



Representative
Gabrielle LeDoux

Sponsor Statement

CS for HB 83

**"An Act relating to the Alaska Seismic Hazards Safety Commission;
and providing for an effective date."**

The CS for HB 83 extends the termination date for the Alaska Seismic Hazards Safety Commission until June 30, 2010 and adds the word "tsunami" to all of the sections addressing the scope of the work of the Alaska Seismic Hazards Safety Commission. This will increase the focus of that Commission to include tsunamis.

With more than 33,000 miles of shoreline, Alaska has been and can be devastated by earthquakes and tsunamis. Since about 1900, Alaska has had 80 magnitude 7 or larger earthquakes. This includes the second- and third- largest worldwide earthquakes, which were larger than the recent earthquake in Indonesia.

Tsunamis can and will greatly affect the fishing industry in coastal Alaska as was evidenced in the 1964 Alaska earthquake, which greatly impacted the coastal communities of Prince William Sound and has caused immense damage recently in the fisheries and aquaculture sectors of the affected countries in the Indian Ocean.

Alaska accounts for more than half of all the earthquakes that occur in the U.S. and about ten percent of all earthquakes worldwide. One of the roles of a Seismic Hazards Safety Commission would be to provide a proactive resource for state and local government officials and Alaskan communities that want assistance in acquiring information and guidance necessary to help mitigate earthquake and tsunami hazards.

Alaska's population is growing and the state's infrastructure is developing. The Alaska Seismic Hazards Safety Commission can play a vital role in reducing earthquake related losses. The Alaska Seismic Hazards Safety Commission is an invaluable asset in promoting the earthquake preparation essential to reducing our earthquake threat and future losses to the state that, without effective mitigation measures, are inevitable.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 83((MLV)
 (H) Publish Date: 2/4/05

Revision: Date/Time (Note if correction): _____ Dept. Affected: Military and Veterans Affairs
 Title: Alaska Seismic Hazards Safety Commission RDU: Military and Veterans Affairs
 Sponsor: Representative Ladoux Component: Homeland Security and
 Requester: (H) Special Committee MLV Component No.: 2657
Emergency Management

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact.

Prepared by: John Cramer
 Division: Division of Administrative Services
 Approved by: Craig E. Campbell, Commissioner
 Agency: Department of Military and Veterans Affairs

Phone: (907) 465-4602
 Date/Time: 2/1/05 11:58 AM
 Date: 2/1/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 83(MLV)
(H) Publish Date: 2/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: An Act relating to the Alaska Seismic RDU: Resource Development
Hazards Safety Commission Component: Geological Development
Sponsor: Rep. LeDoux, Rep. Guttenberg
Requester: (H) MLV Component No.: 1031

Expenditures/Revenues (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY 2005) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Rod Combellick Phone 907-451-5007
Division: Geological & Geophysical Surveys Date/Time 2/1/2005
Approved by: Tom Irwin, Commissioner Date 2/1/2005
Agency: Natural Resources

Thanks for the call concerning the State of Alaska Seismic Hazards Safety Commission. I am particularly concerned that the Commission has never been filled and is facing expiration soon unless commissioners are appointed in the near future. Of all the states, none has a greater need for such a group.

Here are several contacts that may be very helpful. I suggest you contact them.

Representative Dave Guttenberg, House District 8 – Fairbanks. Rep. Guttenberg is also interested in the Seismic Hazards Safety Commission and has both information and expertise.

Commissioner Tom Irwin, Department of Natural Resources. I have been told he has reports and documents related to the Seismic Hazard Safety Commission that have not been released to the public but probably could be made available to members of the state legislature. Ph. 907-465-2400, email: <tom_irwin@dnr.state.ak.us>

Dr. Rod Combellick, Acting Director of the Division of Geological & Geophysical Surveys. Rod is very knowledgeable regarding the Seismic Hazards Safety Commission, the history of its formation, and a lot more. Ph. 907-451-5007, email <rod@dnr.state.ak.us>

Consider the following:

ALASKA IS EARTHQUAKE COUNTRY

Alaska is the most seismically active state in the union. For comparison, California, widely regarded as the benchmark state for earthquake hazards nationally, has experienced 16 magnitude 7 or larger earthquakes historically (since about 1900). A magnitude 7 or larger earthquake is very powerful and if such an earthquake occurs in a populated region will cause widespread and severe damage and may result in casualties. During the same period, Alaska has had 80 magnitude 7 or larger earthquakes, including the second- and third-largest worldwide, the 1964 magnitude 9.2 (Prince William Sound - Kodiak) and 1957 magnitude 9.1 (eastern Aleutian Islands) earthquakes. Both of these were larger than the recent earthquake in Indonesia that generated the catastrophic tsunami in the Indian Ocean, and both generated killer Pacific-wide tsunamis. Indeed, Alaska accounts for more than half of all the earthquakes that occur in the United States and about ten percent of all earthquakes worldwide.

MOST ALASKANS LIVE NEAR BIG ACTIVE FAULTS

Alaska's population is largely concentrated in the seismically active regions of the state. The largest and most active faults in Alaska (and North America) are the Aleutian subduction zone and the Queen Charlotte-Fairweather fault. The Aleutian subduction zone extends from northern Prince William Sound near Cordova and Seward southwest to Kodiak and further

west along the Pacific side of the Alaskan Peninsula and Aleutian chain. This is one of the largest faults in the world and one of the most active. It produced both the 1957 and 1964 earthquakes. The Queen Charlotte–Fairweather fault system extends through southeast Alaska from the Yakutat-Sitka area south past Juneau, Ketchikan and the other communities in the panhandle. The Queen Charlotte–Fairweather fault is the Alaska equivalent of California's San Andreas Fault, just as large, just as active, and for southeast Alaska communities, just as dangerous. Anchorage faces exposure to the Aleutian subduction zone, as illustrated by the damage it caused there in 1964. Anchorage and the Mat-Su valley are in close proximity to the large and highly active Castle Mountain fault and a host of potentially dangerous faults in northern Cook Inlet. Fairbanks also is located in an area of significantly high seismicity from buried active faults that lie beneath the Tanana lowlands.

ALASKANS HAVE BEEN "LUCKY" SINCE 1964

Although a number of strong earthquakes have occurred in Alaska since the devastating 1964 earthquake, all have fortunately been located far away from populated areas. This is somewhat remarkable considering the close correlation between population centers and our largest and most active faults. It is only a matter of time before we experience another serious earthquake that centers on one of our cities. Preparedness is the only antidote we have to mitigate our seismic exposure. The Seismic Hazards Safety Commission is a potentially invaluable asset in promoting the earthquake preparation essential to reduce our earthquake threat and reduce future losses to the state that, without effective mitigation measures, are inevitable.

RECENT LESSONS LEARNED (OR NOT LEARNED)

On Nov. 3, 2002 the Denali fault in the central Alaska Range ruptured and generated a magnitude 7.9 earthquake, the largest "continental" earthquake in North America in the past 150 years. Fortunately the Denali fault is located in a sparsely populated part of the state. However, the fault rupture intersected the Trans-Alaska Oil Pipeline and offset the pipeline about 18 feet. Much to the credit of Alyeska Pipeline Service Company, a thorough study of earthquake hazards to the pipeline was conducted prior to its construction. Where the pipeline crossed the Denali fault special engineering design was incorporated, which allowed the pipe to withstand the 18 feet of offset and strong shaking without failure. The pipeline was only briefly shut down and no oil was spilled. Without the special seismic design considerations the pipeline most certainly would have sustained significant damage and been off line for a much longer period at great cost to the state and the petroleum industry. Since the Denali fault-pipeline crossing is adjacent to the Delta River and the river was thawed and flowing at the time of the earthquake, a large oil spill could have been catastrophic, with oil entering the Delta River, the Tanana and Yukon rivers, and possibly the Bering Sea. The state of Alaska dodged that bullet only because of earthquake preparation in the form of knowledge and engineering design to accommodate the Denali fault hazard. Did we learn anything from this experience? Failure to establish a state Seismic Hazards Safety Commission would suggest we did not.

A REAL AND PRESENT NEED

One of the roles of a Seismic Hazards Safety Commission would be to provide a resource for state and local government officials and Alaskan communities that want assistance in acquiring information and guidance necessary to help mitigate earthquake hazards. For example, presently our community (Kodiak) has determined that there is significant cause to believe some of our schools may not be life-safe in the event of a strong local earthquake. To this end, the Kodiak Island Borough has raised funds through a voter-approved bond issued to investigate the earthquake safety of our schools. Inherent in this process is the need to follow complex FEMA guidelines and understand specialized technical information regarding earthquakes and engineering. Compliance with the FEMA regulations is necessary if we are to qualify for federal funds to accomplish mitigation goals. For almost a year our local government has been struggling with these issues without the necessary expertise and little in the way of sources for advice and guidance. Failure to meet strict FEMA requirements jeopardizes the possibility of federal financial support to mitigate our hazards. The Kodiak community has discovered first-hand how useful a Seismic Hazards Safety Commission would be and how difficult it is for small local governments in the state to dealing with the earthquake mitigation issue.

THE CLOCK IS TICKING

As Alaska grows and our state's infrastructure develops time is passing and the next severe earthquake is drawing closer. Meanwhile, no coherent statewide program is in place to specifically to promote and support earthquake preparedness, and no official group is available to assist Alaska's communities with the mitigation measures needed to reduce our exposure to this threat. Do we need to experience the potentially huge financial losses and casualties a large earthquake in an urban area will bring to our state before we take action to reduce the earthquake hazard? Mitigation pays great dividends and costs very little compared to such losses. However, it is effective only if the mitigation action is done before the earthquake. Alaska cannot afford to stand idly by and wait for the inevitable, the consequences are too great. Establishment of the Seismic Hazards Safety Commission is a powerful first step in saving Alaskan lives, property, and financial well-being. Failure to complete the process by appointing the commission is unconscionable.

Finally, what role could the Commission play in reducing earthquake related losses in the state? According to the Alaska Division of Legislative Audit, Audit Digest #10-20038-05 as posted on the State of Alaska Web Site:

<http://www.legaudit.state.ak.us/pages/digests/2005/20038dig.htm>

- The mitigation of seismic hazards refers to studying, identifying, and prioritizing actions that could be taken to reduce the impact of earthquakes. The most cited tangible mitigation measure has been modification of zoning and building codes. Accordingly, the actual implementation of many of the commission's earthquake mitigation recommendations would have to be done by local governments. Having local representatives as part of the commission may facilitate the implementation of the commission's recommendations.
- Many local governments adopted the International Building Code (IBC) and have, therefore, already been involved in deciding if they believe it is in the public's interest to

update local codes in conformity with IBC changes. Having more local government members would bring, to the commission, a sense of the local concerns about adding or modifying existing local ordinances for improved earthquake mitigation factors."

Local jurisdiction representation on the commission is very important, but I think it is unfortunate that the legislative audit report's emphasis is placed on the use of building codes and zoning to mitigate seismic hazards. Code and zoning regulation is only a small part of a wide range of possible approaches the commission might take to reduce our exposure to seismic hazards. Some critics of the Commission construe such regulation negatively. Other more important and potentially more useful commission approaches could include coordination of state wide education and awareness, development of links with local, state, and federal agencies including FEMA, the US Geological Survey, Association of Structural Engineers, and a host of private and government agencies that could provide a range of assistance to local officials, private industry, and Alaska citizens.

SEAFOOD.COM NEWS [FAO Press statement] 13 January 2005, Washington and Rome -- The tsunami waves have had a devastating impact on the fisheries sector in many countries of the Indian Ocean, FAO said today.

In Sri Lanka, more than 7 500 fishers have been killed by the tsunami and over 5 600 are still missing. More than 5 000 Sri Lankan fishing families have been displaced and 80 percent of coastal fishing vessels have been completely destroyed or very seriously damaged, including around 19 000 boats. Ten out of the 12 main fishing harbours in the country have been completely devastated including infrastructure such as ice plants, cold rooms, workshops and slipways.

FAO has already sent fisheries experts to Sri Lanka to advise the government on the repair and rehabilitation of fishing harbours and infrastructure, fishing boats and fishing gear.

In the Nanggroe Aceh Darussalam Province of Indonesia, where 42 000 fishers and their families live, 70 percent of the small-scale fishing fleet have been destroyed. In Nias Island, about 800 fishing canoes have been destroyed. Two thirds of local fisherfolk from the capital Banda Aceh were killed by the waves.

Fish farming was severely affected in northern Sumatra with about 1 000 fish cage farms having been completely destroyed.

'FAO is currently assessing the damage and will help the government and local authorities to repair and replace fishing boats and gear and start with the initial repair of water fishponds and infrastructure so that fish production can be resumed as soon as possible,' said Jeremy Turner, Chief of the Fishery Technology Service.

In the affected coastal areas of Thailand, 386 fishing villages with a population of around 120 000 people have lost about 4 500 fishing boats, or their fishing gear has been seriously damaged. Most fishing boats are owned by small-scale, traditional fishers. The total damage to marine capture fisheries alone is estimated at around \$16.6 million.

Eight fishing harbours and their infrastructure have been seriously damaged. The affected aquaculture industry has suffered a serious setback. A total of around 15 800 fishing cages have been damaged, this has caused losses of about \$33 million. In some areas, seafood supplies have dropped by 90 percent since the tsunami.

FAO is preparing support measures for fisherfolk in six southern Provinces of Thailand providing essential fisheries inputs and assisting in the repair of damaged fishing vessels and damaged fishery infrastructure.

In the Maldives, where a very large part of the population depends on fishing for their livelihood, more than one third of all inhabited islands were severely damaged and hundreds of boats and harbours were destroyed. FAO is planning to assist the country with the repair and replacement of fishing boats, engines and fishing gear as well as with

the repair and rehabilitation of fisheries infrastructure.

In the state of Andhra Pradesh in India, fishers along the 1 000 km coastline were the worst hit by the tsunamis. Around 2 000 fishing boats and about 48 000 fishing gears were lost, about 300 000 fishers have lost their jobs. In the state of Tamil Nadu, 591 fishing villages and 30 islands of the Andaman and Nicobar islands have been badly affected by the tsunamis. India's seafood exports may decline by around 30 percent as a result of the tsunami.

In Myanmar, some 200 villages spread along the southern coast and heavily relying on fishing have been hit by tsunamis and lost fishing vessels, fishing gear and infrastructure. Some 17 seaside fishing villages have been reported as destroyed and at least 53 people as killed by the tsunamis. FAO is preparing for a long-term participation in relief and rehabilitation measures for the affected fishing communities.

In Malaysia, the livelihoods of about 6 000 fishers have been affected by the disaster.

In Somalia, around 2 600 fishing boats have been destroyed. FAO is assisting in damage and needs assessments and making preparations for the repair of damaged fishing vessels and for the provision of essential fishing inputs in six southern provinces of the country. FAO will also provide short-term financial aid and training in improved fishing techniques and boatbuilding to about 2 000 fishers.

In the Seychelles, coastal fish farms and the artisanal fisheries sector suffered extensively. A great number of fishing vessels were damaged or lost. The two fish processing plants and cold storage facilities located at the fishing port in Victoria were also affected by the tsunamis. FAO is preparing assistance programmes for the repair and replacement of fishing vessels and landing facilities and for the restoration of sustainable livelihoods in the fisheries sector.

The damage caused by the recent tsunamis in the fisheries and aquaculture sectors of the affected countries is worse and more complex than expected, Turner said.

FAO's Fisheries Department has embarked on a concerted effort to assist the fisheries and aquaculture sectors of the tsunami effected countries through relief and rehabilitation measures and projects.

LESSMEIER & WINTERS

LAWYERS - LLC

VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
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JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER
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SHELDON E. WINTERS

TELEPHONE: (907) 798-4999
FACSIMILE: (907) 798-4998
E-MAIL: lw@jdl.net

January 27, 2005

Representative Gabrielle LeDoux
State Capitol, Room 412
Juneau, Alaska 99801

Re: House Bill 84

Dear Representative LeDoux:

I am writing to you on behalf of State Farm Insurance Companies with respect to House Bill 84. State Farm supported the creation of the Alaska Seismic Hazards Safety Commission and supports your proposal to extend the Commission through another five years. If there is any assistance or information we can provide to you, please feel free to call.

Sincerely,



Sheldon E. Winters

SEW/caf
RepLeDoux01SEW.wpd

adn.com

Anchorage Daily News

Print Page

Close Window

Tsunami warning system won't end threat to Alaska**BUOYS: Purpose of devices is to warn rest of Pacific of waves from earthquakes here.**

By TOM KIZZIA

Anchorage Daily News

(Published: January 15, 2005)

Alaskans shouldn't be lulled by the existence of high-seas buoys in the Pacific Ocean into thinking they are much better protected from danger than residents of Banda Aceh in Indonesia, according to earthquake and tsunami experts here.

 [Photo gallery](#)

The buoys that detect passing waves are subject to breakdown -- as evidenced by the fact that three of the six currently deployed have been out of service for a year.

More significantly, earthquake and tsunami experts said in recent interviews, those buoys are deployed to warn the rest of the Pacific Rim about tsunamis generated by earthquakes in unstable Alaska. An Alaska-generated wave would probably hit the shore here before it reaches the first buoy heading south.

"By the time it gets to the buoy, you better have everybody evacuated," said Paul Whitmore, the scientist-in-charge at the West Coast/Alaska Tsunami Warning Center in Palmer.



()

[Click on photo to enlarge](#)

The situation is the same in the Indian Ocean. A buoy warning system there might have provided advance warning to Sri Lanka, which was hit several hours after the triggering earthquake Dec. 26. But it would not have alerted the coast of Sumatra, adjacent to the rift zone in the Andaman Sea.

An expanded buoy system in the Pacific, such as the one proposed Friday by the Bush administration, would provide more notice to Alaska of tsunamis coming from other places. But it would be unlikely to help with Alaska's own waves, whether generated by shifting subsea faults or landslides. Both kinds of waves proved devastating here during the 1964 earthquake.

What Alaska does have going for it, compared with the Indian Ocean nations, is a much more extensive deployment of seismometers and a notification system ready to put out alerts of a possible tsunami in a matter of minutes. Alaska also has a series of tidal gauges in coastal communities, helpful to some extent in confirming the existence of a wave as it passes, and a civil defense system drilled in the potential dangers to coastal towns. People have been told not to wait for a siren to evacuate.

"If the ground is shaking hard enough so that you have trouble standing, it's close," state seismologist Roger Hansen said. "I would say go to higher ground."

How high is high enough? Alaska is now mapping its tsunami danger zones. In Homer, for example, state and University of Alaska experts just released last month a new map showing the

expected high-water mark of waves generated by the two likeliest subsea earthquake hazards. The result was surprisingly good news, with only a small segment of the low-lying Homer Spit likely to get washed over. Even so, city officials said, they would evacuate the Spit if the Palmer center reported a wave heading into Cook Inlet.

"We're in the prevention business," Homer fire chief Bob Painter said.

The new "inundation map" is based on mathematical formulas -- accounting for such things as fault lines and sea bottom contours -- first worked out for Kodiak and calibrated against the actual waves that killed six people there after the 1964 Alaska earthquake. The numbers are run through a supercomputer at the University of Alaska Fairbanks. Similar hazard maps are being prepared for Seward and Sitka, Hansen said.

Anchorage is believed to have virtually no danger from long-distance tsunamis because it is at the end of Cook Inlet, whose long shallow straits would dissipate any wave's energy. Hansen said.

The new Homer map doesn't account for what has long been thought the most serious tsunami threat in the area, an eruption and landslide at Augustine Volcano about 60 miles away. Scientists have grown sharply divided over whether the island volcano presents a major tsunami threat.

Apart from Augustine, subsea landslides often trigger local tsunamis with little warning. Chris Waythomas, a hydrologist with the Alaska Volcano Observatory, said five of the seven fatal tsunamis in Alaska history were probably landslide-induced, including the most recent one, in Skagway in 1994.

The Pacific alert system for long-distance waves began to take shape after a 1946 earthquake in the Aleutians produced a wave that surprised Hawaii, killing 159 people along the waterfront in Hilo. Major waves from that quake hit Chile 12 hours later.

Prediction efforts took another big step forward after the magnitude-9.2 earthquake in Alaska in 1964, with establishment of a central information gathering point in Palmer. Most of the deaths caused by the 1964 quake were due to waves, including 10 as far away as Crescent City, Calif.

Today, the Palmer facility is hooked into 150 seismic sites around the world, including 50 outside the Pacific region. When these sites send information of a serious shake, employees notified by beepers are expected on the scene in five minutes. They assess the data and decide whether the quake may have generated a wave. An automatic warning system sends alarms to the National Weather Service, the Coast Guard and various emergency response agencies.

They won't know whether the subsea rumble really created a tsunami until they start to pick up information from tidal gauges at docks in a scattering of coastal towns. Some of those gauges feed information to Palmer via satellite steadily, while others beam data only every half hour, Hansen said.

The deep-sea buoys in the Pacific can pass along more precise measures of a wave's size. But their most important role may be in calling off false alarms. Presumably a tsunami alert has already been issued by the time the wave passes the so-called DART buoys (for "Deep-ocean Assessment and Reporting of Tsunamis"), which are set in water several miles deep. The DART buoys have sensors on the ocean floor capable of gauging the pressure change of waves only half an inch tall as they pass. If no wave is detected, the alarms are called off, saving coastal evacuations that may cost tens of millions of dollars, officials say.

Indeed, the buoy system won kudos in November 2003 when they allowed Hawaii to cancel an evacuation after an ominous 7.5-magnitude quake in the western Aleutians.

"They're better for cancelling warnings than issuing them," said Whitmore, at the Palmer center.

Unfortunately, the western Aleutian DART buoy that gave the all-clear in 2003 is currently out of service, as is the buoy off Unalaska and one other off the Oregon coast.

"Some of us on the steering committee are concerned that half the system is down now," state seismologist Hansen said, referring to a national tsunami hazard group made up of five Pacific rim states and three federal agencies.

One of the three broken DART buoys has already been pulled and repaired and is ready for redeployment when winter sailing weather allows, according to National Weather Service spokesman Greg Romano.

"We are taking steps to make it a more rugged system," Romano said.

Increasing the number of deep-sea buoys would provide faster information and would also help triangulate the source and direction of waves, Whitmore said. The wave off Sumatra was over a 600-mile zone, not simply from the quake's epicenter, he said.

For Alaskans near the source of a wave, though, more buoys may not be much help. The first seismographic report of a potential tsunami may be the only useful warning Alaska gets.

[Print Page](#)

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HB

86

ATTN: Barbara Craver

Amendments to HB 86 adopted and CS passed out of House State Affairs

Amendment #1

Page 2, lines 14-15:

Delete "The ombudsman may not verify the reports or investigate the information reported."

Amendment #2

Page 3, line 3:

Delete "executive branch"

Insert "public" (in final, legal changed "public" to "agency" to conform w/ombudsman statute)

Amendment #3 (conceptual)

Page 2, line 13

Insert after "every six months" ", and to the legislature annually"

Please incorporate to a final CS

Thanks,

Louise Flora

House State Affairs Committee aide

Rep. Seaton

Room 102

24-LS0037Y

Craver
4/20/05

CS FOR HOUSE BILL NO. 86() ^{as} amended.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MEYER, Kerttula

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing in the office of the ombudsman a public employee fraud, waste,
2 and abuse report hotline program."

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

4 * Section 1. AS 24.55.090(a) is amended to read:

5 (a) The ombudsman shall, by regulations adopted under AS 44.62
6 (Administrative Procedure Act), establish procedures for receiving and processing

7 (1) complaints, conducting investigations, reporting findings, and
8 ensuring that confidential information obtained by the ombudsman in the course of an
9 investigation will not be improperly disclosed; and

10 (2) reports made by public employees using the public employee
11 fraud, waste, and abuse hotline program.

12 * Sec. 2. AS 24.55 is amended by adding a new section to read:

13 Article 4A. Public Employee Fraud, Waste, and Abuse Hotline Program.

14 Sec. 24.55.222. Public employee fraud, waste, and abuse hotline program.

#5
7/11/11

(a) The ombudsman shall establish, maintain, and administer the public employee fraud, waste, and abuse hotline program to encourage agency employees to report situations where fraud, waste, or abuse may be occurring in the state's agencies.

(b) The ombudsman may make available to agency employees a variety of means to report fraud, waste, and abuse in agencies, one of which shall be an anonymous toll-free telephone number, and including any other communications to the ombudsman made through the governor or heads of agencies, or made by mail, electronic mail, facsimile, and the Internet.

(c) An allegation made to the hotline shall be considered to be anonymous. The ombudsman may attempt to identify any person contacting the hotline and shall protect the anonymity of the agency employee reporting to the hotline.

(d) The ombudsman shall report to the ^{Legislature} Legislative Budget and Audit Committee ^{# Send to the legislative committee} every six months regarding the number of calls, and the types of fraud, waste, and abuse reported through the hotline program. ~~The ombudsman may not~~

~~verify the reports or investigate the information reported.~~

Amed #1

(e) In this section,

(1) "abuse" means the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of government resources, and extravagant or excessive use of one's position or authority; abuse may include financial and non-financial misuse of government resources;

(2) "fraud" means the intentional deception, including a false representation of a matter or fact, whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed and that deceives and is intended to deceive, by any person within or external to the state government that could result in a benefit to the person perpetrating the fraud, or a detriment to others or the state;

(3) "waste" means the intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use of, or squandering of a resource of an agency to the detriment or potential detriment of the state, or incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.

2

1 * Sec. 3. AS 39.25 is amended by adding a new section to read:

2 **Sec 39.25.920. Department of administration to inform employees of**
3 **hotline.** The commissioner of administration shall inform ^{public.} [executive branch]
4 employees of the public employee fraud, waste, and abuse hotline program established
5 under AS 24.55.222.

6 * Sec. 4. AS 39.90.100(a) is amended to read:

7 (a) A public employer may not discharge, threaten, or otherwise discriminate
8 against an employee regarding the employee's compensation, terms, conditions,
9 location, or privileges of employment because

10 (1) the employee, or a person acting on behalf of the employee, reports
11 to a public body or is about to report to a public body a matter of public concern; [OR]

12 (2) the employee participates in a court action, an investigation, a
13 hearing, or an inquiry held by a public body on a matter of public concern; or

14 (3) the employee contacted the ombudsman in regard to an
15 allegation of fraud, waste, or abuse under the public employee fraud, waste, and
16 abuse hotline program under AS 24.55.

17 * Sec. 5. AS 39.90.110(c) is amended to read:

18 (c) As part of its written personnel policy, a public employer may require that,
19 before an employee initiates a report on a matter of public concern under
20 AS 39.90.100, the employee shall submit a written report concerning the matter to the
21 employer. However, the employee is not required to submit a report if the employee

22 (1) reasonably believes that reports to the employer will not result in
23 prompt action to remedy the matter of public concern;

24 (2) believes with reasonable certainty that the activity, policy, or
25 practice is already known to one or more supervisors;

26 (3) reasonably believes that an emergency is involved; [OR]

27 (4) reasonably fears reprisal or discrimination as a result of disclosure;

28 or

29 (5) contacts the ombudsman under the public employee fraud,
30 waste, and abuse hotline program under AS 24.55.

*John McKay
ADN Attorney*

24-LS0237Y
Craver
4/20/05

CS FOR HOUSE BILL NO. 86()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES MEYER, Kerttula

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing in the office of the ombudsman a public employee fraud, waste,**
2 **and abuse report hotline program."**

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

4 *** Section 1.** AS 24.55.090(a) is amended to read:

5 (a) The ombudsman shall, by regulations adopted under AS 44.62
6 (Administrative Procedure Act), establish procedures for receiving and processing

7 (1) complaints, conducting investigations, reporting findings, and
8 ensuring that confidential information obtained by the ombudsman in the course of an
9 investigation will not be improperly disclosed; and

10 (2) reports made by public employees using the public employee
11 fraud, waste, and abuse hotline program.

12 *** Sec. 2.** AS 24.55 is amended by adding a new section to read:

13 **Article 4A. Public Employee Fraud, Waste, and Abuse Hotline Program.**

14 **Sec. 24.55.222. Public employee fraud, waste, and abuse hotline program.**

1 (a) The ombudsman shall establish, maintain, and administer the public employee
2 fraud, waste, and abuse hotline program to encourage agency employees to report
3 situations where fraud, waste, or abuse may be occurring in the state's agencies.

4 (b) The ombudsman may make available to agency employees a variety of
5 means to report fraud, waste, and abuse in agencies, one of which shall be an
6 anonymous toll-free telephone number, and including any other communications to
7 the ombudsman made through the governor or heads of agencies, or made by mail,
8 electronic mail, facsimile, and the Internet.

9 (c) An allegation made to the hotline shall be considered to be anonymous.
10 The ombudsman may attempt to identify any person contacting the hotline and shall
11 protect the anonymity of the agency employee reporting to the hotline.

12 (d) The ombudsman shall report to the ~~Legislative Budget and Audit~~ ^{Legislature}
13 ~~Committee~~ ^{and to the Legislature annually} every six months, regarding the number of calls, and the types of fraud,
14 waste, and abuse reported through the hotline program. ~~The ombudsman may not~~
15 ~~verify the reports or investigate the information reported.~~

16 (e) In this section,

17 (1) "abuse" means the intentional destruction, diversion, manipulation,
18 misapplication, maltreatment, or misuse of government resources, and extravagant or
19 excessive use of one's position or authority; abuse may include financial and non-
20 financial misuse of government resources;

21 (2) "fraud" means the intentional deception, including a false
22 representation of a matter or fact, whether by words or by conduct, by false or
23 misleading statements, or by concealment of that which should have been disclosed
24 and that deceives and is intended to deceive, by any person within or external to the
25 state government: that could result in a benefit to the person perpetrating the fraud, or a
26 detriment to others or the state;

27 (3) "waste" means the intentional or unintentional, thoughtless or
28 careless expenditure, consumption, mismanagement, use of, or squandering of a
29 resource of an agency to the detriment or potential detriment of the state, or incurring
30 unnecessary costs as a result of inefficient or ineffective practices, systems, or
31 controls.

Amendment #3 w/drawn
Amendment #1 applied

Am #4 w/drawn

Legislature w/drawn

Adopted
Gov 2/1
Sib-A
Jan 25
Gov 2/25

Amended #2
eliminate "Executive branch" insert "Public"

* Sec. 3. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.920. Department of administration to inform employees of hotline. The commissioner of administration shall inform ~~executive branch~~ ^{public} employees of the public employee fraud, waste, and abuse hotline program established under AS 24.55.222.

* Sec. 4. AS 39.90.100(a) is amended to read:

(a) A public employer may not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because

(1) the employee, or a person acting on behalf of the employee, reports to a public body or is about to report to a public body a matter of public concern; [OR]

(2) the employee participates in a court action, an investigation, a hearing, or an inquiry held by a public body on a matter of public concern; or

(3) the employee contacted the ombudsman in regard to an allegation of fraud, waste, or abuse under the public employee fraud, waste, and abuse hotline program under AS 24.55.

* Sec. 5. AS 39.90.110(c) is amended to read:

(c) As part of its written personnel policy, a public employer may require that, before an employee initiates a report on a matter of public concern under AS 39.90.100, the employee shall submit a written report concerning the matter to the employer. However, the employee is not required to submit a report if the employee

(1) reasonably believes that reports to the employer will not result in prompt action to remedy the matter of public concern;

(2) believes with reasonable certainty that the activity, policy, or practice is already known to one or more supervisors;

(3) reasonably believes that an emergency is involved; [OR]

(4) reasonably fears reprisal or discrimination as a result of disclosure;

or

(5) contacts the ombudsman under the public employee fraud, waste, and abuse hotline program under AS 24.55.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB86
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act establishing in the office of RDU All
the ombudsman a state executive branch employee fraud..." Component All
 Sponsor Rep. Meyer
 Requester (H) State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have a zero fiscal impact on the Department of Administration.

Prepared by: Eric Swanson, Director Phone 465-5655
 Division Administrative Services Date/Time 4/20/05 3:27 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/20/2005
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB86
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title: "An Act establishing in the office of the
ombudsman a state executive branch employee fraud...." BRU: Budget and Audit Committee
 Sponsor: Representative Meyer, Kerttula Component: Office of the Ombudsman
 Requestor: House State Affairs Component No.: 2232

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	84.0	84.0	84.0	84.0	84.0	84.0
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	1.2	1.2	1.2	1.2	1.2	1.2
Supplies	2.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	90.2	88.2	88.2	88.2	88.2	88.2

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	90.2	88.2	88.2	88.2	88.2	88.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	90.2	88.2	88.2	88.2	88.2	88.2

Estimate of any current year (FY2005) cost: _____

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

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB86 establishes in the Office of the Ombudsman a state executive branch employee fraud, waste, and abuse report hotline program. These new responsibilities will require the hiring of an investigator position, and includes costs for travel, training, telephone and a one time equipment expense. If this bill becomes law, the workload of the Office of the Ombudsman will increase substantially.

Prepared by: Karia Schofield, Deputy Director Phone: 465-3852
 Division: Division of Administrative Services Date/Time: 4/20/05 4:35 PM
 Approved by: Pamela Vami, Executive Director Date: 4/20/2005
 Agency: Legislative Affairs Agency

(April 4)

PAUL - we just received
these recommendations
from the ombudsman.

Let us discuss these
with her in more detail
& come back with a
CS. We like some
of her recommendations
~~& not~~ but not all.

No need to take up
your committee's time.

Thanks

Kevin



State of Alaska
ombudsman

Reply to:

X P.O. Box 102636
Anchorage, AK 99510-2636
(907) 269-5290
(800) 478-2624
(FAX) 269-5291

P.O. Box 113000
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
(FAX) 465-3330

April 4, 2005

The Honorable Representative Kevin Meyer
Alaska State Capitol
State Capitol, Room 515
Juneau, AK 99801-1182

RE: House Bill 86 (State Employee Fraud, Abuse Hotline)

Dear Rep. Meyer:

You have introduced House Bill 86, the State Employee Fraud, Abuse and Waste Hotline for consideration of the Alaska Legislature. The bill, as proposed, would direct the Office of the Ombudsman to establish, maintain, and administer a program aimed at encouraging state employees to report instances of fraud, waste, and abuse by other state executive branch employees.

HB86 gives the Ombudsman discretion to create methods by which state employees may report fraud, abuse and waste but mandates one of those methods must be a toll-free telephone number which accepts anonymous telephone calls from state employees reporting fraud, abuse and waste.

HB86 Article 4A states an allegation made to the hotline "shall be considered to be anonymous." The statute prohibits the ombudsman from attempting "to identify any person contacting the hotline and may protect the anonymity of the state executive branch employee reporting to the hotline."

HB86 defines abuse, fraud, state executive branch employee and waste. It also amends the Alaska Whistleblower's statute at AS 39.90.100(a) and AS 39.90.110(c) to reflect the creation of the hotline program and extend protection to those who report to the hotline.

You have asked me for comment on the proposed legislation and for insight on how this hotline would affect the Ombudsman office.

My staff and I reviewed the proposed legislation as it would fit with existing Alaska Statute, Regulations and Ombudsman policy and procedures as well as numerous legal opinions on Ombudsman authority.

I also have reviewed hotline Web pages for several other governmental jurisdictions including Virginia, Nebraska, Oregon, Arizona, The Federal Emergency Management Agency (FEMA), the City of Dallas, Los Angeles County, California, Social Security, and Ventura County California. I also sent out a list of questions to the managers of those hotlines seeking specific information that I was not able to obtain on-line. I was able to review the Virginia Hotline's Policies and Procedures manual, which proved helpful in my research.

Preliminary review of HB86 leads me to believe that the intent of the legislation is not incompatible with the Ombudsman's function. AS 24.55, the Ombudsman statute, gives the Office of the Ombudsman the statutory authority to investigate complaints about many of these types of allegations included in HG86 under the ombudsman statute governing misconduct. Typically, however, the issue of waste is not included in Ombudsman review. Most of the Hotlines I revised are located in an auditor's office but I will note that most were in jurisdictions that did not have an ombudsman office.

I have broken down the results of my review into the following categories: Ombudsman jurisdiction; anonymous complaints and misconduct complaints, notice to complainants, the effect of the legislation on the Alaska Whistleblower statute, and the practical effect on the ombudsman office.

OMBUDSMAN JURISDICTION

The existing statute governing Ombudsman jurisdiction is covered by AS 24.55.100 and 110. The Ombudsman can investigate complaints about the administrative actions of State of Alaska agencies and state employees.

AS 24.55.330 (1) defines an administrative act as:

... an action, omission, decision, recommendation, practice, policy, or procedure of an agency, but does not include the preparation or presentation of legislation or the substantive content of a judicial order, decision or opinion;

AS 24.55.330(2) defines agency as including

... a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or in the executive, legislative or judicial branches of the state government, and a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or of the state government independent of the executive, legislative and judicial branches; it also includes an officer, employee or member or an "agency" acting or purporting to act in the exercise of official duties...

Exempted from Ombudsman jurisdiction are the governor, lieutenant governor, a member of the Legislature, justice of the supreme court, judge of the court of appeals, a superior court judge, district court judge, magistrate, member of a city council or borough assembly, elected city or borough mayor, or a member of an elected school board.

HB86 would create AS 24.55.222 which directs the Ombudsman to establish, maintain and administer the *state executive branch employee* fraud, waste, and abuse hotline program to encourage *state executive branch employees* to report situations where fraud, waste or abuse may be occurring in the *state's executive branch agencies* and institutions. At (b), the legislation specifies that the ombudsman make available to *state executive branch employees* a variety of means to report fraud, waste, and abuse in the *state's executive branch* . . .

In subsequent references, the program refers to state executive branch employees. In section (3) of proposed AS 24.55.226 Definitions, HB 86 states a *state executive branch employee* means a person employed by a department, office, institution, board, commission, bureau, division, or other administrative unit forming a part of the *executive branch* of state government.

Comments

As written, proposed AS 24.55.222 conflicts with existing Ombudsman jurisdiction as defined in AS 24.55.100 and .330 in that the proposed legislation, by omission, exempts from Ombudsman jurisdiction the court and legislative branches of government, over which the ombudsman currently has jurisdiction. In AS 24.55.330 (2), agency is defined as:

. . . a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or in the executive, legislative or judicial branches of the state government . . .

Recommendation 1: I recommend HB 86 be amended to include the legislative and judicial branches of government subject to ombudsman jurisdiction under provisions of 24.55.222.

* * * * *

HB 86 at proposed AS 24.55.224(c) further exempts from Ombudsman jurisdiction the provisions of existing AS 24.55.320, which authorizes the Ombudsman to provide ombudsman services to Alaska municipalities and school districts if the municipalities and school districts elect to purchase services. Under .320, when a municipality or school district elects to retain the services of the ombudsman the municipality "shall thereafter be considered an agency for the purposes of this chapter." This office has, since 1985, contracted with the City and Borough of Juneau to provide ombudsman services and has in the past held similar contracts with Sitka, Wrangell and Palmer.

Part II of the Ombudsman contract with CBJ states:

Scope of Services: The ombudsman shall investigate complaints within the jurisdiction of the Ombudsman when those complaints are an appropriate subject for investigation. Investigations shall be initiated and conducted by the Ombudsman according to the procedures, with the powers, and subject to the duties established by Alaska Statute 24.55 and regulations issued under that statute, as that statute and those regulations may be amended from time to time.

The Ombudsman shall provide the City with reasonable notice of any such amendments and shall give due regard to the City's comments thereon.

I believe that the Ombudsman should be authorized to treat any contractual partner in the same manner it treats state agencies, as the original legislation intended.

Recommendation 2: I recommend HB 86 be amended to remove AS 24.55.320 from the exemptions and allow the Ombudsman to provide similar services to municipalities and school boards contracting for Ombudsman services.

* * * * *

Would the proposed legislation create jurisdictional disparities between state employees and private citizens who complain to the Ombudsman?

AS 24.55.110 lists the types of complaint subject matters which the ombudsman has the discretion to decline. This statute grants the ombudsman discretion in decision making but generally directs that complaints be declined in the following instances:

- An adequate grievance or appeal process is available to the complainant but has not been used; AS 24.55.110(1)
- The complaint is outside the ombudsman's jurisdiction; AS 24.55.110(2), 21AAC 20.010
- The complainant has not attempted to resolve the complaint within one year prior to filing the complaint with the ombudsman; AS 24.55.110(3), 21AAC.20.010(3);
- The complainant lacks sufficient personal interest, defined as the person directly affected by an action, their spouse or legal representative; AS 24.55.110(4)
- The complaint is trivial or made in bad faith; AS 24.55.110(5)
- Ombudsman resources are insufficient to investigate the complaint. Ombudsman regulations spell out the priority ranking for the ombudsman to handle complaints when staff is not sufficient to handle all complaints coming to the office. AS 24.55.110(6) 21 AAC 20.100

HBS6 adopts the provisions in AS 24.55.110 (2), (5) and (6) allowing the ombudsman to decline to act in a case when a complaint is outside the ombudsman's jurisdiction, is trivial, or when office resources are insufficient. HB86 does not directly address the other provisions, most significantly AS 25.55.110(3), which establishes a timeframe for complaining to the ombudsman.

Comments:

One concern I have is that the effect of this legislation requires that we treat private citizens reporting fraud, abuse and waste differently than we propose to treat state employees reporting to the Hotline.

HB86 in proposed section 24.55.222 establishes a mechanism for state employees to use the hotline but 24.55.224(a) merely refers to investigating allegations of fraud, waste, or abuse, without specifying a state employee reporter. So if a non-employee reporter makes a complaint, the ombudsman will have to determine whether the complainant is a "citizen complainant" or a 24.55.224 complainant. There is a substantial difference in how the complainant and complaint are treated. If the legislation's intent is to allow only state employees to bring a complaint under the new statute, then I believe the drafting should more strongly reflect that. Most of the Hotlines I reviewed accept complaints from private citizens as well as government employees.

Another area of disparity is **timeliness**. The existing statute and accompanying regulations generally direct that the ombudsman decline for lack of timeliness a complaint from a state worker or citizen who, for example, reports that his co-worker pocketed cash receipts more than one year ago. HB 86 places no time limits on complaints filed by state employees on the Hotline. If we received such a complaint from a private citizen who presents the same information, we would decline to act.

I do not believe the ombudsman's overall timeframes as outlined in 21 AAC 20.010 should be changed. The reasons for these requirements are practical. With the passage of time witnesses' memory of events fades, witnesses change jobs, retire and leave the state; pertinent records occasionally are lost, agency policy and practice change. That makes the investigation more difficult and can challenge the credibility of an investigation.

Recommendation 3: Regarding allegations of fraud, I would recommend considering adopting the same timeframes as imposed by the Alaska statute of limitations for criminal matters which is five years. For issues related to general waste and abuse, I would recommend adopting the existing one-year timeframes. This could be implemented through regulation. I realize this would be cumbersome but I believe it is a realistic alternative to no time frames on Hotline calls.

Do we require state employees to follow the **grievance/appeal reporting requirement** now imposed on private citizens? Currently, unless there are compelling circumstances that would require immediate intervention, we generally direct private citizen complainants into any grievance or appeal process available to a complainant. But, if we require a state employee to report fraud or abuse to a supervisor or the agency, we may well thwart the intent of the hotline and discourage reporting. If we don't, we run the risk of treating state employees differently than we treat private citizens. I believe the Ombudsman's discretion would allow the office to deal with that requirement and I don't believe any statutory change is required to address this disparity.

Proposed 24.55.224(c) exempts Hotline complaints from AS 24.55.280, which states that an Ombudsman complaint does not extend any time limits for **judicial review**. This would imply that bringing a complaint of this type extends any relevant judicial appeal deadlines indefinitely until we close the complaint. If so, I believe that extension ought to be explicit in the statute. However, we again have the appearance of disparate treatment for state employees.

Recommendation 4: I recommend this provision be researched to determine if the framers intend to extend any relevant judicial appeal and, if so, amend HB86 to reflect that intention.

* * * * *

Private Contractors: Neither AS 24.55 nor the proposed HB86 grants the ombudsman jurisdiction over private contractors who conduct business on behalf of the state of Alaska: i.e. construction companies working on state roads, grant agencies, private prisons. I point this out because this office occasionally receives complaints against contractors working on behalf of the state and it is an area that might be considered for inclusion in this area of the hotline. However, if the Legislature chooses to add private contractors to the jurisdiction of the ombudsman in connection with the Hotline I would recommend that the Legislature consider adding contractors to the jurisdiction of the ombudsman in all matters. This would obviously have an impact on manpower needs in this office.

ANONYMOUS COMPLAINTS AND MISCONDUCT COMPLAINTS

The Ombudsman Act does not specifically address anonymous complaints other than in connection with AS 24.55.110(4) and (5) which refer to declining complaints made by complainants with insufficient personal interest or complaints that are trivial or made in bad faith. Obviously, if the Ombudsman does not know the identity of a complainant it will be impossible to determine if a complainant has sufficient personal interest and difficult to determine if a complaint is made in bad faith.

Ombudsman regulations at 21 AAC 20.030 state:

21 AAC 20.030. ANONYMOUS COMPLAINTS. (a) The ombudsman will, in his or her discretion, decline to investigate a complaint alleging breach of duty, misconduct, or discourtesy by an officer or employee of an agency if the complaint is presented anonymously and the ombudsman determines that investigation of the complaint is precluded by AS 24.55.110(4) or (5).

(b) Except as provided in (a) of this section, an anonymous complaint may be considered for investigation on the ombudsman's motion under AS 24.55.120

(c) An anonymous complaint that is not investigated on the ombudsman's motion when authorized by (b) of this section must be referred to the attention of the chief executive officer of the affected agency and may be referred to any officer or employee whose action has been challenged or questioned by the complainant.

An anonymous complaint excluded from investigation by (a) of this section may not be referred to an agency as provided in this subsection.

Ombudsman Policy and Procedures Manual at 4015.1 Anonymous Complaints¹ states:

Anonymous complaints should be discouraged. The Alaska Whistleblower Act (AS 39.90) provides a degree of protection for citizens who come forward with issues relating to government abuses. Complainants should be advised that our law, (which protects their identity) and the Whistleblower Act help protect them from retaliation by government agencies. If their identity needs to be released to pursue the issue further they will be contacted and given the opportunity to allow us to identify them or to withdraw their complaint.

Be aware that some people may try to file mean-spirited complaints about a public official or employee to harm the official through innuendo. Some mistakenly believe that if a complaint has been accepted by us, there must be some shred of truth to the allegation. Some agency officials may also inappropriately give an anonymous complaint we might refer to them a degree of credibility the complaint does not deserve. The Ombudsman's Office should not act as a conduit for such efforts.

Decline anonymous complaints alleging breach of duty, misconduct, or discourtesy by an officer or employee of an agency (21 AAC 20.030(a)). Such complaints may not be referred to the affected agency (21 AAC 20.030(c)).

An anonymous complaint other than one alleging a breach of duty, misconduct, or discourtesy may be considered for investigation on the ombudsman's initiative (21 AAC 20.030(b)) if facts of the matter can be independently verified. Complaints of this nature that are not investigated on the ombudsman's initiative must be referred to the chief executive officer of the affected agency and may be referred to any officer or employee whose action has been challenged or questioned by the complainant (21 AAC 20.030(c)).

As I read the regulation at 21 AAC 20.030, the Ombudsman can decline if the anonymous complaint alleges misconduct AND is determined to be made in bad faith, is trivial, or the complainant lacks sufficient personal interest. However, the policy directs that the Ombudsman *will decline* anonymous complaints but gives the Ombudsman the option of opening an ombudsman-initiated investigation if sufficient evidence exists to do so. This apparent inconsistency between regulation and policy can perhaps be explained by the fact that the ombudsman has discretion to involve the office in anonymous complaints.

Under HB86, total anonymity of state employees making allegations of fraud, abuse or waste is not only encouraged but required. HB 86 prevents the ombudsman from attempting to identify any person contacting the hotline and may protect the anonymity of the state executive branch employee reporting to the hotline.

¹ Dated November 1, 1993. Signed by then-Ombudsman Duncan Fowler

Despite the inconsistency between regulation and policy, the concern about anonymous complaints is well articulated in Ombudsman policy.

There has long been held a concern that accepting anonymous complaints will create a wealth of vindictive complaints filed by mean-spirited complainants. Such complaints could also have unintended consequence of creating a great deal of unnecessary and fruitless work for the ombudsman. However, Ventura, California Auditor Christine Cohen, who runs that county's hotline, stated that more than 50 percent of anonymous complaints yielded substantiated findings. I believe the concerns articulated in Ombudsman Policy 4015.1 could be answered by careful handling. Also, a review of several hotline operations indicated that they considered anonymity and confidentiality to be a paramount concern.

However, I also would like to point out that AS 24.55.160(b) requires that the ombudsman keep confidential all information that is statutorily designated as confidential. The identity of complainants falls into that category so I believe there is no *necessity* that a complainant be anonymous. This statute sufficiently protects the identity of complainants from the person whom is being complained about. That said, I also understand that some state employee reporters of fraud might be unwilling to report problems if there is any chance that someone will learn their identity. Complainants occasionally refuse to allow our office to reveal that they have complained about a situation that is specific only to them, forcing us to close a complaint.

Another incompatibility between existing statute and HB86 is found in AS 24.55.220 and 21 AAC 20.020 (b) regarding the handling of misconduct complaints. Fraud would fall under the misconduct provisions of the Ombudsman Act. Ombudsman regulations require that a misconduct complaint be filed in writing.

21 AAC 20.020. COMPLAINTS. (a) Except as provided in (b) of this section, a complaint to the ombudsman need not be in writing.

(b) A complaint that alleges a breach of duty, misconduct, or discourtesy by an officer or employee of an agency may not be investigated unless the complaint is specific and in writing. If a complainant requires assistance in writing the complaint, the ombudsman or a member of the ombudsman's office staff will provide the assistance.

This requirement is based in the belief that complainants who write and sign their complaints often are more sincere about them and less inclined to file malicious complaints. This requirement would be voided by HB86's requirement that anonymous complaints be accepted. I have found that to be true. It is my observation that when the Ombudsman required prison inmates to file complaints in writing, the number of DOC complaints dropped dramatically. Those that were filed had far more substance than those filed by phone in years past.

One other consideration in this area is the efficiency of accepting anonymous complaints. Practically speaking, I am concerned about the efficiency of any investigation prompted by an anonymous complaint. Investigators frequently have to cross-check information and allegations with complainants. If we do not know the identity of a reporter we would have a great many problems doing that cross-checking efficiently.

I have seen several options for handling anonymous complaints. One assigns a private code number to the reporter to use when contacting the ombudsman. Another has installed a special call-in line for reporters to call to see if they need to provide more information to investigators. This is all possible but realistically, it does add time and effort to investigative efforts and can delay efficiency.

Recommendation 4: If the Legislature intends to offer employees an anonymous opportunity to complain to the Ombudsman HB86 should be amended to soften the language allowing the Ombudsman to inquire about the complainant's identity but not to require that it be given if sufficient evidence can be obtained without it.

* * * * *

NOTICE AND REPORTING TO THE COMPLAINANT

HB 86 specifically exempts AS 24.55.130 and .210 both of which deal with notice to the complainant. AS 24.55.130 directs that the ombudsman notify a complainant if the Ombudsman declines to act on a complaint. AS 24.55.210 directs that the Ombudsman notify a complainant of the results of an Ombudsman review or formal investigation.

It may be assumed that HB86 exempts these statutes in keeping with the intent that hotline reporters be granted anonymity. However, if the legislature chooses to soften the language of HB86 to allow the Ombudsman to inquire about a reporter's identity, I would recommend that this provision be amended to reflect that change.

Under AS 24.55.160(b) the Ombudsman cannot reveal confidential personnel action if taken. But in cases where the Ombudsman is precluded from divulging confidential information, the Ombudsman can, if nothing more, report that the matter was reviewed. I would like to discuss the intent of HB86 on this issue. If the Legislature intends that the results of Fraud, Abuse and Waste investigations be kept confidential, a provision should be included in legislation to specifically state that. Does the legislation envision any reporting on the results of the Hotline?

Recommendation 5: If the Legislature revises HB86 to allow the Ombudsman to obtain but not require the reporter's identity, the Legislature should allow the Ombudsman to report back to the reporter when investigation is complete.

* * * * *

ALASKA WHISTLEBLOWER ACT

The proposed legislation grants Whistleblower protections to those who report fraud, abuse or waste to the Hotline. One practical problem presented by an anonymous hotline is proving that someone reported to the Hotline. Our office would be hard-pressed to state that someone was eligible to claim Whistleblower protection as a result of a complaint to our office if we were prevented from establishing the identity of a complainant.

THE PRACTICAL EFFECT ON THE OMBUDSMAN OFFICE

Several of my practical concerns about HB86 have been raised in prior sections.

One small consideration would be the need for the office to revise regulations governing our office operations. We are in the midst of a regulation revision project and this could be incorporated in that task. Other concerns are as follows:

Referrals

All of the Hotline Programs I have reviewed allow for the Hotline operator to refer reports to other agencies as appropriate. For example, most complaints about waste could best be handled by the agency internal auditors if they exist, or OMB or Legislative Audit if they don't. Complaints about abuse such as sexual harassment would best be handled by an entity established to investigate such abuse such as the Human Rights Commission. The Ombudsman would be best suited to handle some complaints of fraud or misconduct and Legislative Audit (via the Legislative Budget and Audit Committee) would be best suited to handle other complaints.

Recommendation 6: HB86 should include a provision allowing the Ombudsman to refer reports to appropriate agencies and a statutory requirement that the referral agency report its findings back to the Ombudsman.

Ombudsman needs and Fiscal Note

My primary concern would be staffing. My office saw a dramatic increase in the number of complaints filed in calendar year 2004. In the first quarter of Calendar 2005, our complaint load has increased another 19 percent. My FY06 budget proposal has requested funding for an additional two staff: one investigator and one intake officer. These positions, if approved, would not include work anticipated to implement and maintain the Fraud Hotline. The House Finance Committee has approved that request but, as of this writing, Senate Finance has not met on the Legislative Budget.

In order to staff the Fraud, Abuse and Waste Hotline Program I would need at least one additional investigator to handle calls and conduct the review of information presented. This is consistent with other Hotlines serving similar population bases. The fiscal note for one fully funded Range 19 investigator is: \$84,000.

This investigator would require equipment including a computer and printer at a cost of about \$2,000, telephone at a cost of \$600 per year, and a special outside telephone line for non-traceable toll-free hotline calls at a cost of about \$600 per year not including long distance calls. Additional training and travel for the position would be cost about \$3,000. At this time I don't believe the Ombudsman Case Management System would require modification to handle Hotline calls.

Although I would prefer to place the Hotline investigator in the Anchorage office where I can more closely manage the position, my Anchorage office is at full capacity. The investigator could be placed in Juneau without any additional expense for lease space.

Based on these estimated costs, the fiscal note for startup should be \$90,200.

STATUTORY AMENDMENT TO AS 24.55.260

I also would make one request regarding existing statute. I request that AS 24.55.260 Ombudsman's Privilege Not to Testify be amended.

Existing AS 24.55.260 addresses the ombudsman's privilege not to testify but does not specifically protect Ombudsman records from disclosure or discovery. This leaves a long-recognized weakness in statute. My proposed amendment more clearly protects Ombudsman records from disclosure. The proposed amendment reads similarly to the Office of Victim's Rights legislation, much of which was based on Ombudsman statutes with this one exception.

Recommendation 7: AS 24.55.260 should be amended to read:

Ombudsman's privilege not to testify or produce documents or other evidence.

Except as may be necessary to enforce the provisions of this chapter, the determinations, conclusions, thought processes, discussions, records, reports, and recommendations of or information collected by the Ombudsman or staff of the Ombudsman are not admissible in a civil or criminal proceeding, and are not subject to questioning or disclosure by subpoena or discovery.

* * * * *

I hope this is helpful to you. Please feel free to contact me if you require additional information. I look forward to discussing this further.

Sincerely,

Linda Lord-Jenkins
Alaska Ombudsman

LEGAL SERVICES

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MEMORANDUM

January 29, 2005

SUBJECT: Sectional Summary of HB 86 (Work Order No. 24-LS0237\G)

TO: Representative Kevin Meyer
Attn: Mike Pawlowski

FROM: Barbara R. Craver
Legislative Counsel *BRC*

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. The ombudsman is to establish regulations regarding receiving and processing reports by state employees under the fraud, waste, and abuse hotline program.

Section 2. The state employee fraud, waste, and abuse hotline program is set up in several new sections. It is established in the ombudsman's office. The ombudsman is to establish the program and investigate reports. The same procedures otherwise used by the ombudsman under AS 24.55.120 - 24.55.330 apply except for the following sections which do not apply to the hotline program:

24.55.130 - in keeping with the anonymous nature of the hotline, the complainant is not notified by the ombudsman in regard to a report made to the hotline.

24.55.150 - the hotline program is limited to its own subjects, so this section, which applies generally to the ombudsman, "appropriate subjects for investigation," does not apply to the hotline program.

24.55.210 - there is no notice to the complainant of the actions taken by the ombudsman and by the agency.

24.55.280 - this section is not applicable to the program.

24.55.320 - the hotline program is not available to municipalities and school districts.

Section 3. This protects an employee from any retaliation by the employee's employer for contacting or cooperating with the ombudsman in regard to the hotline program.

Section 4. Exempts an employee from having to make a report to the employee's

Sectional Analysis

Representative Kevin Meyer

January 29, 2005

Page 2

employer about a matter of public concern under AS 39.90.100, and under the previous section; contacts with the hotline program are included in this exemption.

If I may be of further assistance, please advise.

BRC:med

05-070.med



State govt. waste hotline saves millions, study says

Auditors review calls, which are confidential

[Prev](#) | [Next](#)

From Bend.com news sources

Posted: Thursday, April 15, 2004 2:29 PM
Reference Code: AR-14887

April 15 - SALEM - Secretary of State Bill Bradbury released a report Thursday finding that the Government Waste Hotline has led to the discovery of \$4.13 million in potential savings.

Established in 1995, the toll free hotline logs complaints of waste, fraud, inefficiency or abuse in state government.

"The audits hotline is an effective tool for direct public involvement in preventing fraud, waste and abuse," said Bradbury.

All state offices are required to display notice of the hotline. Callers to the hotline, at 1-800-336-8218, will hear a recorded voice informing them that the call is confidential, and listing what type of information is necessary for an investigation.

The recording also notes that, "Audits are expensive and we initiate an audit only when we believe we can save more money than the audit would cost."

Messages are logged into a database, and reviewed by Secretary of State auditors to determine whether to investigate, audit, or refer to another agency.

Call volume has steadily increased since 2000 due to an increase in publicity about the hotline. The majority of calls come from private citizens, followed by state employees and organization representatives or anonymous callers.

"We absolutely encourage people to call the hotline if they have any information about inefficiencies in state government," said Bradbury.

Calls generally relate information about ongoing audits, request audit information, or concern matters of personal opinion, personal legal issues, or issues referable to another agency (for example, alleged ethical violations are referred to the Government Standards and Practices Commission).

Since 1995, 18 hotline calls have resulted in audits, including a 1998 audit of printer overcharges to the Department of Administrative Services which identified savings of \$700,000, and a 2002 audit of the Department of Human Services contracting practices which identified savings of \$2.3 million.

The calls resulting in audits have identified a total of \$4.13 million in potential savings.

"The audits hotline offers you a responsive and accountable state government," said Bradbury. Call 1-800-336-8218 or email audits.hotline@state.or.us.





Virginia Department of Accounts

The State Employee Fraud Waste and Abuse Hotline

1-800-723-1615

NO - YOUR NUMBER DOES NOT SHOW UP ON A CALLER ID!!

Comptroller's Memorandum to Heads of State Agencies and Institutions of Higher Education - July 13, 2004



The Employee Hotline is a toll free telephone number available Monday through Friday from 8:15 a.m. until 5:00 p.m., which is anonymous and non-traceable. The Procedures and Policy Manual is available in PDF format.

To Report:

- Illegal or Fraudulent Conduct
- Waste of Funds

- Abuse of State Property or Resources
- Gross Mismanagement
- Gross Neglect of Duty

What Is The Purpose Of The State Employee Fraud, Waste And Abuse Hotline?

There exist in Virginia's government, as in every other state in the nation, the ongoing and continuing possibility of fraud, waste and abuse in the conduct of government business. Governor Gilmore issued a Executive Order which directs the Department of the State Internal Auditor to operate a toll-free telephone number "hotline" to encourage state employees to report situations where fraud, waste and abuse may occur in Virginia Executive Branch Agencies and Institutions.

The State Employee Hotline provides state employees with an opportunity to report significant instances of fraud, waste or abuse anonymously by using a toll-free hotline number. The major objective of the hotline is to identify situations where fraud, waste and abuse may have occurred in state agencies and institutions so that it can be eliminated. If you observe a situation within your own agency that appears to involve fraud, waste or abuse, give us a call - its toll free and anonymous.

Who Operates The State Employee Fraud, Waste, and Abuse Hotline?

The Department of the State Internal Auditor administers the Hotline per Executive Order of the Governor. The Department coordinates investigations with the various state agencies. Upon completion of the investigations, reports are issued to the appropriate authorities.

Why Should You Contact The State Employee Fraud, Waste, And Abuse Hotline?

Because we all share a common goal: To provide the citizens of the Commonwealth with an honest, effective, and efficient state government. Further, it is every state employee's obligation to report significant instances of Fraud, Waste, and Abuse to management, and if the employee is uncomfortable with reporting to management, then they have the opportunity to report it anonymously to the Hotline. When there is fraud, waste, or abuse in our state government, we all suffer, as taxpayers and as employees of the Commonwealth.

Who Can Call The State Employee Fraud, Waste, and Abuse Hotline?

Significant instances of fraud, waste and abuse may be reported to the Hotline by any state employee, classified, at-will, contract, part-time, or full-time.

When Should Employees Call The Hotline?

State Employee's should call the Hotline when the employee first learns of the fraud, waste, or abuse. Keep in mind the longer it has been from the incident and the time it is reported, the more difficult it becomes to investigate. The Hotline is available for reporting significant instances of fraud, waste, and abuse from 8:15 a.m. to 5:00 p.m., Monday through Friday, except state holidays.

What Happens When You Call The Hotline?

When you call the hotline you will be told not to identify yourself. You will then be transferred to an investigator who will assign a hotline case number to you. The investigator will listen to your allegation and ask pertinent questions about it. After the initial call to the hotline, you will be instructed to call back in three weeks. Since the hotline is based on anonymous tips, we sometimes need to get back in touch with the caller to ask for additional information. The information that you provide goes through a screening process to determine if it is sufficient and significant enough to conduct an effective investigation. The more information you can provide, the more effective the investigation. You should have the following information available when you call:

- Circumstances of the incident.
- The agency and the subject(s) involved.
- Identify any evidence that is available.
- Identify any available documentation and location.
- Dates, times, names, places.
- Credible witnesses.

How Are Callers Protected?

You will never be asked to provide your name when you call the Hotline, nor is your call traceable. There should never be an attempt on anyone's part to try to identify the caller, or if someone is suspected of calling the Hotline, or the caller is found out, there can be no retaliation or retribution. If so, it is a violation of policy and the Executive Order and we take it seriously to protect the integrity and credibility of the Hotline. Retaliation against anyone for calling the Hotline is also reportable through the grievance process.

What Should Be Reported And What Should Not Be Reported?

The State Employee Fraud, Waste, and Abuse Hotline is designed to report significant instances of fraud, waste, and abuse that may occur in Executive Branch Agencies. Through cooperative agreements, the Hotline will except calls on some Independent Agencies. It is not for general complaints, suggestions, or personnel issues. The Hotline does not accept calls of allegations that involve the Legislative Branch, the Judicial Branch (We do have a cooperative agreement with the Supreme Court of Virginia), localities, or private businesses. The caller will be referred to the appropriate agency to report those calls. The Hotline is reserved for reporting:

- Illegal or Fraudulent Conduct
- Waste of Funds
- Abuse of State Property or Resources
- Gross Mismanagement

- Gross Neglect of Duty

Examples are:

- Personal use of State-owned vehicles
- Personal use of state telephones, including long distance personal calls
- Personal use of state owned supplies or equipment
- Violations of state procurement policy
- Excessive or unnecessary purchases
- Falsification of official documents (timesheets, leave reports, travel vouchers, etc.)
- Contract fraud
- Conducting personal business on state time
- Inappropriate expenditures
- Embezzlement

Who Can Investigate Cases?

The staff of the Department of the State Internal Auditor, agency internal auditors, or other appropriate investigative personnel may conduct investigations that come to the Hotline. Once an investigation is undertaken and there has been determined that a reasonable possibility that a significant fraud has occurred, the *code of Virginia* requires that the Auditor of Public Accounts and the Virginia State Police be notified. Any significant criminal activity is also turned over to the Virginia State Police for investigation. Several state agencies also have in-house hotlines for various purposes that can also be used.

What Happens When An Investigation Is Conducted?

When the information provided by the caller passes the screening process a thorough investigation is conducted. If an investigation is undertaken and if the allegation of fraud, waste or abuse is substantiated, a report is issued and corrective action is recommended to rectify the cause or control weaknesses that allowed it to occur. Management is required to take corrective action on all recommendations to improve controls over situations where fraud, waste, or abuse has occurred.

What Is Considered To Be Fraud, Waste, Or Abuse?

Fraud – The intentional deception perpetrated by an individual or individuals, or an organization or organizations, either internal or external to state government, which could result in a tangible or intangible benefit to themselves, others, or the Commonwealth or could cause detriment to others or the Commonwealth. Fraud includes a false representation of a matter of fact, whether by words or by conduct, by false or misleading statements, or by concealment of that which should have been disclosed, which deceives and is intended to deceive.

Waste – The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of Commonwealth resources to the detriment or potential detriment of the Commonwealth. Waste also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.

Abuse – Excessive or improper use of a thing, or to employ something in a manner contrary to the natural or legal rules for its use. Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of Commonwealth resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings.

If you would like more information about the Employee Fraud, Waste and Abuse Hotline, [click here](#).

HOME

BACK

Questions/comments regarding page layout/design, contact the [DOA Webmaster](#)

Last Updated: Thursday, July 15, 2004

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement

House Bill 86

“An Act establishing in the office of the ombudsman a state executive branch employee fraud, waste, and abuse hotline program.”

According to the 2002 *Report to the Nation on Occupational Fraud and Abuse* over \$400 billion annually is lost to fraud and abuse in U.S. organizations. Instances of fraud, waste, or abuse can be especially egregious when it is public money that is being stolen or wasted. Government waste erodes the public trust and strikes deep at the foundation of our democracy.

State governments have established a wide variety of programs and systems to protect public resources. State fraud and abuse hotlines have been established across the country with varying results. In Oregon, the establishment of a fraud, waste, and abuse hotline has led to \$4.13 million in savings.

In Alaska there are two primary entities that investigate complaints or allegations of fraud, waste or abuse: the legislative audit division and the ombudsman.

House Bill 86 establishes, in the ombudsman's office a hotline, for state employees to report fraud, waste, or abuse. Under HB 86, state employees would be able to report anonymously through a hotline while under the protection of the state's whistleblower protection laws. The results of investigations conducted based on complaints made through the hotline would be reported to the legislature through the ombudsman's regular process. HB 86 provides the legislature with another tool to monitor state spending and protect the public's trust.