

11725

SENATE COMMUNITY & REGIONAL AFFAIRS

00/2

**Quality School Funding** is a component of public school funding. Under AS 14.17.480, a district is eligible to receive a quality school funding grant not to exceed the district's adjusted ADM multiplied by \$16.

**Reclassification** means changing the classification of a municipal government; e.g., from a second-class city to a first-class city (AS 29.04.040 - 29.04.050).

**Regional Educational Attendance Area (REAA)** means an educational service area established and organized under AS 14.08.031 and AS 29.03.070. It is a school district that provides education services to that portion of the unorganized borough outside of home-rule and first-class cities.

**Reply Brief** refers to the document filed by the Petitioner with the Local Boundary Commission pursuant to 3 AAC 110.490.

**Required Local Contribution** means the local contribution required by AS 14.17.410(b)(2) of a city or borough school district that is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Economic Development under AS 14.17.510 and AS 29.45.110, not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under AS 14.17.410(b)(1). Neither REAAs nor FTREAs are subject to required local contributions. (See also "voluntary local contribution.")

**Respondent** is a person or entity who argues for or against a petition, has the capacity to sue or be sued, and has certain rights and responsibilities in a petition proceeding.

**Responsive Brief** refers to the document filed by a respondent under 3 AAC 110.480.

**Service Area** refers to an area in which borough services are provided that are not offered on an areawide or nonareawide basis, or in which a higher or different level of areawide or nonareawide services are provided. Borough service areas are not local governments because they lack legislative and executive powers. Nonetheless, borough service areas are local governmental units in the context of the minimum of local government units clause found in Article X, § 1 of Alaska's Constitution.

**State** (where capitalized) refers to the State of Alaska government.

**State Aid (State Foundation Formula)** equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year. (AS 14.17.410(b)(1)).

**Unorganized Borough** means areas of Alaska that are not within the boundaries of an organized borough (AS 29.03.010).

**Voluntary Local Contribution** (also referred to as "excess local contribution") means the level of funding in addition to the local contribution required under AS 14.17.410(b)(2) that a city or borough school district may contribute in a fiscal year. The voluntary local contribution may not exceed the greater of (1) the equivalent of a two-mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Economic Development under AS 14.17.510 and AS 29.45.110; or (2) 23 percent of the district's basic need for the fiscal year under AS 14.17.410(b)(1). (See also "required local contribution.")



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**SB**

**14**

# 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 8th St., Rm. 329

## MEMORANDUM

January 12, 2005

**SUBJECT:** Sectional summary (SB 14)

**TO:** Senator Gary Stevens  
Attn: Doug Letch

**FROM:** Tamara Brandt Cook  
Director *TBC*

Sec. 1. Requires an initiative question to be presented at the next regular or special municipal election that occurs at least 60 days after certification of the initiative petition. If no election is scheduled within 75 days after certification and the governing body determines it is in the best interest of the municipality, the governing body by ordinance may order a special election to be held.

Sec. 2. Technical correction.

Sec. 3. Requires a referendum question to be presented at the next regular or special municipal election that occurs at least 60 days after certification of the referendum petition. If no election is scheduled within 75 days after certification and the governing body determines it is in the best interest of the municipality, the governing body by ordinance may order a special election to be held.

TBC:med  
05-026.med



# Alaska State Legislature

**Senate Majority** Web: <http://www.akrepublicans.org>

Sponsor: Senator Gary Stevens  
Current Version: SB 14  
Contact:

## Fact Sheet for: Senate Bill 14

**Short Title:** MUNICIPAL ELECTIONS

### Summary:

- Removes the requirement that municipalities hold a special election for initiatives and referendums if no regular election occurs within 75 days after certification.
- Gives municipalities the option of:
  - holding the vote at the next regular election
  - holding the vote at an already scheduled special election occurring later than 60 days after certification of the petition
  - ordering a special election if it determines it is in the best interest of the municipality and no regular election occurs within 75 days

### Benefits:

- Saves municipal governments the expense of costly special elections on every certified initiative and referendum.
- Gives municipal governing bodies the flexibility to address urgent issues in a special election if it is deemed within the best interests of the municipality.
- Maximizes local control.

### Background:

If no regular election occurs within 75 days after the certification of an initiative or referendum petition, current law mandates that the governing body hold a special election between 45 and 75 days after certification. SB 14 was introduced at the request of the Kenai Peninsula Borough clerks, with support of the Alaska Municipal League, to allow municipalities to wait until the next regular election.

In one recent year, the Fairbanks North Star Borough had a total of 46 petitions filed over a period of four months. Though these petitions resulted in only one special election (at a cost of over \$35,000), the potential exists for many more at great cost to the municipality.

The provisions in this bill do not apply to Home Rule cities.



# Alaska State Legislature

Senate Majority Web: <http://www.akrepublicans.org>

Sponsor: Senator Gary Stevens  
Current Version: SB 14  
Contact: Doug Letch, 465-4925

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In one recent year, the Fairbanks North Star Borough had a total of 46 petitions filed over a period of four months. Though these petitions resulted in only one special election (at a cost of over \$35,000), the potential exists for many more at great cost to the municipality.

The provisions in this bill do not apply to Home Rule cities.

## SENATE BILL 14--HEARING NOTES

\*SENATE BILL 14 IS AN ACT RELATING TO MUNICIPAL INITIATIVE AND REFERENDUM ELECTIONS.\*

\*THE BILL WILL GIVE MUNICIPALITIES THE OPTION OF PLACING A REFERENDUM OR INITIATIVE BEFORE VOTERS AT A REGULARLY SCHEDULED ELECTION IF THE ISSUE IS NOT OF AN URGENT NATURE, OR AT A SPECIAL ELECTION IF THE LOCAL GOVERNING BODY DETERMINES BY ORDINANCE THAT IT IS IN THE BEST INTERESTS OF THE MUNICIPALITY TO HOLD A VOTE ON AN ISSUE SOONER. THE <sup>Bill</sup> ~~Bill~~ ALSO PROVIDES THE GOVERNING BODY WITH A MEANS OF HOLDING A SPECIAL ELECTION IN THE EVENT THAT AN INORDINATE AMOUNT OF TIME WILL PASS BETWEEN THE CERTIFICATION OF A PETITION AND THE NEXT REGULAR ELECTION. THIS WILL BE ACCOMPLISHED THROUGH THE ORDINANCE PROCESS, WHICH PRESERVES A MAYOR'S VETO POWER.

\*THIS INTENT OF THIS BILL IS TO SPECIFICALLY HELP LOCAL GOVERNMENTS AVOID COSTLY SPECIAL INITIATIVE ELECTIONS AND REFERENDUMS BROUGHT FORWARD BY VOTERS. IN MANY CASES, THESE MEASURES ARE NOT SO PRESSING IN NATURE THAT THEY COULD NOT WAIT FOR THE REGULAR MUNICIPAL ELECTION.

\*SPECIAL ELECTIONS ARE COSTLY AND GENERALLY RESULT IN A LOWER VOTER TURNOUT THAN THE REGULAR ELECTION. RECENTLY, THE FAIRBANKS NORTH STAR BOROUGH HAD OVER 40 PETITIONS FILED IN A PERIOD OF 4 MONTHS. ALTHOUGH THESE PETITIONS RESULTED IN ONLY ONE SPECIAL ELECTION (AT A COST OF ~~\$95,000~~<sup>60K</sup>), THERE WAS A POTENTIAL FOR MANY MORE SPECIAL ELECTIONS AT GREAT COST TO THE MUNICIPALITY.

\*THIS BILL COULD RESULT IN COST SAVINGS TO MUNICIPALITIES WHO COULD CHOOSE TO WAIT UNTIL THE NEXT REGULAR ELECTION, TYPICALLY IN OCTOBER, TO CONSIDER AN ISSUE.

\*THIS LEGISLATION WOULD GIVE THE MUNICIPAL GOVERNING BODY THE OPTION OF CALLING A SPECIAL ELECTION IF THE COUNCIL OR ASSEMBLY WISHED TO HAVE THE INITIATIVE AND REFERENDUM CONSIDERED IN A MORE TIMELY MANNER.

\*THIS BILL IS SUPPORTED BY THE ALASKA MUNICIPAL LEAGUE THE FAIRBANKS NORTH STAR BOROUGH, THE KENAI PENINSULA BOROUGH AND THE ALASKA ASSOCIATION OF MUNICIPAL CLERKS. I ASK FOR YOUR SUPPORT OF THIS IMPORTANT MEASURE.

# KETCHIKAN GATEWAY BOROUGH

Office of the Borough Manager – 344 Front Street – Ketchikan, Alaska 99901  
mgr@borough.ketchikan.ak.us

Roy Eckert  
Borough Manager  
(907) 228-6625  
Fax: (907) 247-662

January 13, 2005

Senator Gary Stevens  
Alaska State Legislature  
State Capitol, Room 103  
Juneau, AK 99801-1182

Dear Senator Stevens:

The Ketchikan Gateway Borough supports passage of Senate Bill No. 14 which amends the scheduling of initiative and referendum elections. The current law requires a mandatory special election if no election occurs within 75 days after certification of a petition. This creates a financial burden for the Borough because special elections can cost upwards of \$10,000 to hold. The law also does not allow the Borough to schedule an election at a time which would allow for optimum voter turnout.

Senate Bill No. 14, as written, gives the Assembly the ability to determine whether it is in the best interest of the Borough to hold a special election. We have found that people seeking initiatives are usually willing to wait until the general election in October to have their proposition placed on the ballot. In fact, in 2003 a group sponsoring an initiative to begin the process for a charter commission worked extensively with the Borough Clerk to assure that a special election was not necessary.

Let me know what else we can do to assist you in passage of this bill. It benefits the communities of Alaska without hampering the initiative and referendum process.

Sincerely,



Roy Eckert  
Borough Manager

c: Borough Mayor and Assembly



217 Second Street, Suite 200 • Juneau, Alaska 99801

Tel (907) 586-1325 • Fax (907) 463-5480 • [www.akml.org](http://www.akml.org)

January 12, 2005

Senator Gary Stevens  
State Capitol  
Juneau, AK 99801

Dear Senator Stevens,

Re: Support for SB 14 as introduced concerning local elections:

Under the current statute, a municipality may be forced to hold a Special Election when the matter can be more efficiently and effectively put on a coming Regular Election ballot. Depending on the issue, a municipality may decide to hold a Special Election, or wait until a Regular Election. In some cases, the additional cost and timing of a Special Election may diminish voter turnout or create negative feelings about the issue. These decisions about local elections can only be made at the local level.

The AML Policy Statement adopted in November, 2004 supports SB 14 as introduced. The AML Policy Statement says "The League supports legislation that would increase the authority of local governments to conduct their own elections, including setting the date of elections."

SB 14 as introduced would allow municipalities to save money and more efficiently conduct elections by allowing municipalities to avoid holding unnecessary special elections when it is more appropriate to put the matter on a Regular Election ballot.

Thank you for introducing this important municipal legislation and for your on-going support of strong communities.

Sincerely

Scott Brandt-Erichsen  
Alaska Municipal League Legislative Committee  
Local Government and Public Services Subcommittee



## KENAI PENINSULA BOROUGH

144 N BINKLEY • SOLDOTNA, ALASKA • 99669-7599  
BUSINESS (907) 262-8608 FAX (907) 262-8615  
EMAIL [assemblyclerk@borough.kenai.ak.us](mailto:assemblyclerk@borough.kenai.ak.us)

LINDA MURPHY, MMC  
BOROUGH CLERK

January 11, 2005

The Honorable Gary Stevens  
Alaska State Senate  
State Capitol, Room 417  
Juneau, AK 99801-1182

RE: SB 14

Dear Senator Stevens:

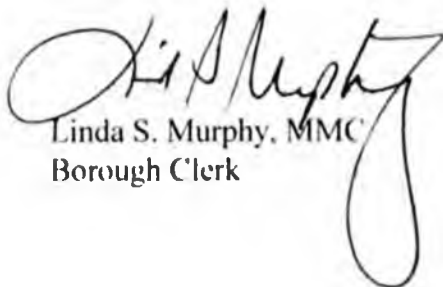
Thank you for sponsoring SB 14 which seeks to eliminate the mandate that a municipality call a special election to consider an initiative or referendum brought forward by the voters.

As you know, special elections are costly and generally result in a lower voter turnout than the regular election. In addition, most measures brought forward using the initiative or referendum process are not so pressing in nature that they could not wait for the regular municipal election. Even so, I am happy to see that there is nothing in your bill that would prohibit the governing body from calling a special election if the Council or Assembly wished to have the matter considered in a more timely manner.

In 2002, the Fairbanks North Star Borough had a total of 46 petitions filed over a period of 4 months. Although these petitions resulted in only one special election (at a cost of \$35,000), there was the potential for many more at great cost to the municipality. As funding for municipalities dwindles, many local governments can no longer afford the luxury of conducting multiple elections.

Thank you once again for your assistance. I would be happy to testify on behalf of the bill at any upcoming committee hearing.

Sincerely,



Linda S. Murphy, MMC  
Borough Clerk



ADOPTED AUGUST 1972  
January 27, 2005

## CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 99929 (907) 874-2381  
FAX: (907) 874-3952

Senator Gary Stevens  
Alaska State Senate  
State Capitol, Room 203  
Juneau, AK 99801-1182

Re: Senate Bill #14

Dear Senator Stevens:

Thank you for introducing and sponsoring Senator Bill #14. As election supervisor for the City of Wrangell, I support this bill relating to municipal initiative and referendum elections.

As you know, the City of Wrangell is a home-rule municipality and currently practices a similar concept as being proposed through our city charter and city code, however there are other municipalities within the state of Alaska that need this change within our legislature to help alleviate the serious problem of spending thousands of dollars to conduct special elections due to not being able to wait for a regular election. Your bill would help those communities.

Thank you for the opportunity to let me comment on this most important act.

Respectfully yours,

A handwritten signature in cursive script that reads 'Christie L. Jamieson'.

Christie L. Jamieson, CMC  
City Clerk



**OFFICE OF THE MUNICIPAL CLERK/  
ELECTION OFFICIAL**

155 S. Seward St., Room 202  
Phone: (907)586-5278 Fax: (907)586-4552  
eMail: Laurie\_Sica@ci.juneau.ak.us

January 27, 2005

Senator Gary Stevens  
Alaska Senate  
State Capitol, Room 103  
Juneau, AK 99801-1182

Re: Senate Bill 14

Dear Senator Stevens,

Thank you for the opportunity for a hearing on SB14. I appreciate your interest in this issue.

SB14 will provide local elected officials with an opportunity to debate the merits of placing an initiative or referendum on a special election schedule or adding it to a regularly scheduled election ballot. It will not prevent an initiative or referendum from going to a vote of the people, it will only effect the timing of the vote.

In June 2003, the City and Borough of Juneau held a special election at the call of the Assembly, to bond for additional funds to build a new high school. It was the Assembly's decision that the matter could not wait for the October regular election.

In June 2004, a citizen's initiative was certified to prevent CBJ from proceeding with construction of the new high school until it could be demonstrated that the project could be constructed within the original design specifications and budget proposed in 1999. The Assembly allowed the measure to proceed to a special election, in order to prevent further delay to the school construction schedule.

In both cases, the Assembly determined that the cost of a special election was outweighed by the cost of delay of a decision by the citizens. However, the Assembly did not have a complete choice in the case of the 2004 initiative. The CBJ charter mandates a special election shall be held within 60 days if the Assembly fails to enact a measure substantially similar to an initiated measure or to repeal a referred measure. In the case of an initiated or referred matter that could wait (for example, if citizens requested to repeal the "no-smoking" ordinance, which had a significant public comment period and public debate) SB 14 would provide a City Council or Assembly with the opportunity to place the measure on the next regularly scheduled election, saving public funds in the process.

I encourage you to allow SB 14 to proceed through the legislative process without amendment. I would like to see a similar amendment made to the CBJ home rule charter. A change to the state statutes will facilitate a discussion on this issue at the local level.

Please contact me if I can be of any assistance.

Sincerely,

Laurie Sica, CMC  
Municipal Clerk/Election Official  
City and Borough of Juneau, Alaska

*cc: Senate Community & Regional Affairs*

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Subject: (no subject)

[View Full Header](#)From: "Murphy, Linda" <LMurphy@borough.kenai.ak.us> [Add](#)[View Printable Version](#)

Date: Wed, January 26, 2005 3:13 pm

[View as plain text](#)[View Message details](#)To: "'Senator\_Tom\_Wagoner@legis.state.ak.us'" ([more](#))Cc: "'Senator\_Gary\_Stevens@legis.state.ak.us'" ([more](#))

Priority: Normal

Dear Senator Wagoner:

I do hope you will reconsider your stated plan to attach an amendment to SB 14. Rather than argue the merits of your proposed amendment, I would encourage you to allow SB 14 to proceed through the legislative process without amendment of any kind, especially one that really has little, if anything, to do with the bill itself.

The purpose of SB 14 is to remove the MANDATE that a general law municipality conduct a special election for a citizen-driven initiative or referendum. If your intent is to require that ALL special elections within a municipality, whether called for a citizen-sponsored issue or called at the discretion of the governing body, receive a certain voter turnout in order to be certified, I would suggest that you sponsor a separate bill. This would then allow the debate on both issues to remain focused on their respective merits.

FYI, the highest voter turnout for a Kenai Peninsula Borough regular election over the past decade was 35.56%, and that was the election when voters considered the private prison initiative.

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

Sincerely,

Linda Murphy, MMC  
Kenai Peninsula Borough Clerk

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SB 14 - C&RA

Linda Murphy - Special elections  
are not budgeted for.

Monalisa Drexler - 140 municipalities  
are affected by title 29 special  
election codes

Lori Seca - Timen clerk - support because  
it will help Timen with their code  
revisions, although it is home rule.

Wagner - might have an amendment,  
require a 60% voter turnout like Washington  
State, would help ~~for~~ municipalities  
get a better voter turnout.

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Thank you for submitting SB 14. This bill is of great importance to t  
Fairbanks North Star Borough.

Special elections are costly and in the past year alone, we have had c  
of over \$50,000 holding a special election that could have taken place  
during our regular local elections. The Fairbanks North Star Borough,  
other municipalities, struggle to provide basic services to its citize  
can not easily afford the cost of unbudgeted elections.

The Fairbanks North Star Borough, as well as Mayor Jim Whitaker, fully  
support this bill and have placed in on our list of top 10 priorities  
this legislative session.

Bonnie Williams  
Assemblymember  
Fairbanks North Star Borough

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Ian Laing

---

**From:** Kevin Ritchie [kevin@akml.org]  
**Sent:** Tuesday, January 11, 2005 5:13 PM  
**To:** Ian Laing  
**Cc:** Kathie (E-mail); Annie (E-mail)  
**Subject:** RE: HB 50 Muni Elections Bill

HB 50 and SB 14 as introduced:

The AML Policy Statement adopted in November, 2004 supports HB 50 and SB 14 as introduced. HB 50/SB 14 allow municipalities greater authority to make a local decision on setting local election dates. The AML Policy Statement says "The League supports legislation that would increase the authority of local governments to conduct their own elections, including setting the date of elections." HB 50/SB 14 as introduced would allow municipalities to save money and more efficiently conduct elections by allowing municipalities to avoid holding unnecessary special elections.

Kevin

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

**From:** Ian Laing [mailto:Ian\_Laing@legis.state.ak.us]  
**Sent:** Tuesday, January 11, 2005 9:38 AM  
**To:** kevin@akml.org  
**Subject:** RE: HB 50 Muni Elections Bill

Thanks Kevin,

Can I ask one additional favor? Just a short email that says the league is still in support of the bill would be very helpful to have until the letter arrives, as we plan to submit the bill for it's first reading tomorrow. I apologize for the short notice. Thanks for the help,

Ian Laing  
 Rep. Paul Seaton  
 Legislative Staff  
 (907) 465-2689

---

**From:** Kevin Ritchie [mailto:kevin@akml.org]  
**Sent:** Tuesday, January 11, 2005 9:15 AM  
**To:** Ian Laing  
**Subject:** RE: HB 50 Muni Elections Bill

Hi Ian

We will work with the municipal clerks to make sure the letter is good, then forward it to you. Please thank Rep Seaton for bringing this forward again.

Kevin

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

**From:** Ian Laing [mailto:Ian\_Laing@legis.state.ak.us]  
**Sent:** Tuesday, January 11, 2005 9:00 AM  
**To:** Kevin@akml.org  
**Subject:** HB 50 Muni Elections Bill

Good morning Kevin,

Ian Laing

---

**From:** Harriett Edwards [boro\_clerk@borough.ketchikan.ak.us]  
**Sent:** Wednesday, January 12, 2005 3:21 PM  
**To:** Ian Laing  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* House Bill 50

The Ketchikan Gateway Borough supports HB 50 which relates to municipal initiative and referendum elections. It costs approximately \$10,000 to hold an election in Ketchikan and with the tight economy municipalities have these days that amount of money is substantial. HB 50 removes the absolute requirement of holding a special election whenever initiative or referendum petitions are certified, but does not hinder the rights of the voters. A regular election has to be held in October of each year and initiative and referendum items may be added to the ballot for little cost. The assembly would still have the right to call a special election if it desired.

A letter in support of HB 50 will be mailed out in the next few days. Please thank Representative Seaton for his support of this effort.

Harriett J. Edwards  
Borough Clerk  
Ketchikan Gateway Borough  
344 Front Street  
Ketchikan, AK 99901  
PH: 907-228-6604

*VISIT OUR WEBSITE:* [www.borough.ketchikan.ak.us](http://www.borough.ketchikan.ak.us)

**Ian Laing**

---

**From:** David Talerico [dave@denaliborough.com]

**Sent:** Wednesday, January 12, 2005 2:22 PM

**To:** Ian Laing

**Subject:** House Bill No. 50

I do support House Bill No. 50, "an act relating to municipal initiative and referendum elections." This will enable municipalities to run more efficient elections and will also reduce election costs.

Thank you, David M. Talerico  
Mayor, Denali Borough

1/12/2005

Ian Laing

---

From: Colleen Pellett [colleen@cityofsitka.com]  
Sent: Thursday, January 13, 2005 10:51 AM  
To: Ian Laing  
Subject: HB50

Ian ~

I do support HB 50, but I would request that Representative Seaton amend the 45 days to 60 days throughout the bill.

Kind Regards,

Colleen

Colleen Pellett, CMC  
Municipal Clerk  
City and Borough of Sitka  
(907) 747-1811 or fax (907) 747-7403  
colleen@cityofsitka.com

SB 14 / HB 50

KE  
KETCHIKAN GATEWAY BOROUGH

Office Ketchikan, Alaska 99901

@borough.ketchikan.ak.us

Roy Eckert  
Borough Manager  
(907) 228-6625  
Fax: (907) 247-6625

January 13, 2005

Representative Paul Seaton  
Alaska State Legislature  
State Capitol, Room 102  
Juneau, AK 99801-1182

Dear Representative Seaton:

The Ketchikan Gateway Borough supports passage of House Bill No. 50 which amends the scheduling of initiative and referendum elections. The current law requires a mandatory special election if no election occurs within 75 days after certification of a petition. This creates a financial burden for the Borough because special elections can cost upwards of \$10,000 to hold. The law also does not allow the Borough to schedule an election at a time which would allow for optimum voter turnout.

House Bill No. 50, as written, gives the Assembly the ability to determine whether it is in the best interest of the Borough to hold a special election. We have found that people seeking initiatives are usually willing to wait until the general election in October to have their proposition placed on the ballot. In fact, in 2003 a group sponsoring an initiative to begin the process for a charter commission worked extensively with the Borough Clerk to assure that a special election was not necessary.

Let me know what else we can do to assist you in passage of this bill. It benefits the communities of Alaska without hampering the initiative and referendum process.

Sincerely,



Roy Eckert  
Borough Manager

c: Borough Mayor and Assembly



**OFFICE OF THE MUNICIPAL CLERK/  
ELECTION OFFICIAL**

155 S. Seward St., Room 202  
Phone: (907)586-5278 Fax: (907)586-4552  
eMail: Laurie\_Sica@ci.juneau.ak.us

January 13, 2005

Representative Paul Seaton  
Alaska House of Representatives  
Capitol Building, Room 102  
Juneau, Alaska 99811

Re: House Bill 50

Dear Rep. Seaton,

Thank you for sponsoring House Bill 50. As election official for the City and Borough of Juneau, Alaska, (CBJ) I support the concept of providing an option to communities to schedule municipal initiative and referendum votes during a community's regular annual election. In the past two years, CBJ has spent approximately \$65,000 to conduct two special elections, however, in both elections, the issue was timely and could not wait for the next regular election for a decision to be made. I appreciate the wording in the bill, which allows the governing body to weigh the expense of a special election with the need for a speedy resolution to an issue.

CBJ is a home rule municipality, and as such, this section of Title 29 is superseded by the CBJ charter. The CBJ charter states that "the election on a proposed initiative or referred measure shall be held not later than sixty days from the last day on which the assembly action may be completed on the proposed initiative or referred measure." I am interested in proposing a charter amendment similar to this bill, which would allow the Assembly the option of submitting an initiated or referred matter to the voters at a regular or special election. Your bill, if successful, would provide an example in state law to emulate.

Thank you for the opportunity to comment on this matter.

Sincerely,

Laurie Sica, CMC  
Municipal Clerk/Election Official  
City and Borough of Juneau, Alaska

Adopted: 03/16/04

**MATANUSKA-SUSITNA BOROUGH  
RESOLUTION SERIAL NO. 04-051**

**A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING  
SENATE BILL 227 AND HOUSE BILL 322, RELATING TO MUNICIPAL  
INITIATIVE AND REFERENDUM ELECTIONS.**

---

WHEREAS, Municipal Clerks in the state of Alaska strongly support the right of its citizens to petition the Government through the initiative and referendum process; and

WHEREAS, Alaska Statutes 29.26.270 and 29.26.280 mandate that a municipality conduct a special election on initiative and referendum questions respectively when no regular election occurs within 75 days after certification of a sufficient initiative or referendum petition; and

WHEREAS, there is no such requirement that mandates a special election for initiative and referendum questions submitted to the state of Alaska for State elections; and

WHEREAS, special elections are costly, consume staff time for extended periods, and often result in a much lower turnout than the municipality's regular election; and

WHEREAS, it is often difficult to obtain election officials for municipal elections; and

WHEREAS, many municipalities are struggling to provide basic services to its citizens and cannot easily afford the cost of an unbudgeted special election; and

WHEREAS, in recognition of these factors, Senator Gary Stevens and Representative Paul Seaton have sponsored Senate Bill 227 and


House Bill 322 respectively to eliminate the mandate that a municipality call a special election after certification of an initiative or a referendum petition; and

WHEREAS, nothing in these bill eliminates the local government option to call a special election if one is deemed necessary or advisable by the governing body.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly support the passage of Senate Bill 227 and House Bill 322 and urges the State Legislature to expeditiously move these bills through their respective houses.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be mailed to the State Legislature.

ADOPTED by the Matanuska-Susitna Borough Assembly this 16 day of March, 2004.

  
TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:

  
SANDRA A. DILLON, CMC, Borough Clerk

(SEAL)

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



**OFFICE OF THE MUNICIPAL CLERK/  
ELECTION OFFICIAL**

155 S. Seward St., Room 202  
Phone: (907)586-5278 Fax: (907)586-4552  
eMail: Laurie\_Sica@ci.juneau.ak.us

January 14, 2005

Senator Gary Stevens  
Alaska Senate  
State Capitol, Room 103  
Juneau, AK 99801-1182

Re: Senate Bill 14

Dear Senator Stevens,

Thank you for sponsoring House Bill 50. As election official for the City and Borough of Juneau, Alaska, (CBJ) I support the concept of providing an option to communities to schedule municipal initiative and referendum votes during a community's regular annual election. In the past two years, CBJ has spent approximately \$65,000 to conduct two special elections, however, in both elections, the issue was timely and could not wait for the next regular election for a decision to be made. I appreciate the wording in the bill, which allows the governing body to weigh the expense of a special election with the need for a speedy resolution to an issue.

CBJ is a home rule municipality, and as such, this section of Title 29 is superseded by the CBJ charter. The CBJ charter states that "the election on a proposed initiative or referred measure shall be held not later than sixty days from the last day on which the assembly action may be completed on the proposed initiative or referred measure." I am interested in proposing a charter amendment similar to this bill, which would allow the Assembly the option of submitting an initiated or referred matter to the voters at a regular or special election. Your bill, if successful, would provide an example in state law to emulate.

Thank you for the opportunity to comment on this matter.

Sincerely,

Laurie Sica, CMC  
Municipal Clerk/Election Official  
City and Borough of Juneau, Alaska

# MATANUSKA-SUSITNA BOROUGH OFFICE OF THE BOROUGH CLERK



350 East Dahlia Avenue  
Palmer, Alaska 99645-6488

(907) 745-9683  
FAX (907) 745-9845

## FAX TRANSMITTAL PAGE

TO Doug Letch  
 FIRM \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_  
 TELEPHONE NO. \_\_\_\_\_ FAX NO. 415-3517  
 FROM Michelle M. McGehee  
 DATE 01/24/05 NO. OF PAGES 2 + cover

REMARKS: Please find attached MSB RS 04-051, in support of previous SB227 and HB 322, relating to Municipal Initiative and Referendum elections. I am supportive of recently introduced SB14 and will try to make testimony in this regard on 1/26. If for some reason I do not make it - please note my support for the record.

Thank You.  
 Michelle M. McGehee, CMC

IF YOU DID NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE.



ADOPTED AUGUST 1972

January 27, 2005

# CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 631, 99929 (907) 874-2381  
FAX: (907) 874-3952

Senator Gary Stevens  
Alaska State Senate  
State Capitol, Room 203  
Juneau, AK 99801-1182

Re: Senate Bill #14

Dear Senator Stevens:

Thank you for introducing and sponsoring Senator Bill #14. As election supervisor for the City of Wrangell, I support this bill relating to municipal initiative and referendum elections.

As you know, the City of Wrangell is a home-rule municipality and currently practices a similar concept as being proposed through our city charter and city code, however there are other municipalities within the state of Alaska that need this change within our legislature to help alleviate the serious problem of spending thousands of dollars to conduct special elections due to not being able to wait for a regular election. Your bill would help those communities.

Thank you for the opportunity to let me comment on this most important act.

Respectfully yours,

Christie L. Jamieson, CMC  
City Clerk

# Fairbanks Daily News-Miner

## Special elections

**Wednesday, January 19, 2005** - Hard to believe it's been just about a year since Fairbanks North Star Borough voters went to the polls in a special election to decide the future of the borough's vehicle I/M program. And if the Legislature agrees, never again will the borough be forced by the law to conduct a midwinter special election and get stuck with the associated costs.

And that would be good.

Senate Bill 14 would change state law governing when most local governments, including the Fairbanks North Star Borough but not the home-rule cities of Fairbanks and North Pole, must conduct special elections on citizen initiatives and referendums. The law, in its present form, states that initiatives and referendums must be decided in a special election from 45 to 75 days after the petitions are certified if no regular election is otherwise scheduled for that period.

That requirement is the reason that the Fairbanks borough found itself having the vehicle emission vote last January and the fuel transfer tax vote in June 2002. The borough's regular election is held each October, but the petitions were certified outside the window that would allow their topics to appear on the regular ballot.

The result? The I/M election itself cost an estimated \$50,000, not including staff time, and drew far fewer voters than would be expected to turn out at a regular election on a nice, or even miserable, early-October day.

Changing state law makes sense.

Why should local governments be forced into a special election and the associated costs on matters that can wait until a regular election? They shouldn't, provided that timely regular elections are on the calendar.

And with special elections notoriously having low voter turnout, it seems the public interest is best served if issues can be decided when there is the greatest likelihood of voter participation. In Alaska, that usually means the fall, after the summer's activities have wrapped up and before the snow has come down.

There is an argument to be made, though, that eliminating the requirement for a special election reduces the ability of the people to change their local laws on their terms, when they want to. But Senate Bill 14, and a companion House bill that is undergoing some revision, will allow a community's governing body--for Fairbanks that would be the Borough Assembly--to schedule a special election if that body determines that holding one is in the best interest of the community. It's difficult, though not impossible, to imagine the assembly refusing to order a special election if there's widespread demand for one. The tradeoff in money saved and in avoiding having important matters decided by a small number of people is worth it.

The Legislature took up this issue last year, but the Senate version of the bill became embroiled in the Anchorage mayor's race, of all things, when a legislator added a provision affecting how that race could be decided.

Let's hope the bill stays fairly clean this time around so that the Fairbanks North Star Borough and other communities can reduce the number of special elections.

**adn.com**

Anchorage Daily News

Print Page

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## Kodiak lawmaker resurrects special elections bill

The Associated Press

(Published: January 28, 2005)

**FAIRBANKS (AP)** - A Kodiak lawmaker has resurrected an effort to allow municipalities to avoid costly special elections.

Senate Majority Leader Gary Stevens introduced the bill prior to the legislative session. The bill would give boroughs and some cities the option of delaying a vote on citizen initiatives or referendums until a regularly scheduled election.

Current law requires a special election be held within 75 days of a petition being certified.

"The intent is simply to allow local municipalities, local communities to avoid very costly elections for referendums or initiatives," Stevens said.

If Stevens' bill passes, municipalities could still hold special elections on time-sensitive issues.

The measure received its first hearing Wednesday in the Senate Community & Regional Affairs Committee. Several municipal clerks testified in favor of the bill, agreeing with Stevens that having the option of delaying a vote on an initiative or referendum would be advantageous.

"A special election is costly, time-consuming, and traditionally the turnout is very low," said Mona Lisa Drexler, clerk for the Fairbanks North Star Borough.

Drexler has estimated in the past that a special election in 2002 on whether to enact a fuel transfer tax cost the borough more than \$60,000. Last year's attempt to eliminate the borough's vehicle inspection and maintenance program cost more than \$50,000.

Both measures were defeated by a wide margin and drew less than 16 percent of registered voters to the polls.

Kenai Peninsula Borough Clerk Linda Murphy said municipalities do not typically set aside money for special elections.

"These are not budgeted items," she said. "So when we do have a special election, we have to go back and get a supplemental appropriation to hold one."

The committee had been set to pass the bill and forward it to the Finance Committee Thursday. However, Sen. Thomas Wagner, R-Kenai, voiced the idea of requiring a certain level of voter turnout at special elections in order for the results to be certified.

That system, which is used in Washington state, would encourage special elections to be held closer to a regularly scheduled election, when voter turnout is typically higher, he said.

Stevens said the bill is identical to the measure he introduced last session. That bill passed the Senate but did not make it out of the house of Representatives.

The committee is scheduled to take up the bill again Monday.

---

Information from: Fairbanks Daily News-Miner, <http://www.newsminer.com>

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217 Second Street, Suite 200 • Juneau, Alaska 99801  
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

January 12, 2005

Senator Gary Stevens  
State Capitol  
Juneau, AK 99801

Dear Senator Stevens,

Re: Support for SB 14 as introduced concerning local elections:

Under the current statute, a municipality may be forced to hold a Special Election when the matter can be more efficiently and effectively put on a coming Regular Election ballot. Depending on the issue, a municipality may decide to hold a Special Election, or wait until a Regular Election. In some cases, the additional cost and timing of a Special Election may diminish voter turnout or create negative feelings about the issue. These decisions about local elections can only be made at the local level.

The AML Policy Statement adopted in November, 2004 supports SB 14 as introduced. The AML Policy Statement says "The League supports legislation that would increase the authority of local governments to conduct their own elections, including setting the date of elections."

SB 14 as introduced would allow municipalities to save money and more efficiently conduct elections by allowing municipalities to avoid holding unnecessary special elections when it is more appropriate to put the matter on a Regular Election ballot.

Thank you for introducing this important municipal legislation and for your on-going support of strong communities.

Sincerely

Scott Brandt-Erichsen  
Alaska Municipal League Legislative Committee  
Local Government and Public Services Subcommittee



ADOPTED AUGUST 1872  
January 27, 2005

## CITY of WRANGELL, ALASKA

INCORPORATED JUNE 15, 1903

BOX 531, 39929 (907) 874-2381  
FAX: (907) 874-3952

Senator Gary Stevens  
Alaska State Senate  
State Capitol, Room 203  
Juneau, AK 99801-1182

Re: Senate Bill #14

Dear Senator Stevens:

Thank you for introducing and sponsoring Senator Bill #14. As election supervisor for the City of Wrangell, I support this bill relating to municipal initiative and referendum elections.

As you know, the City of Wrangell is a home-rule municipality and currently practices a similar concept as being proposed through our city charter and city code, however there are other municipalities within the state of Alaska that need this change within our legislature to help alleviate the serious problem of spending thousands of dollars to conduct special elections due to not being able to wait for a regular election. Your bill would help those communities.

Thank you for the opportunity to let me comment on this most important act.

Respectfully yours,

A handwritten signature in cursive script that reads "Christie L. Jamieson".

Christie L. Jamieson, CMC  
City Clerk



**OFFICE OF THE MUNICIPAL CLERK/  
ELECTION OFFICIAL**

155 S. Seward St., Room 202  
Phone: (907)586-5278 Fax: (907)586-4552  
eMail: Laurie\_Sica@ci.juneau.ak.us

February 7, 2005

Representative Carl Gatto  
Vice-Chair, House State Affairs Committee  
Alaska House of Representatives  
State Capitol, Room 411  
Juneau, AK 99801-1182

Re: House Bill 50

Dear Representative Gatto,

As election official for the City and Borough, I wish to express my support for HB50, "An Act Relating To Municipal Initiative And Referendum Elections." HB50 will provide local elected officials with an opportunity to debate the merits of placing an initiative or referendum on a special election schedule or adding it to a regularly scheduled election ballot. It will not prevent an initiative or referendum from going to a vote of the people, it will only effect the timing of the vote.

In June 2003, the City and Borough of Juneau held a special election at the call of the Assembly, to bond for additional funds to build a new high school. It was the Assembly's decision that the matter could not wait for the October regular election.

In June 2004, a citizen's initiative was certified to prevent CBJ from proceeding with construction of the new high school until it could be demonstrated that the project could be constructed within the original design specifications and budget proposed in 1999. The Assembly allowed the measure to proceed to a special election, in order to prevent further delay to the school construction schedule.

In both cases, the Assembly determined that the cost of a special election was outweighed by the cost of delay of a decision by the citizens. However, the Assembly did not have a complete choice in the case of the 2004 initiative. The CBJ charter mandates a special election shall be held within 60 days if the Assembly fails to enact a measure substantially similar to an initiated measure or to repeal a referred measure. In the case of an initiated or referred matter that could wait (for example, if citizens requested to repeal the "no-smoking" ordinance, which had a significant public comment period and public debate) HB50 would provide a general government City Council or Assembly with the opportunity to place the measure on the next regularly scheduled election, saving public funds in the process.

I encourage you to support and adopt HB50. I would like to see a similar amendment made to the CBJ home rule charter. A change to the state statutes will facilitate a discussion on this issue at the local level.

Please contact me if I can be of any assistance.

Sincerely,

Laurie Sica, CMC  
Municipal Clerk/Election Official  
City and Borough of Juneau, Alaska



# Fairbanks North Star Borough

Office of the  
Borough Clerk

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1401

Fax 907/459-1224

Email [clerks@co.fairbanks.ak.us](mailto:clerks@co.fairbanks.ak.us)

January 14, 2005

The Honorable Gary Stevens  
The Honorable Representative Paul Seaton

Dear Senator Stevens and Representative Seaton;

Re: SB 14 and HB 50 "An Act relating to municipal initiative and referendum elections":

The Fairbanks North Star Borough Assembly and Administration supports SB 14 and HB 50 "An Act relating to municipal initiative and referendum elections." In December the Borough Assembly and Mayor Jim Whitaker met with our Interior Delegation and advocated a change in state law concerning special elections held for initiative or referendum petitions that have been certified.

SB 14/HB 50 is a simple bill that helps address one small area of AS 29 that deals with local municipal special elections. It places any initiative or referendum petition that is successful in being certified to the next regular municipal election.

Conducting a special election at a different time than the regularly scheduled municipal election is expensive, time consuming and very difficult to pull together. Voter turnout is traditionally low. SB 14/HB 50 as introduced allows municipalities to save money and continue to more efficiently conduct elections

Thank you again for introducing this important legislation. If there is any additional information needed from my office, please let me know.

Sincerely,

Mona Lisa Drexler, MMC  
Municipal Borough Clerk  
Fairbanks North Star Borough

*Story last updated at 4:13 PM on Thursday, February 10, 2005*

## **Special elections bill passes Senate**

**By Chris Eshleman**

Staff Writer

A bill that would allow municipalities more control over citizen-initiated special elections is making its way through the Legislature.

The bill, sponsored by Sen. Gary Stevens, R-Kodiak, unanimously passed the Senate on Feb. 2 and is scheduled for a hearing today before the House Community and Regional Affairs Committee.

Currently, when municipalities certify a citizen initiative and a regular election is not scheduled within the next 75 days, the local government is obligated to hold a special election.

Stevens' bill would remove that requirement. Municipal governments, however, would retain the ability to call a special election at their discretion or schedule the initiative for the next regular election.

"It gives local governments the discretion to schedule special initiative and referendum elections in a more economical manner," Stevens said of the bill. "It would allow the local borough assembly or city council to decide if this is a timely enough issue to have a special election."

Some special elections do bring a large turnout. For example, Homer held one in June on the issue of retail store size, and 1,701 voters showed up — or about 42.42 percent of all registered voters. By comparison, 1,709 voters participated in the regular municipal election.

Special elections, however, have become costly to some cities around the state. In one four-month period in 2002, the Fairbanks North Star Borough clerk's office received six referendum and initiative petitions on a number of issues, including fuel taxes and snowmachine control.

Those petitions led to one special election, which cost approximately \$60,000. Only one proposition was on the ballot, and it was defeated with a 13 percent voter turnout.

Stevens' bill would not affect a special election currently being considered by Homer City Council members that would change the city's tax structure.

Stevens introduced the bill at the request of the Kenai Peninsula Borough clerk's office, which he said was hoping to protect itself against a statewide trend toward special elections.

Borough Clerk Linda Murphy said that the bill would not affect home-rule municipalities like Seward, but would apply to boroughs and first-class municipalities like Homer.

"It's something that a number of clerks have been looking at for a while," Murphy said Tuesday. "These special elections are something we really can't afford anymore."

*Chris Eshleman can be reached at [chris.eshleman@homernews.com](mailto:chris.eshleman@homernews.com).*



217 Second Street, Suite 200 • Juneau, Alaska 99801  
Tel (907) 586-1325 • Fax (907) 463-5480 • [www.akml.org](http://www.akml.org)

January 12, 2005

Senator Gary Stevens  
State Capitol  
Juneau, AK 99801

Dear Senator Stevens,

Re: Support for SB 14 as introduced concerning local elections:

Under the current statute, a municipality may be forced to hold a Special Election when the matter can be more efficiently and effectively put on a coming Regular Election ballot. Depending on the issue, a municipality may decide to hold a Special Election, or wait until a Regular Election. In some cases, the additional cost and timing of a Special Election may diminish voter turnout or create negative feelings about the issue. These decisions about local elections can only be made at the local level.

The AML Policy Statement adopted in November, 2004 supports SB 14 as introduced. The AML Policy Statement says "The League supports legislation that would increase the authority of local governments to conduct their own elections, including setting the date of elections."

SB 14 as introduced would allow municipalities to save money and more efficiently conduct elections by allowing municipalities to avoid holding unnecessary special elections when it is more appropriate to put the matter on a Regular Election ballot.

Thank you for introducing this important municipal legislation and for your on-going support of strong communities.

Sincerely

*Scott Brandt-Erichsen*

Scott Brandt-Erichsen  
Alaska Municipal League Legislative Committee  
Local Government and Public Services Subcommittee

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 14  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce

Title: Municipal Elections RDU: Comm Assistance & Ec Dev (405)  
 Component: Community Advocacy  
 Sponsor: Stevens G.  
 Requester: Senate Community & Regional Affairs Component No.: 2703

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) 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)

This legislation would change the process for scheduling municipal elections on voter initiatives and referendums. It would not create a fiscal impact on the operations of the department.

Prepared by: Athena Logan, Special Projects Coordinator Phone 907.269.4540  
 Division: Community Advocacy Date/Time 1/25/05 3:28 PM  
 Approved by: Edgar Blatchford, Commissioner Date 1/25/2005  
 Agency: Commerce, Community & Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_

Bill Version: SB14

( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_

Dept. Affected: OOG

Title "An Act relating to municipal initiative and referendum elections."

RDU Elections

Component Elections

Sponsor Senator Gary Stevens

Requester Senate CRA

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	0.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 legislation does not pertain to state conducted elections and therefore does not impose any fiscal impact on the Division of Elections

Prepared by: Lauri Allred, Administrative Assistant Supervisor

Phone 465-5347

Division Division of Elections

Date/Time 1/18/05 1:21 PM

Approved by: Laura A. Glaiser, Director

Date 1/18/2005

Agency Division of Elections

**SB**

**51**



COOK INLET  
T R I B A L  
COUNCIL, INC.

## COOK INLET TRIBAL COUNCIL, INC

### TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

#### FACT SHEET

- CITC has been providing TANF (Welfare to Work) case management services as a vendor for the State since 1997 (8 years). During this tenure CITC has been a key player in the successful decline of State TANF roles
- 1994 TANF caseload for Anchorage was 1,123; it is currently 692 (as of 11/2004). During this period, Anchorage experienced an increase in Native population from 12,000 (1990 *US Census*) to approx. 46,000 (2000 *US Census*); yet the TANF participant role decreased by 62%.
- Supports the Governor's mandate of local control and downsizing of State government
- Makes the delivery of Tribal Temporary Assistance to Needy Families service delivery uniform throughout the State, as the majority of Alaska Native and American Indians in Alaska are currently being provided TANF services at other Native regional tribal social services agencies including Tanana Chiefs, Central Council of Tlingit and Haida Indian Tribes and the Association of Village Council Presidents
- CITC is a fully integrated one-stop employment, social service, and substance abuse treatment agency.
- Data and financial reporting & tracking will be a non-issue for CITC. CITC will be using the State of Alaska, DHSS Eligibility Management System interfaced with our own sophisticated information technology (IT) & accounting infrastructure
- CITC currently provides IT services for 5 non-profit agencies in 25 locations (413 end users) and accounting services for 39 non-profits, consistently having no financial single audit findings

Gloria O'Neill, CEO and President  
Contact Person: Molly Merritt-Duren, MS Ed.  
[mmerrittduren@citci.com](mailto:mmerrittduren@citci.com)  
(907) 265-5915

670 W. FIREWHEEL LANE - ANCHORAGE, ALASKA 99504-2578

FAX: (907) 265-5942

PHONE: (907) 265-5915

# STATE OF ALASKA

**DEPT. OF HEALTH AND SOCIAL SERVICES**

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110601  
JUNEAU ALASKA 99811-0601  
PHONE (907) 465-3030  
FAX (907) 465-3068

January 13, 2004

Honorable Gary Stevens, Chairman  
Senate Community and Regional  
Affairs Committee  
Alaska State Capitol, Rm. 103  
Juneau, AK 99801

Dear Senator,

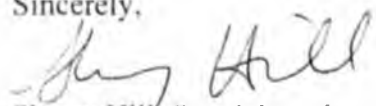
The Department of Health and Social Services respectfully requests a hearing in the House Community & Regional Affairs Committee on Senate Bill 51 "An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska Native family assistance programs; relating to assignment of child support by Alaska Native family assistance recipients; relating to paternity determinations and genetic testing involving recipients of assistance under Alaska Native family assistance programs; and providing for an effective date."

This bill would reauthorize the Alaska Native Family Assistance Grant Program established in Chapter 96, SLA 2000 as a temporary pilot program. In addition to reauthorizing the pilot program on a permanent basis in statute, the bill also would allow the remaining nine Alaska native nonprofit organizations authorized in federal law to participate in the program.

A copy of Governor Murkowski's transmittal letter providing additional information on the proposal and the associated fiscal notes should be on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,

  
Sherry Hill, Special Assistant  
Office of the Commissioner

cc: Kevin Jardell, Legislative Director  
Office of the Governor

Katherine Farnham, Director  
Division of Public Assistance

2004

# Welfare Reform Status Report



## December Update

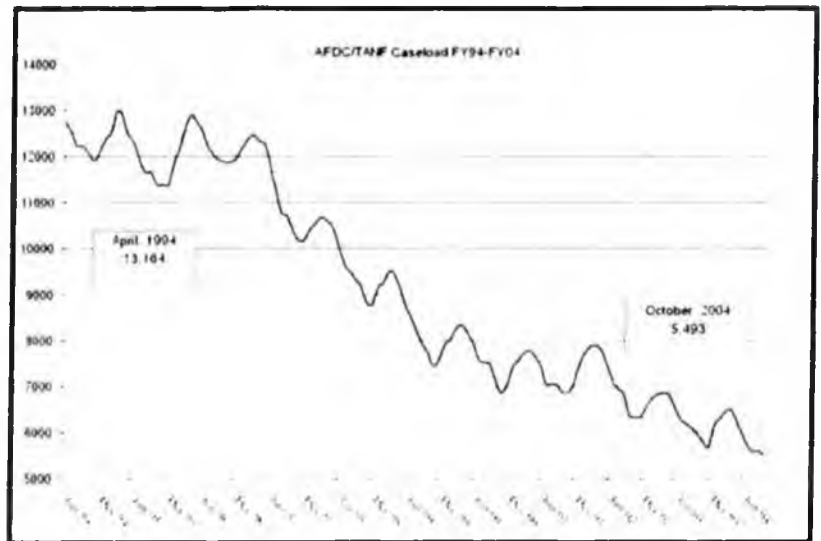
December 20, 2004

### Caseload is Down



# 58%

April 1994 — October 2004

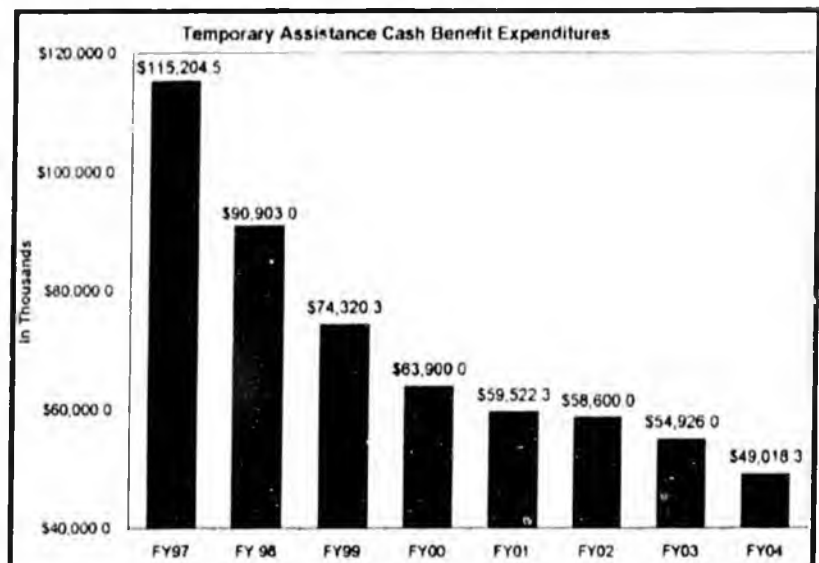


### Spending is Down



# \$66.1

MILLION  
(FY04 compared to FY97)



#### SPECIAL POINTS OF INTEREST:

- ⇒ Spending on welfare payments dropped by \$66.1 million, down 57.4% from the \$115.2 million spent in FY97.
- ⇒ The percentage of Alaskans receiving cash benefits has declined from 6.2% in FY94 to an estimated 2.5% in FY04.
- ⇒ In FY2004 the Temporary Assistance caseload declined by 9% and cash benefits decreased by almost 11%. The caseload decline and savings are largely due to the program's emphasis on employment.

## Sectional Analysis

Bill No.        **HB 69/SB 51**

"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska Native family assistance programs; relating to assignment of child support by Alaska Native family assistance recipients; relating to paternity determinations and genetic testing involving recipients of assistance under Alaska Native family assistance programs; and providing for an effective date

### Section 1:

Amends AS 47.27 by adding a new article authorizing the Department of Health and Social Services (DHSS) to award and administer Alaska Native family assistance program (NFAP) grants. NFAP grants and programs operated under NFAP grants need not conform to legislative provisions authorizing the state administered Alaska Temporary Assistance Program (ATAP).

Outlines requirements for eligibility for an NFAP grant by specifying:

- which entities are eligible for NFAP grants under this legislation. AS 47.27.070 references the 12 Alaska Native non-profit corporations and the Metlakatla Indian Community of the Annette Islands Reserve;
- only tribes with a federally approved tribal TANF plan and those that agree to operate a tribal family assistance program under an approved plan are eligible for grant;
- the plan approved under this section must be operated on a state fiscal year basis;
- the process the department will use for approving an NFAP grant;
- guidelines for determining the grant amount;
- standards the program must meet for plan approval by the department;
- provisions for safeguarding confidentiality record sharing, data and fiscal record collection and exchange, and termination of the program.

Specifies that a person residing in an area covered by a tribal family assistance plan will be served only through that tribal organization and outlines an appeal process.

Requires that a participant in an Alaska Native family assistance program assign to that program all rights to ongoing child support and cooperate with all CSSD enforcement activities unless the program finds the participant has good cause for refusing to cooperate.

Requires a Native family assistance program to provide CSSD with information needed to make a valid child support assignment, and specifies the applicability of AS 25.27 (Child Support Services Agency) to a recipient under an Alaska Native family assistance program.

## Section 2:

Amends AS 47.27 by adding a new article establishing the authority of DHSS to develop and implement regional public assistance plans and programs and authorizes the department to award contracts for the implementation of regional assistance programs. Contracts under this section are exempt from competitive bid requirements of the state procurement code. Under this section, DHSS can only contract for the implementation of a regional public assistance program if:

- an Alaska Native organization is authorized to operate a federally approved tribal assistance program;
- the organization has been awarded an NFAP grant;
- the regional plan will serve eligible state residents not covered by the federally approved tribal assistance program;
- the organization agrees to provide state public assistance identical to that provided by the federally approved tribal family assistance plan;
- the organization provides an appeals process for applicants or recipients that uses the same methodology available under the federally approved plan.

Mandates that recipient records be kept confidential.

## Section 3:

Defines "Alaska Native family assistance grant;" "Alaska Native family assistance programs;" "federally approved tribal family assistance plan."

## Section 4:

Provides authority for DHSS to adopt transitional regulations

## Section 5:

Provides Revisor's instructions.

## Section 6

Establishes an effective date of June 30, 2005.



CENTRAL COUNCIL  
 tlingit and haida indian tribes of alaska  
 ANDREW P. HOPE BUILDING  
 320 West Willoughby Avenue • Suite 300  
 Juneau, Alaska 99801-1726

Testimony on Native Family Assistance Program  
 By: Sharon Olsen, Director of Employment & Training  
 Central Council Tlingit & Haida Indian Tribes of Alaska

Central Council, through its Employment and Training Division is currently administering a Tribal Temporary Assistance to Needy Families (TTANF), and has been since July 2000.

Introduction

CCTHITA serves the health, education, employment, human and public service needs of more than 25,901 enrolled members mostly residing in Southeast Alaska. Currently there are 4,968 children, under the age of 18, enrolled in the Tribe and an undetermined amount of children that are either eligible for enrollment or descendants.

Tlingit and Haida's TANF program has averaged over 360 cases per month over the last several months. Less than 18% of the households served are intact 2 parent households. Our TANF program estimates an additional 300+ potential clients due child support who have received benefits in the past and those who were also TANF eligible but chose not to apply.

In many of the rural communities the unemployment rate is as high as 80%. Resources within these communities are limited, and to relocate a client for purposes of training or employment are costly.

Our program emphasizes work as a means to self-sufficiency with the expectation that both parents of children needing assistance work to the extent of their ability. We have more than doubled the number of participants required in our Tribal TANF Plan performance measures. Program participants are encouraged to complete at least a high school education (or its equivalent), so that they can enjoy greater opportunities to obtain work that will produce sufficient income to support their families and contribute to their community. In 2004, our TANF program sponsored an employment seminar "Healthy Choices" in Juneau. Clients were orientated

to programs that offer life skills, career exposure and job search. We plan to expand these types of seminars in other communities this year. Clients reported the seminars to be helpful and worthwhile.

Strengthening families is a major goal for 2005 and we have two new programs that will offer a variety of services to families. One of the new programs is our "Fatherhood Initiative" which is to support families by strengthening male involvement through family activities, visitations and support groups. We plan to offer activities and training to families in pre-parenting education, self-esteem, how to reconnect fathers with their children, mentorships and conferences to further promote and support families.

Our Tribal Child Support Unit is the other new program which will be in a planning phase for two years to eventually operate our own Tribal Child Support Unit to serve Southeast Alaska. Currently we work directly with the State Child Support Agency and report any absent parent for each application submitted. Our proposed Child Support program will allow us to be creative while improving child support collections and distributions. We will also concentrate on parent/child relationships and emphasize healthy marriages.

Tlingit and Haida's Employment & Training Division was the first tribe in the nation to be approved to operate an integrated program under PL 102-477. This allows us to consolidate our USHHS, USDOL and DOI/BIA employment, training and related funds into one budget, one reporting system and one plan. Our 477 plan include these services; child care assistance, training, employment preparation and placement, support services (work clothes, transportation, etc.), youth services, general assistance to non-TANF clients, job development and many other related services that help clients find and keep meaningful employment. Recently the Federal Office of Management and Budget (OMB) rated the PL 102-477 tribal programs the highest of all Indian programs in the Department of the Interior. Other independent studies conducted by Washington University and studies for the Department of Health and Human Services have also concluded that tribes participating in "477" are more successful while doing welfare reform than if they had not participated in the program. In Alaska, all regions, except Maniilaq, are operating under PL 102-477.

CCTHITA Employment and Training Division received the highest award in May 2003 from the US Department of Labor during the National Indian and Native American Employment and Training Conference held in Anchorage, Alaska. Tlingit and Haida was praised by Jim Deluca, Chief of Division of Indian and Native American Programs by saying "If there is one organization that we can depend on for getting their reports in on time and we don't have questions on because of their organization and thoroughness – it is Tlingit and Haida." See attached news release.

Other support programs within T&H Employment and Training include the Tribal Vocational Rehabilitation (TVR) program which further enhances our ability to support TANF families. A recent study on welfare reform (U.S. Department of Education, Technical Assistance Circular, RSA-TAC-05-01) indicates that fully one-third of individuals receiving employment-related services from other programs, such as TANF, have specific learning disabilities (SLD) or other cognitive disabilities (U.S. General Accounting Office, "Welfare Reform – More Coordinated Federal Effort Could Help States and Localities Move TANF Recipients With Impairments Toward Employment" October, 2001)

As the Tribal Vocational Rehabilitation program partners more extensively with the TANF program, the number of individuals with such disabilities served by the TVR program is expected to increase. Because the SLD and other cognitive disabilities are often "invisible" disabilities with manifestations that are subtle or appear as other types of problems, such as lack of motivation or emotional disorders, assessment of an individual's functional capacities can be a difficult task. There may be a greater adverse impact on achieving and maintaining employment than those associated with poor academic performance. Alaska Native Students rank second highest in the State of Alaska with students with disabilities; these students who cannot pass their exit exam at the High School will also be our TANF/TVR clients of tomorrow. Without an education or a GED their "invisible" disabilities play a large role in how they see themselves, "not able to work". We are quite worried about the exit exam for our Native students; historically we have been over-represented in the "Special Education" programs in our communities with few teachers or special education tutors to help address the issue of helping our children with disabilities. The drop out rate of Alaska Native children in Juneau is already at a very high level; we see this only increasing for our children this year.

Addressing and supporting our Tribal members with disabilities, including our youth, is demonstrated by strong partnerships within Employment & Training is evident by the increased numbers we serve. With increased permanent funding for the TANF program within Employment & Training will increase our base in which to help our people become self-sufficient.

Our Vocational Training and Resource Center (VTRC) offers Life Skills, Office Skills, Basic Computer training, Financial Planning and other training designed for Tribal TANF clients. The VTRC also offers a wide range of vocational training courses, and a growing number of the courses are now being offered in the communities.

### Recommendations

1. We encourage the Alaska Legislature to pass the Governor's proposed legislation that will make the Native Family Assistance Program permanent.
2. We support the expansion of the availability of Native Family Assistance grants will ensure that all tribal organizations federally authorized to deliver tribal TANF programs will have the opportunity to access the necessary state resources and provide effective and innovative public assistance programs to their members.

Thank you for your consideration and support of Tribal TANF programs in Alaska. If you have any questions or need additional information, please contact Sharon Olsen at 907-463-7132 or Dean George, TANF Coordinator at 907-463-7313.

### Attachments:

1. Graphs on Tlingit and Haida's TANF Caseloads
2. USDOL "Chief's Award" to Tlingit and Haida

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: SB 51  
 ( S ) Publish Date: 1/12/05  
 Dept. Affected: Health & Social Services  
 RDU: Public Assistance  
 Component: Child Care Benefits

Revision Date/Time (Note if correction):

Title: REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR

Component No. 1897

**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	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011

CHANGE IN REVENUES (0)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )	( 931.5 )
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>	<b>( 931.5 )</b>

Estimate of any current year (FY2005) 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)

This legislation reauthorizes the Department of Health & Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance program to support the operation of federally approved Tribal TANF programs. In addition to reauthorizing the existing Native Family Assistance Programs (NFAP), this bill would also allow DHSS to provide grants to the other nine Alaska Native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005.

The fiscal note assumes implementation of the CITC program on July 1, 2005, and reflects the associated budget impacts. Child Care benefits are direct subsidies paid to childcare providers for TANF families. This fiscal note deletes \$931.5 federal budget authority for the decline in childcare expenditures due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

Prepared by: Katherine Farnham  
 Division: Public Assistance  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 269-7930  
 Date/Time: 12/07/2004  
 Date: 12/10/2004

FISCAL NOTE  
FN # 4

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 51

**ANALYSIS CONTINUATION**  
Analysis Continued: Child Care Benefits

<u>Summary of all component impacts for CITC/NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: SB 51  
 ( S ) Publish Date: 1/12/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

RDU: Public Assistance  
 Component: ATAP

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR

Component No.: 220

**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	( 6,727.0)	( 6,727.0)	( 6,727.0)	( 6,727.0)	( 6,727.0)	( 6,727.0)
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	( 563.2)	( 563.2)	( 563.2)	( 563.2)	( 563.2)	( 563.2)
1003 GF Match	( 5,755.8)	( 5,755.8)	( 5,755.8)	( 5,755.8)	( 5,755.8)	( 5,755.8)
1004 GF						
1037 GF/Mental Health						
1007 Interagency Receipts	( 408.0)	( 408.0)	( 408.0)	( 408.0)	( 408.0)	( 408.0)
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>	<b>( 6,727.0)</b>

Estimate of any current year (FY2005) 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)

This legislation reauthorizes the Department of Health & Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance grant program to support the operation of federally approved Tribal TANF programs. The three organizations currently running programs and receiving Native family assistance grants are: Tanana Chiefs Conference (TCC) in the interior Doyon region, Central Council of Tlingit & Haida Indian Tribes of Alaska (T&H) in SE Alaska, and the Association of Village Council Presidents in the YK Delta. Approval of this legislation maintains state support for these programs at the current, status quo level (no fiscal impact or change for existing Native family assistance programs). In addition to reauthorizing the existing programs this bill would also allow DHSS to provide grants to the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005. This fiscal note assumes implementation of the CITC program on July 1, 2005 and reflects the associated budget impacts.

Prepared by: Katherine Farnham  
 Division: Public Assistance  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 269-7930  
 Date/Time: 12/07/2004  
 Date: 12/10/2004

FISCAL NOTE  
FN # 3

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 51

**ANALYSIS CONTINUATION**

Analysis Continued:

**State supplemental grant to CITC to operate tribal TANF in the Anchorage service area:**

Funding for tribal TANF program operations comes from the federal TANF block grant and is supplemented by state grant funds that would otherwise be spent to serve the same number of Native families receiving assistance from the State's temporary assistance program. This fiscal note reflects the 'transfer' of \$4,093.8 in state funding from the ATAP component to the Tribal Assistance component to support the operation of tribal TANF administered by CITC. Funds provided by this state grant supplement CITC's federal TANF block grant and will be used for purpose of providing temporary assistance payments to eligible families through the CITC tribal TANF program.

**Native Operated TANF programs & Changes in MOE**

The state maintenance of effort (MOE) requirement for TANF is based on the state share of AFDC expenditures in FFY1994. In order to earn the annual TANF block grant, states must spend at least 75-80 percent of their FFY 1994 spending. Federal law allows designated Native organizations to operate their own TANF programs and to receive TANF grants directly from the federal government. The federal grants for Native TANF reduce the state block grant amount dollar for dollar. In addition, the required state maintenance of effort (MOE) is reduced.

State general funds savings of roughly \$25 million have been previously deleted from the ATAP budget to a level equal to the minimum 75% MOE amount. Due to CITC implementing a new tribal TANF program, DHSS can reduce the required MOE by an additional \$2,070.0 million GF. This fiscal note changes ATAP component funding sources by deleting \$2,070.0 GF (MOE) and replacing with federal TANF authority. The change in fund source assumes a reduction in state TANF MOE amount due to the implementation of the CITC tribal TANF program.

**Delete excess Federal TANF - ATAP caseload transfers to CITC**

This fiscal note deletes \$2,633.2 federal budget authority for the projected decline in ATAP component formula payments due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

<b><u>Summary ATAP component impacts</u></b>	Total	Federal	GFM	I/A
"Transfer" to Tribal Assistance component	(4,093.8)	-	(3,685.8)	(408.0)
Delete GFM to the revised MOE floor	-	2,070.0	(2,070.0)	-
Delete excess federal TANF federal authority	<u>(2,633.2)</u>	<u>(2,633.2)</u>	-	-
ATAP component net change	(6,727.0)	(563.2)	(5,755.8)	(408.0)

<b><u>Summary of all component impacts for CITC's NEAP</u></b>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	-	-
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 51  
 ( S ) Publish Date: 1/12/05  
 Dept. Affected: Health & Social Services  
 RDU Public Assistance  
 Component Work Services

Revision Date/Time (Note if correction):

Title REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No 2337

**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	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )	( 1,346.4 )
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>	<b>( 1,346.4 )</b>

Estimate of any current year (FY2005) 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)

This legislation reauthorizes the Department of Health and Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance grant program to support the operation of federally approved Tribal TANF programs. In addition to reauthorizing the existing programs this bill would also allow DHSS to provide grants to the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005.

The fiscal note assumes implementation of the CITC program as planned and reflects the budget impacts. Work Services is a budget category for case management staff and supportive service payments that assist TANF clients from welfare to work. This fiscal note deletes \$1,346.4 federal authority for the decline in Work Services component expenditure due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

Prepared by: Katherine Farnham  
 Division: Public Assistance  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 269-7930  
 Date/Time 12/07/2004  
 Date 12/10/2004

FISCAL NOTE

FN # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 51

ANALYSIS CONTINUATION  
Analysis Continued: Work Services

<u>Summary of all component impacts for CITCs NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 51  
 ( S ) Publish Date: 1/12/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM  
 RDU: Public Assistance  
 Component: Tribal Assistance

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No: 2336

**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	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>

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

<b>CHANGE IN REVENUES (0)</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	3,685.8	3,685.8	3,685.8	3,685.8	3,685.8	3,685.8
1004 GF						
1037 GF/Mental Health						
1007 Interagency Receipts	408.0	408.0	408.0	408.0	408.0	408.0
Other(Specify Type -do not abbreviate)						
<b>TOTAL</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>	<b>4,093.8</b>

Estimate of any current year (FY2005) 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)

Under federal law, 12 Alaska Native regional non-profits and the village of Metlakatla are authorized to receive federal funds for the administration of tribal TANF programs. This legislation reauthorizes the Alaska Native family assistance grant program established under Chapter 96, SLA 2000, and gives the Department of Health & Social Services the ability to award and administer state grants to Native non-profit organizations to supplement their federally approved Tribal TANF Assistance programs. Approval of this legislation would maintain support for the three organizations currently running Tribal TANF programs and receiving state supplemental Native family assistance grant funds: TANF - Tanana Chiefs Conference (TCC), Central Council of Tlingit & Haida Indian Tribes of Alaska (T&H) and Association of Village Council Presidents (AVCP). In addition to reauthorizing the existing programs this bill would also include the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005. The fiscal note assumes implementation of the CITC

Prepared by: Katherine Farnham  
 Division: Public Assistance  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 269-7930  
 Date/Time: 12/07/2004  
 Date: 12/10/2004

FISCAL NOTE  
FN # 1

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 51

**ANALYSIS CONTINUATION**

Analysis Continued:

program as planned and reflects the associated budget impacts.

**State supplemental grant to CITC to operate tribal TANF in the Anchorage service area:**

Funding for Native TANF program operation comes from the federal TANF block grant and is supplemented by state grant funds that would otherwise be spent to serve the same Native welfare recipients. This fiscal note reflects the 'transfer' of \$4,093.8 state funding to the Tribal Assistance component from the ATAP component to supplement the federal TANF for the operation of tribal TANF by CITC. Funds provided by this state grant will be used for the purpose of providing temporary assistance benefits to eligible families through CITC's tribal TANF program.

<u>Summary of all component impacts for CITC's NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

SB

86

**SENATE BILL NO. 86**

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

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/31/05**

**Referred: Community and Regional Affairs, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the liability of the state and municipalities for attorney fees in  
2 certain civil actions and appeals; and providing for an effective date."

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

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

6 **FINDINGS, PURPOSE, AND INTENT.** (a) The legislature finds that

7 (1) awards of enhanced attorney fees to adverse parties that are significantly  
8 beyond those ordinarily granted under the state's tradition of awarding a partial recovery of  
9 attorney fees to a prevailing party impose a substantial cost on the state and municipalities at a  
10 time of fiscal scarcity; and

11 (2) except if provided by a specific statute, if needed to preserve the courts'  
12 authority to sanction litigants, or if there is an exercise of eminent domain, there is no public  
13 policy that sufficiently supports such enhanced awards to justify their fiscal impact.

14 (b) The purpose of sec. 2 of this Act is to reduce the impact of the matters in the

1 findings made in (a) of this section on the state fisc, under art. II, sec. 21, of the Constitution  
2 of Alaska and the doctrine of sovereign immunity, and on the fisc of municipalities, through  
3 the legislature's power to confer immunity upon the state and municipalities.

4 (c) This Act does not preclude the enactment of, nor create an implied repeal of,  
5 specific statutes authorizing awards of ~~costs or~~ <sup>attorney</sup> fees in particular situations, such as in  
6 AS 45.50.537.

AG  
nt  
D/M

7 \* Sec. 2. AS 09.65 is amended by adding a new section to read:

(possible amendment by Scott Brundt Erickson)

8 **Sec. 09.65.065. Liability of the state and municipalities for attorney fees.**

9 (a) Except as otherwise provided by statute or awarded by a court as a sanction, in a  
10 civil action or appeal the state or a municipality is not liable to pay an attorney fee  
11 award exceeding the following:

12 (1) in a civil action or appeal in which a money judgment is recovered,  
13 20 percent of the money judgment recovered;

14 (2) in a civil action in which the prevailing party recovers no money  
15 judgment and

16 (A) that civil action goes to trial, 30 percent of the prevailing  
17 party's reasonable actual attorney fees that were necessarily incurred in  
18 litigating issues upon which the party prevailed; or

19 (B) that civil action is resolved without trial, 20 percent of the  
20 prevailing party's reasonable actual attorney fees that were necessarily incurred  
21 in litigating issues upon which the party prevailed;

22 (3) in an appeal in which the prevailing party recovered no money  
23 judgment, 20 percent of the prevailing party's reasonable actual attorney fees that were  
24 necessarily incurred in litigating issues upon which the party prevailed.

25 (b) The provisions of (a) of this section do not apply to a civil action or appeal  
26 relating to condemnation of property under the power of eminent domain.

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

29 **APPLICABILITY.** Section 2 of this Act applies to all civil actions and appeals filed  
30 on or after the effective date of this Act.

31 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

*Bill*

24-GS10521A

*HB 145*

*DEM  
4/21/05*

**SENATE BILL NO. 86**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/31/05**

**Referred: Community and Regional Affairs, Judiciary**

*lose some of Bill  
prev. enhanced*

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the liability of the state and municipalities for attorney fees in  
2 certain civil actions and appeals; and providing for an effective date."

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

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

6 **FINDINGS, PURPOSE, AND INTENT.** (a) The legislature finds that

7 (1) awards of enhanced attorney fees to adverse parties that are significantly  
8 beyond those ordinarily granted under the state's tradition of awarding a partial recovery of  
9 attorney fees to a prevailing party impose a substantial cost on the state and municipalities at a  
10 time of fiscal scarcity; and

11 (2) except if provided by a specific statute, if needed to preserve the courts'  
12 authority to sanction litigants, or if there is an exercise of eminent domain, there is no public  
13 policy that sufficiently supports such enhanced awards to justify their fiscal impact.

14 (b) The purpose of sec. 2 of this Act is to reduce the impact of the matters in the

*HB 145  
NOT TAKE YOU  
MUCH OF  
RES. COSTS*

*pend. case  
on 1/14/05*

1 findings made in (a) of this section on the state fisc, under art. II, sec. 21, of the Constitution  
 2 of Alaska and the doctrine of sovereign immunity, and on the fisc of municipalities, through  
 3 the legislature's power to confer immunity upon the state and municipalities.

4 (c) This Act does not preclude the enactment of, nor create an implied repeal of,  
 5 specific statutes authorizing awards of costs or fees in particular situations, such as in  
 6 AS 45.50.537.

7 \* Sec. 2. AS 09.65 is amended by adding a new section to read:

8 **Sec. 09.65.065. Liability of the state and municipalities for attorney fees.**

9 (a) Except as otherwise provided by statute or awarded by a court as a sanction, in a  
 10 civil action or appeal the state or a municipality is not liable to pay an attorney fee  
 11 award exceeding the following:

12 (1) in a civil action or appeal in which a money judgment is recovered,  
 13 20 percent of the money judgment recovered;

14 (2) in a civil action in which the prevailing party recovers no money  
 15 judgment and

16 (A) that civil action goes to trial, 30 percent of the prevailing  
 17 party's reasonable actual attorney fees that were necessarily incurred in  
 18 litigating issues upon which the party prevailed; or

19 (B) that civil action is resolved without trial, 20 percent of the  
 20 prevailing party's reasonable actual attorney fees that were necessarily incurred  
 21 in litigating issues upon which the party prevailed;

22 (3) in an appeal in which the prevailing party recovered no money  
 23 judgment, 20 percent of the prevailing party's reasonable actual attorney fees that were  
 24 necessarily incurred in litigating issues upon which the party prevailed.

25 (b) The provisions of (a) of this section do not apply to a civil action or appeal  
 26 relating to condemnation of property under the power of eminent domain.

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

29 **APPLICABILITY.** Section 2 of this Act applies to all civil actions and appeals filed  
 30 on or after the effective date of this Act.

31 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

*WPA*  
*Refer to memo from*  
*2/10/04*

*HA 117*  
*SA 86*  
*Alaska*

**CS FOR SENATE BILL NO. 97(JUD) am(ct rule fld)(efd fld)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Amended: 5/6/04**

**Offered: 5/5/04**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to public interest litigants and to attorney fees and costs and the  
2 posting of bonds or other security."

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

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

6 **FINDINGS, PURPOSE, AND INTENT.** (a) The legislature finds that

7 (1) the portion of the judicially created policy relating to the award of  
8 enhanced attorney fees and enhanced costs to public interest litigants who prevail in part or in  
9 full in a civil action or appeal that they initiate created an unbalanced set of incentives for  
10 parties litigating issues that fall under the public interest litigant exception;

11 (2) this imbalance imposed significant costs on the state and municipalities  
12 and, to a lesser degree, imposed unbalanced burdens on private citizens and businesses;

13 (3) the legislature responded to these and other problems with the public  
14 interest litigant policy through the enactment of ch. 86, SLA 2003;

*6-7-04*  
*10/1/04*  
*Alaska*  
*lit*

1 (4) the superior court has declared that certain reforms embodied in ch. 86,  
2 SLA 2003, are beyond the legislature's authority or require a two-thirds vote of the  
3 legislature; and

4 (5) while the legislature does not endorse the declaration of the superior court,  
5 it seeks to avoid a clash with another branch of government by providing for more limited  
6 reforms that are clearly within its authority.

7 (b) The purpose of sec. 2 of this Act is to provide for a more equal footing for parties  
8 in civil actions and appeals by abrogating the special status given to public interest litigants  
9 with respect to the award of attorney fees and costs. It is the intent of the legislature to  
10 expressly overrule the decisions of the Alaska Supreme Court in *Dansereau v. Ulmer*, 955  
11 P.2d 916 (Alaska 1998); *Southeast Alaska Conservation Council, Inc. v. State*, 665 P.2d 544  
12 (Alaska 1983); *Thomas v. Bailey*, 611 P.2d 536 (Alaska 1980); *Anchorage v. McCabe*, 568  
13 P.2d 986 (Alaska 1977); *Gilbert v. State*, 526 P.2d 1131 (Alaska 1974), and their progeny,  
14 insofar as they relate to the award of attorney fees and costs to or against public interest  
15 litigants in future civil actions and appeals.

16 (c) This Act does not preclude the enactment of, or create an implied repeal of,  
17 specific statutes authorizing awards of costs or fees in particular situations, such as in  
18 AS 45.50.537.

19 (d) Consistent with (c) of this section, this Act also is intended to enact a specific  
20 statute governing the award of costs and fees in certain challenges to decisions of the Alaska  
21 Board of Fisheries and the Alaska Board of Game.

22 \* **Sec. 2.** AS 09.60.010 is amended by adding new subsections to read:

23 (f) Except as otherwise provided by statute, a court in this state may not  
24 discriminate in the award of attorney fees and costs against a party in a civil action or  
25 appeal based on the nature of the policy or interest advocated by the party, the number  
26 of persons affected by the outcome of the case, whether a governmental entity could  
27 be expected to bring or participate in the case, the extent of the party's economic  
28 incentive to bring the case, or any combination of these factors.

29 (g) Except as otherwise provided by statute, a court in this state may not  
30 discriminate in the award of attorney fees and costs to a party in a civil action or  
31 appeal based on the nature of the policy or interest advocated by the party, the number

1 of persons affected by the outcome of the case, whether a governmental entity could  
2 be expected to bring or participate in the case, the extent of the party's economic  
3 incentive to bring the case, or any combination of these factors.

4 (h) In a civil action or appeal concerning the establishment, protection, or  
5 enforcement of a right under the United States Constitution or the Constitution of the  
6 State of Alaska, the court

7 (1) shall award, subject to (i) and (j) of this section, full reasonable  
8 attorney fees and costs to a claimant, who, as plaintiff, counterclaimant, cross  
9 claimant, or third-party plaintiff in the action or on appeal, has prevailed in asserting  
10 the right;

11 (2) may not order a claimant to pay the attorney fees of the opposing  
12 party devoted to claims concerning constitutional rights if the claimant as plaintiff,  
13 counterclaimant, cross claimant, or third-party plaintiff in the action or appeal did not  
14 prevail in asserting the right, the action or appeal asserting the right was not frivolous,  
15 and the claimant did not have sufficient economic incentive to bring the action or  
16 appeal regardless of the constitutional claims involved.

17 (i) In calculating an award of attorney fees and costs under (h)(1) of this  
18 section,

19 (1) the court shall include in the award only that portion of the services  
20 of claimant's attorney fees and associated costs that were devoted to claims concerning  
21 rights under the United States Constitution or the Constitution of the State of Alaska  
22 upon which the claimant ultimately prevailed; and

23 (2) the court shall make an award only if the claimant did not have  
24 sufficient economic incentive to bring the suit, regardless of the constitutional claims  
25 involved.

26 (j) The court, in its discretion, may abate, in full or in part, an award of  
27 attorney fees and costs otherwise payable under (h) and (i) of this section if the court  
28 finds, based upon sworn affidavits or testimony, that the full imposition of the award  
29 would inflict a substantial and undue hardship upon the party ordered to pay the fees  
30 and costs or, if the party is a public entity, upon the taxpaying constituents of the  
31 public entity.

1 \* **Sec. 3.** AS 09.68.040 is amended by adding a new subsection to read:

2 (d) A court in this state may not excuse a litigant requesting the entry of a stay  
3 or other interlocutory relief from posting a bond or other security to protect the  
4 persons who will be adversely affected if the excuse is based on the nature of the  
5 policy or interest advocated by the party, the number of persons affected by the  
6 outcome of the case, whether a governmental entity could be expected to bring or  
7 participate in the case, the extent of the party's economic incentive to bring the case, or  
8 any combination of these factors.

9 \* **Sec. 4.** AS 16.05 is amended by adding a new section to read:

10 **Sec. 16.05.812. Attorney fees and costs.** In a civil action or appeal  
11 challenging a decision, order, regulation, or other action of the commissioner, the  
12 department, the Board of Fisheries, or the Board of Game regarding subsistence use of  
13 fish and game,

14 (1) a prevailing private plaintiff shall be entitled to an award of its full  
15 actual reasonable attorney fees and costs if the party does not have a sufficient  
16 economic incentive to bring the case; and

17 (2) a private plaintiff who does not prevail may not be subject to an  
18 award of attorney fees or costs against it unless the party has a sufficient economic  
19 incentive to bring the case or the party's claim or claims are frivolous.

20 \* **Sec. 5.** (This section did not receive the two-thirds majority vote of the senate required by  
21 art. IV, sec. 15, Constitution of the State of Alaska.)

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

24 **APPLICABILITY.** Sections 2 - 5 of this Act apply to civil actions and appeals filed  
25 on or after the effective date of this Act.

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

28 **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act, or the  
29 application of it to any person or circumstance is held to be invalid, the remainder of this Act  
30 and the application to other persons or circumstances are not affected except that if

31 (1) AS 09.60.010(g) is held by the Alaska Supreme Court to be invalid or is

1 found to not effect a change to a court rule as provided in sec. 5 of this Act, then  
2 AS 09.60.010(h), (i), and (j), AS 09.68.040(d), and AS 16.05.812 are not severable:

3 (2) the portion of AS 09.60.010(b), enacted by ch. 86, SLA 2003, relating to  
4 awards of attorney fees to public interest litigants is held by the Alaska Supreme Court to be  
5 invalid or is found to not effect a change to a court rule as provided in sec. 5 of this Act, then  
6 AS 09.60.010(c), (d), and (e), AS 09.68.040(c), enacted by ch. 86, SLA 2003, and  
7 AS 16.05.812 are not severable.

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

10 RETROACTIVITY. Sections 5(a) and (c) of this Act are retroactive to September 11,  
11 2003.

12 \* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 CONDITIONAL EFFECT. Sections 1 - 8 of this Act take effect only if sec. 5 of this  
15 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,  
16 Constitution of the State of Alaska.



## SB 86- Public Interest Litigants

February 8, 2005

810 N St, Ste 203, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177  
 PO Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

Two bills currently under consideration in the Legislature would severely limit Alaskans' ability to challenge poor government decisions. **SB 86** and **HB 117** asserts sovereign immunity to ignore the Supreme Court rules that allow public interest litigants to recover legal expenses for challenges of decisions made by the State. The public interest litigant Rule 82 exemption is necessary to ensure that citizens can afford to challenge bad decisions by state agencies. **SB 86/****HB 117** limit the award of attorney's fees against the state or municipalities to the amount applicable under Civil Rule 82, only 20-30% of this expense.

Public Interest Litigants, by definition, are *not* motivated by an economic incentive, but rather by an interest in the resolution of a significant public policy issue. In 1974 the Alaska Supreme Court removed barriers that allowed only the rich to challenge bad government decisions.

### Limited Financial Benefit for the State

Over the 10 year period of 1993-2003, the state paid \$9,088,000 in attorney's fees. Over one half of the cost was for the ongoing Mental Health Trust Litigation. If the Trust litigation is deleted and **HB 117/SB 86** passes the State will save an average of only about \$360,000 per year.

### All Sides Impacted

Public interest litigants represent all points along the ideological and political spectrum. If not for the public interest rule, citizens, such as those cited below, could not afford to challenge poor government decisions.

### Ruedrich, Cities of Craig, Valdez, Delta, et al. v. Alaska Redistricting Board, (Alaska 2001):

The Republican Party of Alaska and several communities sued to make changes to proposed electoral redistricting

### Citizens for the Preservation of the Kenai River, Inc. v. Sheffield, 758 P.2d 624 (Alaska 1988):

A group of boat-owners brought suit challenging the validity of a state regulation limiting horsepower of motorized boats on the Kenai River.

Payton v. State, 938 P.2d 1036 (Alaska 1997): Rural residents sued DNR for failing to establish a subsistence salmon fishery on the upper Yentna River.

Alaska Survival, Inc. v. Dept. of Natural Resources, 723 P.2d 624 (Alaska 1988): An organization of local residents filed suit regarding state land disposal of 32 agricultural homesteads.

### Is the bill constitutional?

Two superior courts have held that attorney's fees are a matter of procedure under the Alaska Constitution, and this issue will be heard by the Supreme Court this spring. Should the court agree this bill could require Court Rule change 2/3rds vote, because it again attempts to change procedural rules regarding the award of attorney's fees.

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Anchorage Daily News

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**Attorney fee caps sought by governor****PROPOSAL: State would pay less if it lost a public-interest lawsuit.**

By LARRY PERSILY

Anchorage Daily News

*(Published: February 6, 2005)*

JUNEAU -- Gov. Frank Murkowski is making another run at legislation to reduce how much a judge could order the state and municipalities to pay in attorney fees when they lose public-interest lawsuits.

Opponents of the governor's proposal say it would make it harder -- more expensive -- for individuals and citizens groups to sue when they believe government is not following the law.

The governor wants to cap what a judge could order the state and municipalities to pay at generally no more than 30 percent of the winning party's actual attorney fees, similar to what private parties are required to pay in civil cases.

Alaska courts currently award full attorney fees to winning public-interest litigants in most cases.

A Superior Court judge in Juneau last April tossed out a similar measure, approved by the 2003 Legislature. This year's bill attempts to resolve the issues cited by the judge, said Jim Clark, the governor's chief of staff.

"The thing that has always seemed unreasonable, at least in my opinion," Clark said, is that public-interest litigants are not required to pay the state's legal bills if the state wins but they are allowed to collect their full costs if the state loses.

Murkowski's proposal this session does not eliminate all payments to winning public-interest litigants but merely scales back the amount they can receive, Clark said. "It's not a barrier. ... It just squares it away and puts everyone on the same footing."

Ray Metcalfe, founder of Alaska's Republican Moderate Party and a frequent critic of state actions, sees it otherwise. Limiting the amount public-interest groups can recover in lawsuits would weaken their ability to challenge state actions.

Groups could not afford the costs unless they could recover their actual expenses, he said.

"What good is the Constitution if you can't enforce it?" he said.

Legislators passed the 2003 law almost exclusively on party lines, with all but three Republicans backing their governor in his first year on the job. Clark, a former private attorney for timber, pulp mill and mining interests, said he has been involved in the issue for almost 20 years.

Much of the opposition in 2003 came from environmental groups, three of which joined with the Republican Moderate Party and two Native organizations in going to court to challenge the law.

The judge ruled in their favor, stating that the law violated due process. She also said the

## Anchorage Daily News | Attorney fee caps sought by governor

Legislature failed to properly adopt the measure. The 2003 legislation changed court rules, which requires a two-thirds legislative majority the Republicans did not have.

The measure, however, went much further than Murkowski's proposal this year. It would have covered not just lawsuits against the state, municipalities and school districts but also suits against private parties. And it would have required losing public-interest litigants to pay their opponents' legal bills.

This year's legislation, Senate Bill 86, is much narrower, avoiding the court rule change and allowing judges discretion to order additional payment of fees in some cases, Clark said.

The changes are not enough to sway Anchorage Democratic Sen. Hollis French, who opposed the 2003 bill and said he will fight this one too.

"It looks to overturn a long-standing court practice," French said, calling it "another stab at eliminating public-interest litigant fees."

The senator also said he doubts the arguments from supporters of the change that public-interest lawsuits are tying up the state.

Department of Law totals for fiscal years 1995 through 2000 show an average \$400,000 a year in legal fees paid by the state to winning public-interest litigants. More than half of the tab during those six years, however, came in one case over the state's illegal handling of Alaska's mental health trust lands.

The governor's bill will get its first hearing Wednesday afternoon before the Senate Community and Regional Affairs Committee.

Daily News reporter Larry Persily can be reached at [lpersily@adn.com](mailto:lpersily@adn.com), or in Juneau at 523-9306.



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Public Interest Litigation  
93-03

Type	Cases	FY	Cost	SubTotal
Redistricting	SE Conf v. Hickel	93	635.8	
	SE Conf v. Hickel	95	106.9	
	2001 Redistricting	02	1,501.9	
	2001 Redistricting	03	240.9	
				2,485.5
Mental Health	Weiss v. State	93-03	4,578.7	
				4,578.7
Legislation	Bess v. Ulmer (same sex marriage)	99	50.2	
	Planned Parenthood (partial birth abortion)	01	102.7	
	Planned Parenthood (GR Med abortion)	02	228.0	
	ACLU v. State 96 campaign finance reform	02	107.8	
				488.7
CBR	Hickel v. Cowper (CBR) (amt for approp)	95	43.7	
	Cowper v. Knowles (CBR approp lang)	97	4.3	
				48.0
Prisoners	Cleary Case	95	82.0	
	Cleary Case	96	119.5	
	Cleary Case	97	85.9	
	Cleary Case	99	56.7	
	Cleary Case	00	13.2	
	Cleary Case	01	119.4	
	Cleary Case	02	9.3	
				486.0
Elections/Ballots	Kwethluk IRA v. Coghill (open polling places)	95	11.0	
Initiatives/etc	O'Callaghan v. Coghill (open/closed primary)	97	25.0	
	Pullen v. Ulmer (FISH Initiative)	98	24.2	
	Dansereau v. Ulmer (94 gubernatorial election)	98	83.3	
	AK for Efficient Gov't v. State (ballot measure #2 - capitol move)	03	24.0	
				167.5
Subsistence	Toksok Bay v. State (herring fishery)	95	33.3	
	Ken Sorenson v. State (moose hunting)	96	60.0	
	Payton v. State (Upper Yenena salmon)	98	54.7	
				148.0
Natural Resources	Stein v. State (placer mining)	93	14.0	
	Trustees for AK v. Gorsuch (coal mining)	94	39.8	
	Kuitsarak v. Swope offshore platinum Goodnews	94	37.9	
	SE AK Conserv Council v. State (Kuiu Island)	95	44.7	
	Trustees for AK v. State (oil/gas lease best int)	96	42.8	
	Tulksarmute v. Heinze (water permit mining)	96	6.2	
	Ninilichuk Council v. State (o/g lease sale #78)	97	85.0	
	Port Graham/Nanwalek v. State (discharge Cook Inlet platforms)	98	24.0	
	Kachemak Bay Soc v. State (o/g lease sale 85A)	99	37.0	
	Cook Inlet Keeper v. State (oil/gas lease sale)	01	81.7	
	NABC/Sierra Club v. State (ROW electric line)	01	99.1	
	Greenpeace v. State (Northstar water permitting)	01	12.5	
	Gilbertson v. State (RS2477 easement)	01	2.2	
	Neighborhood Mine Watch v. State (ROW Fairbanks Gold Mining)	03	22.2	
Lynn Canal Conserv v. State (reg uses state land)	03	20.2		
				569.3
Local Govt	Ekwo/Lake & Pen Borough v. LBC (boundary)	95	51.4	
	Keane v. LBC (City of Pilot Point)	96	11.0	
				62.4
Misc	Capital Information Group v. State (public documents)	97	20.0	
	Alexie v. State (cultural adoption, child support)	00	34.7	
				54.7
<b>TOTAL</b>	(actual total is \$9,090,422) (numbers rounded off)			9,088.8

based on Leg Research Report 4/21/03

# Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: [akclu@akclu.org](mailto:akclu@akclu.org)

February 15, 2005

To: Senator Gary Stevens, Chairman  
Members of the Senate Community and Regional Affairs Committee

From: Michael W. Macleod-Ball, Executive Director

RE: Senate Bill No. 86  
*An Act relating to the liability of the state and municipalities for attorney fees in certain civil actions and appeals; and providing for an effective date*

Please accept this statement in opposition to the above referenced bill. We oppose SB 86 (HB 117) on the grounds that it will have a chilling effect on the ability of parties acting in the public interest to challenge the inappropriate exercise of governmental authority. Further, the bill will tend to widen the legal advantage currently held by governmental litigants over private individuals.

The typical plaintiff in a public interest lawsuit is an individual, a non-profit advocacy organization, or a charitable organization. The typical defendant in such a suit is a governmental entity – usually the federal or state government due to the nature of the issues commonly litigated. There can be no dispute that the typical suit pits a party with limited financial resources who needs to hire outside counsel against a governmental entity with access to substantially greater financial and legal resources. As often as not, the dispute is over principle and not over money.

Compare this to any other type of litigation. First, private suits almost always involve a fight over money or property interests. Typically, general civil litigation pits business against business or individual against individual. Certainly there are disparities in each party's ability to cope with the costs of litigation – but it's a matter of happenstance.

The public interest litigant, therefore, is financially disadvantaged and typically does not have the prospective benefit of a money damages award. As a result, attorneys are not readily available to take on such cases without sizable retainers – it is not profitable for them to do so. Therefore, the public interest litigant is legally disadvantaged as well – because the governmental adversary will always have counsel on board from the start. In his letter of transmittal, the Governor complains that the public interest litigant is being subsidized by the current system of attorney fee reimbursement. But, bear in mind that the public interest litigant only receives reimbursement if a) he or she is acting in the public interest and b) he or she is successful in showing that the government acted wrongly. On the other hand, the government gets its subsidy from the taxpayers whether it wins or not. It's not as if the individual within the government who caused the government to violate the victim's rights is made to reimburse the taxpayers for

the internal costs of running the government in a manner violative of the public interest. The key is to set up a system that doesn't reward improper behavior – and there will be no incentive for the government to stop inappropriate action if there is no one willing to speak out against such action through public interest legal action.

Who will this bill affect? It will affect those in our society least able to afford it – the poor, the uneducated, the minorities, the disabled, the elderly – all of whom have benefited from public interest litigation at one time or another – and many of whom would not have been able to bring such actions in their own right. It won't make a difference to the wealthy individual who funds a public interest lawsuit – for such individuals, attorney fee reimbursement is not a consideration. Rather, this law will discourage normal, everyday people from trying to make a difference when they see the government failing to do its job. If this bill becomes law, the state government will be able to rest easier that it can act against the public interest because it will be less likely to be held to account for its wrongful actions.

In short, this bill is presented as if the government is unfairly required to pay for a vengeful individual's lawsuit against the state. Nothing could be further from the truth. This bill will make it harder for someone acting in the public interest to force the government to comply with its legal obligations. We strongly urge you to reject this bill.