

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 HSTA 12368



PDC INC. ENGINEERS

March 6, 2007

The Honorable Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Dear Mr. Johnson:

I would like to express to you my strong support for House Bill No. 151. This important legislation addresses a critical issue associated with professional services agreements between public agencies and professional design firms in Alaska, specifically, indemnification and hold harmless agreements.

There currently exists a wide disparity between the professional services agreements used by various public agencies to contract for professional design services in Alaska. Many of the agreements contain indemnification and hold harmless clauses that attempt to shift risk from the public agency to the design professional unfairly. Such clauses are typically either uninsurable or insurable only at very high cost.

Use of unfair indemnification clauses has resulted in a number of undesirable effects:

- 1) Inappropriate shift of risk to the design professional
- 2) Unfair shift of fault from the responsible party to the design professional
- 3) False sense of risk management (frequently the indemnification clauses are uninsurable, hence, no real risk protection is made available to the public agency)
- 4) Increased costs experienced by the design professional community, which ultimately translates into increased costs for the delivery of projects for the public agencies.
- 5) Fewer qualified design professionals available to provide competent services to public agencies. Responsible design professional firms cannot reasonably accept the risk and costs associated with unfair indemnification clauses.

As a design professional, I am quite willing to accept reasonable risk in the performance of our professional services, to provide protection to our clients for services rendered through responsible risk management and insurance, and to accept the responsibility for our negligent acts, errors, and omissions, should they occur. However, it is extremely difficult for us to accept the risk and liability of negligent acts, errors, and omissions that are the responsibility of other parties.

The proposed legislation would correct the current deficiencies, fairly allocate risk and responsibility in professional services agreement, and improve the delivery of professional services for public agencies in the State of Alaska.

2700 Gambell Street, Suite 500

Anchorage, AK 99503

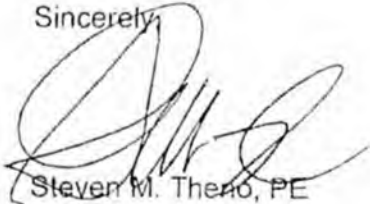
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March 6, 2007
Page 2

Ultimately, our mandate as design professionals is to protect the health, safety, and welfare of the public. We do so in part through the services we deliver to public agencies. This legislation helps provide an appropriate and fair framework under which we deliver those services.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Thero", written over a faint, illegible stamp or watermark.

Steven M. Thero, PE
President
PDC, Inc. Engineers



March 9, 2007
W.O. D00001

The Honorable Craig Johnson
Representative of the State of Alaska
State Capitol, Room 126
Juneau, Alaska 99801-1182

Subject: State of Alaska Department of Transportation and Public Facilities
Indemnification clause

The Honorable Craig Johnson:

DOWL Engineers (DOWL) has been in business in Alaska for 45 years, providing professional engineering services for clients throughout the state of Alaska in both the public and private sector. We employ more than 200 people and have thriving branch offices in Kodiak, Palmer, Seattle and Tucson. DOWL firmly supports HB 151.

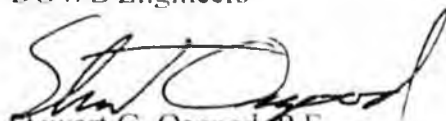
Currently, the State of Alaska Department of Transportation and Public Facilities (DOT&PF) contract language includes a "comparative fault" provision in its indemnification clause. This provision is consistent with industry standards and with what is widely considered "insurable" by Architect and Engineering (A/E) firms and their insurance companies.

While DOT&PF conforms to the latest standards, some state entities include contract language that puts the entire liability on the A/E firm regardless of the level of fault that is apportioned by the courts. This language takes all of the accountability off of the contracting agency and places it on the contractor—in effect, putting them in the role of an insurance company. Furthermore, the contract language is often non-negotiable and jeopardizes the award of the contract if the A/E firm refuses to accept the asymmetrical condition.

I have attached language extracted from the latest Engineers Joint Contract Documents Committee Standard Form of Agreement which discusses insurance guidelines and indemnification. Section 6.11.2 discusses the need to indemnify the Owner (State of Alaska) when there are costs, losses, or damages due to an engineering firm's negligent acts. Similarly, Section 6.11.3 indemnifies the engineering firm when the Owner's negligent acts cause costs, loss, or damage. It is clear HB 151 conforms to the latest national standards for contract indemnification.

Thank you for sponsoring HB 151. I think it will go a long way toward promoting accountability for those working on Alaska's important public projects. If I may be of additional assistance as this legislation goes through the committee process, please do not hesitate to call.

Sincerely,
DOWL Engineers



Stewart G. Osgood, P.E.
President

Attachment: As stated

D00001 Johnson HB151 SGO 030907 mas

"arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

6.11 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professional and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any cost, loss, or damages caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.

4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its

officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.11.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

5. The indemnification provision of paragraph 6.11.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

6.12 Notices

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

6.13 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

6.14 Severability

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.15 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.16 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.



R&M CONSULTANTS, INC.

9101 Vanguard Drive, Anchorage, Alaska 99507

(907) 522-1707, FAX (907) 522-3403, www.rmconsult.com

March 8, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, Alaska 99801-1182

RE: HB 151, Indemnification and Hold Harmless Provisions in Professional Services Contracts

Dear Representative Johnson:

R&M Consultants, Inc. strongly supports HB 151 which will provide standard indemnification and hold harmless provisions for professional services contracts with state agencies, quasi-public agencies, municipalities, and political subdivisions. HB 151, as written, utilizes standard language found in State of Alaska Department of Transportation & Public Facilities (DOT&PF) contracts that have been used for many years.

The DOT&PF indemnification and hold harmless language provides liability and obligation on a comparative fault basis, and does not require obligation to the professional services firm for independent negligence by the owner, or a third party. The DOT&PF language does protect the owner from negligence by the professional services firm.

Many agencies have utilized the DOT&PF indemnification and hold harmless language as it is fair, has stood the test of time, and is supported by the State of Alaska.

Recently, a significant number of public agencies have been utilizing indemnification and hold harmless language that assigns liability and obligation to professional services firms for independent actions, or negligence by the owner or third parties. These clauses are uninsurable and require the professional services firm to either accept the contract with undue risk, expend time and effort to renegotiate the indemnification and hold harmless language, or walk away from the work.

As in all contracting, standard language that has stood the test of time results in less risk for all parties, and provides for a more competitive marketplace.

Thank you for sponsoring HB 151. This important legislation will be beneficial to all Alaskans.

Very truly yours,

R&M CONSULTANTS, INC.

Frank D. Rasi, P.E.
Vice President



McCOOL CARLSON GREEN
ARCHITECTURE • INTERIOR DESIGN • SPACE PLANNING

March 8, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Re: HB 151

Dear Representative Johnson,

I am writing in support of streamlining and standardizing indemnification clauses as proposed in HB 151. I have practiced architecture in Alaska for more than 30 years and am a principal in the firm McCool Carlson Green in Anchorage. Most of work has been for public clients with some of our more prominent buildings being the C Terminal at Ted Stevens International Airport, the Nesbett Courthouse in downtown Anchorage and UAA's Aviation Technology Center at Merrill Field.

Through the years I have spent countless hours discussing insurance and indemnification issues with our clients and up until recently most of the public agencies we work for have been willing to include reasonable indemnification clauses in their professional services contracts. That changed recently when two of our long term clients, the Mat Su Borough and the University of Alaska issued new contract forms that included clauses that were unfair, unreasonable, inconsistent with available insurance coverage and out of step with design industry practices. These indemnification clauses attempt to shift as much risk as possible to the design professionals, making them liable for events that are out of their control and potentially unrelated to the services they provided. Some even attempt to make the design professional responsible for the negligence of the owner. The use of such one sided contract clauses does not foster the spirit of teamwork and cooperation necessary to design public projects and is bad public policy.

HB 151 suggests the state mandate standardization of these clauses in all professional services contracts with public agencies based on language currently used by ADOT/PF. While this language does not include all the provisions the insurance industry might like it strikes a fair balance between reasonable protections for the owner and the current state of design practice and insurance coverage. I encourage you to support HB151 and move it quickly through the committee process.

Sincerely,
McCool Carlson Green Architects

Michael Carlson, AIA/CCS/NCARB
Principal Architect

John E. McCool
Michael P. Carlson
Douglas G. Green

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March 2, 2007

Representative Craig Johnson
State Capitol, Room 120
Juneau, Alaska 99801-1182

Re: House Bill No. 151

Dear Representative Johnson:

I wanted to express my thanks to you for sponsoring HB 151, a very important piece of legislation which, if enacted, will be instrumental in ensuring the future viability of our firm. As you know, Tryck Nyman Hayes, Inc. is one of the oldest (54 years) and largest of the locally owned engineering firms in Alaska. In the past few years, we have seen a dramatic increase in litigation related to public projects, which is often unrelated to the soundness of our work but we seem to be frequently drawn in and have to spend scarce resources to defend ourselves.

One of the most disconcerting recent developments is that public agencies are increasingly attempting to transfer their liability in such situations to their design consultants through new indemnification language. In the past year we have seen new and often unfair language proposed in contracts from several State entities which do not use the contract model generated by ADOT&PF. In addition, we are now seeing such language in proposed contracts from local government entities which also are not using the ADOT model. We are not able to obtain insurance for much of this transferred liability, thus requiring us to either walk away from the contract or risk the future of our firm by assuming risk for which we are not covered by insurance and could not financially defend if called upon to do so.

It is my opinion that this situation, if left unchecked, will effectively eliminate many local A/E firms in Alaska, thus reducing competition and increasing costs in the State. Your legislation is extremely important to the future of our industry in Alaska.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ted B. Trueblood'.

Ted B. Trueblood, P.E.

President

Engineering

Surveying

Landscape Architecture

Architects Alaska[®]

*An Alaskan Corporation
Architecture
Facility Planning
Interior Architecture*

March 9, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Subject: HB-151

Dear: Representative Johnson

I am writing to express my support for HB-151. Architects Alaska has been providing Architectural Design Services throughout Alaska since 1950. I personally have been practicing in Alaska for more than 26 years. We employ approximately 30 professional in 2 offices located in Anchorage and Wasilla, Alaska.

Recently, within the past 5 to 7 years, we have been experiencing more and more difficulty in negotiating fair contract language with clients, especially governmental agencies. These clients have been attempting to shift their risk unduly to the design community. Contract language requires the design team to hold the client harmless for all of the client's acts. This includes the client employees and agents. We take exception to this and consistently find ourselves in the position of negotiating this type of language out of contact(s), which is time consuming, expensive and needless to say frustrating.

First of all the design team has no control over the client's action and should not be held accountable for such acts. Secondly, this is uninsurable language. Most clients do not understand this. As requested by most government contacts, we provided professional liability insurance, which helps reduce the client's risk. However this risk is not reduced if the contact language is uninsurable.

We support HB-151. The bill language provides a more equitable share of risk to each party with regards to who has control over the firm(s), agency(s), employee(s), agent(s) or individual(s) actions.

Thank you for addressing this matter.

Sincerely;



Mark A. Kneedler, AIA
President

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Kinney Engineering, LLC

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(907) 346-2373
Fax: (907) 349-7496

March 12, 2007

The Honorable Craig Johnson,
State Capital, Room 126
Juneau, Alaska 99801-1182

Subject: HB No. 151

Dear Representative Johnson:

I am writing this letter to endorse and strongly support HB No. 151 for the following reasons:

- 1) Errors and Omissions insurance covers negligence, errors, and omissions of the professional. These policies do not cover liabilities arising due to the negligence, errors, or omissions of the Owner. As such, unfair indemnification clauses may not provide the Owner with the liability coverage that they expect.
- 2) Some professionals will not compete for projects containing unfair indemnification requirements. As a result, the most qualified professional may not be selected for some projects and this is detrimental to the public interests.
- 3) Substantial time and expense is incurred by professionals and insurance companies as they review and assess the unique indemnification language contained in each professional service agreement. This raises the cost for public projects.
- 4) When a public agency shifts the liability for their actions to consultants, the public agency is likely to be less diligent and increase the likelihood of negligence, errors, and omissions. This is not beneficial to the public since there is still a negative impact to the public, regardless of who is held responsible.
- 5) In many cases when a problem arises, both the public agency and the design professional have contributed to the problem. Arbitrarily assigning liability to the design professional is unfair and may prevent the public agency from taking the appropriate counter measures to prevent similar problems in the future.

Reputable engineers, architects, surveyors, and scientists are agreeable to bear responsibility for our mistakes. We maintain comprehensive and expensive errors and omissions insurance policy to protect our clients should we were to be negligent in our professional services. However, it is unfair and not in the public interest for us to accept this risk for the performance of other parties whose actions are well beyond our control.

Please contact me at (907) 344-7575, or by e-mail at randykinney.kinneyeng@alaska.net if you require additional information.

Sincerely,

Kinney Engineering, LLC



James R. (Randy) Kinney, P.E., PTCE
Member



engineering and constructing a better tomorrow

March 6, 2007

Representative Craig Johnson
Alaska Legislature
State Capitol, Room 126
Juneau, Alaska 99801-1182

RE: Support for House Bill 151, Indemnification Standardization for Alaskan Public Agencies

Dear Representative Johnson:

MACTEC Engineering and Consulting, Inc., is pleased to register its support in favor of House Bill 151 requiring standardized indemnification and hold harmless provisions in professional services contracts for public agencies in Alaska. Passing of this bill will benefit not only the architect-engineer (A-E) industry, but also the State, the public agencies, and the people of Alaska.

Apportionment of joint liability on a comparative fault basis provides for indemnification to the extent that the professional A-E service provider is negligent. Any non-comparative fault apportionment is simply not fair and will ultimately result in higher project costs.

Responsible professional A-E service providers carry professional liability insurance for negligent acts, errors, or omissions, so it behooves public agencies to require indemnification for those items to take advantage of the provider's insurance coverage in the event that indemnification by the provider becomes necessary. Currently several public agencies' standard contracts include indemnification terms that are not covered by professional liability insurance, and the inclusion of those terms in a signed contract can negate all professional liability coverage. Standardizing indemnification terms protects the agency and the A-E service provider.

Sincerely,

MACTEC Engineering and Consulting

A handwritten signature in black ink, appearing to read "Jason Ditsworth".

Jason Ditsworth, P.E.
Alaska Office Manager

WC
QC/TE/cc/A0253G

MARSH

LeAnne Boldenow

Vice President

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leanne.boldenow@marsh.com
www.marsh.com

March 05, 2007

Representative Craig Johnson
State Capital, Room 126
Juneau, AK 99801-1182

Subject: House Bill 151
Design Professional Contractual Language

Dear Representative Johnson

I am writing to support the efforts of the HB 151 in direct alignment with Alaska Design Professional Council (APDC). I am a member of the APDC Contract Task Force Committee. As an insurance broker representing more than thirty (30) Design Professional Firms over the past ten (10) years, I have continually reviewed poorly written uninsurable contracts released by public agencies.

It is common for onerous indemnification clauses within contracts to require the design consultant to take on liabilities that are not their typical responsibility in the design aspect of the project. Insurance can generally cover liabilities that are TORT Law and would be the firm's responsibility even if a contract was not in place. Examples of a poorly written contract language that I identify for a design professional firm are:

- "Defend the public agency for any and all claims" Design professionals insurance will provide defense when the negligent act, error or omission of the consultant's work is identified as culpable. It is typical to see a contract that does not tie the liability to negligent acts, errors or omissions.
- Reference to the design professional consultant as a "contractor", which could hold the firm to a higher standard of care to include guarantee, warranty or certification of work. Design professional standard of care is not guaranteed, warranted or certified. A design consultant's work is intellectual property vs. an actual structure that is the final work product of a contractor construction firm.
- Giving the public agency ownership of the design teams drawings and documents. As design firm provides a professional service to their clients, not a product. A design professional intent is to protect against unauthorized reuse of their drawings and specifications by others.

I believe many public agencies attempt to write one contract that fits all aspects of a building project. As referenced above, when a contract is written for a general contracting construction firm it requires broader liability that is outside the standard of care of a design professional consultant. It is unfortunate these incorrectly written indemnification clauses in contracts are

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Representative Craig Johnson

forced on the design professional consultants' all around the State. The release of such a poorly written contract requires a design professional consultant firm's to make a risk management decision to determine if they want to take on the liabilities outside their insurance program. There are also firms out there that do not have a full understanding of the risk they are taking undertaking with such poorly written onerous contract.

I support this bill and commend you for your support and action. Please feel free to contact me with any additional questions or concerns. Thank you for your efforts on the design professional's behalf around the State.

Sincerely,



LeAnne Boldenow, CIC
Vice President

Cc: Boyd Moganthaler, APDC Contract Task Force



March 5, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Via email to Lep_Craig_Johnson@legis.state.ak.us

RE: HB-151 Indemnification Provisions in Professional Contracts

SUBJ: Please Pass HB-151; Indemnification Reform is essential

Dear Representative Johnson:

Standardization of fair and balanced indemnification requirements in public contracts is long overdue and urgently needed. The public has much to gain by the indemnification standardization offered by HB-151, and much to lose if the status quo is maintained.

No single term in a professional services contract has more impact than indemnification. A fair and balanced indemnification requirement sets a positive tone for the project that follows, and the opposite is also true. One sided indemnification provisions that add large uninsurable risks for a consultant create an awkward environment that is adverse, defensive, more expensive and less creative. Ultimately, uninsurable indemnification requirements drive good professionals from the marketplace.

Good project development and design requires very collaborative effort between owner and designer, and a great deal of effort by both parties. A professional services contract that nurtures qualities of mutual respect, fairness, open communications and the free and open exchange of ideas is the first and perhaps the most important step in establishing a cooperative relationship and a successful outcome. A contract that chills this relationship between designer and owner leads to mediocrity at best, and sets a stage for disappointment and confrontation.

Public agencies hold enormous coercive and situational power, simply by the very nature of their control of rather large design and construction budgets. Consequently, contracting public agencies are in a position to impose unfair conditions in their agreements that violate what most would consider ethical business practices and fundamental fairness. In Alaska today, some agencies demand absolution from all liability and loss, except for loss resulting from the "Owner's gross negligence or willful misconduct." This exception is virtually impossible to prove, so the consultant is effectively responsible for everything, even acts of the public agency and others completely out of the consultant's control.

Professional Liability Insurance only covers damages caused by the negligence of the insured consultant relative to the accepted professional standard of care. Nationally, the accepted professional standard of care is "the ordinary and reasonable care required and established by expert testimony of what a reasonable and prudent professional would have done under the same or similar circumstances at the same time in the same locality."

Any firm, either through ignorance or otherwise, may assume a greater responsibility or higher standard of care, but professional liability insurance (PLI) will not cover the additional liability.

Adams, Morgenthaler and Company, inc.
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Representative Craig Johnson
Please Pass HB-151
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Without PLI insurance, consultants who accept onerous indemnifications and uninsurable standards are seldom capable of honoring them, and those who accede to broad, uninsurable contractual liability requirements do so at great peril to their livelihoods. For this reason, most consultants pay close attention to indemnification clauses in contracts, and spend considerable time attempting to negotiate fair and insurable terms.

At AMC Engineers we spend at least 100 hours per year of Principal time battling draconian indemnification language. There are currently 426 licensed architect/engineer corporations in Alaska. If only one quarter (25%) of them spend as much time as we do, the cumulative impact exceeds 10,000 hours of professional time per year! Adding in the time spent by insurance companies and their legal departments, the total cost to the public is dramatic. At the current average billing rate for Principal level architects and engineers of about \$150/hour, the wasted potential of A/E firms struggling with unfair indemnification language may exceed \$1,500,000 per year. These costs are eventually passed on to the public. There is no free lunch.

Paradoxically, consultants who truly understand risk are in the best position to help the Owner's project proceed smoothly, yet typically these professionals refuse to sign onerous indemnification clauses. This leaves the Owner with consultants who are motivated to be overly conservative and employ costly "defensive design" techniques to limit their risk or somehow make themselves "judgment proof". With one-sided indemnification clauses, not only does the cost of A/E services increase but the quality of service may be reduced. It's a double whammy.

The party with the most to gain from a project is the Owner and the equitable distribution of risk should acknowledge these factors. Design professionals do not have deep pockets and should not be expected to assume all risks.

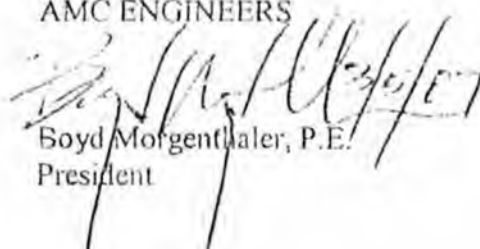
Fair practice requires that the Consultant should be responsible for their negligence, the Public Agency should be responsible for their negligence, and if there is joint negligence then the liability should be shared. Either way, the indemnification should be limited to exclude unrelated third party events.

This question of indemnification has been addressed by the State of Alaska Department of Transportation (ADOT), whose language has been adopted by many boroughs and agencies throughout Alaska for decades. HB-151 standardizes the ADOT approach. Even though the precise ADOT language is less than perfect, it is an excellent model to emulate. The language of HB151 retains the true essence and spirit of the current ADOT language.

Thank you for your efforts on behalf of the professional architects, engineers, and land surveyors, and the general public in Alaska. HB-151 is important legislation that will benefit all Alaskans.

Sincerely,

AMC ENGINEERS


Boyd Morgenthaler, P.E.
President



ENVIRONMENTAL ENGINEERING, HEALTH & SAFETY
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March 2, 2007

Representative Craig Johnson
Chair, House Resources Committee
Alaska State Legislature
State Capitol, Room 126
Juneau, AK 99801-1182

Re: House Bill 151 — Indemnification

Dear Representative Johnson:

On behalf of myself and **NORTECH**, I am writing to express our support of House Bill 151 and to the need for this legislation.

Presently, public agencies in Alaska have a wide variety of indemnification requirements. This bill will standardize indemnification requirements for all Public Agencies in Alaska, make the Architects/Engineers and other professionals responsible for their "negligent acts, errors or emissions", make each financially responsible for their own liabilities, fairly apportion joint liabilities on a comparative fault basis, and defines Public Agency for purposes of this bill.

The Alaska Department of Transportation & Public Facilities (DOT/PF) has language that is generally appropriate for contract indemnification purposes. HB 151 through legislation is requiring the use of indemnification contract clauses that are in place with DOT/PF and to be consistent with all Public Agencies.

Professional Services Contracts establish the basic framework between a project owner and a design company for design services associated with a particular project. In recent years, owners of some projects, generally government and quasi-government agencies, have required designers to assume additional liability, beyond the consultant's own negligence. The net effect of this action is to reduce agency risk by insulating the agency from its own negligence. This increases the liability insurance costs to the designers and creates a contract which is not fully insurable, or in some cases asks the designers to assume liability for which no insurance is available. **NORTECH** supports legislation that would prescribe indemnification language that is uniform for all state government agencies and assigns, and that requires each party to be financially responsible for their own liabilities and to fairly apportion joint liabilities on a comparative fault basis.

We encourage the House of Representatives to move HB 151 forward and enact this important legislation. Thank you for considering our position on this important issue.

Sincerely,

John Hargesheimer, PE, CIH
President



March 2, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, Alaska 99801-1182

RE: HB151

Dear Representative Johnson:

Thank you for your time and efforts for introducing HB151 to the Legislature. A base line of understanding of indemnification is crucial to the community of Alaskan Architects and Engineers and all the various public agencies that utilize those professional services. Currently I believe there is a great deal of misunderstanding among public agencies and an increasing trend to attempt to contractually transfer undue and uninsurable responsibilities to the private sector.



There are industry standard contracts available in the marketplace that have achieved significant scrutiny and mutual acceptance by representatives of Owners, Project Managers, Architects, Engineers and Contractors, all involved in the Construction Industry and these have been time tested in courts of law. Never-the-less we are finding more and more public agencies developing their own contract form and we are seeing an increasing effort to escape their own liability and pass it on to the design professionals. Often times the language is so onerous that it extends our liability far beyond that which we can obtain professional liability insurance. This ultimately defeats their end goal because most design professionals are small businesses with limited resources. If the professional is not covered by insurance then the agency is left with no security or means of resource to cover an unfortunate liability. At best, they will capture what limited resources the firm may have and likely drive them out of business whereas with an equitable contract there may have been insurance available (which is required in all public contracts I have seen). So, the irony is that the agencies mandate the professional purchase liability insurance at great cost and then force them to sign a contract with an indemnification clause that may be specifically excluded in the insurance coverage.

ARCHITECTURE
PLANNING
INTERIORS
DEVELOPMENT

101 WEST BENSON
SUITE 306
ANCHORAGE, AK 99503

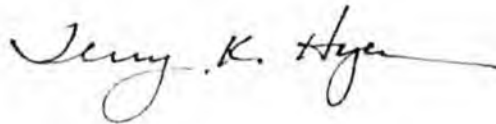
(907) 561-5543
(907) 562-3213-FAX

Representative Johnson
March 2, 2007
Page 2

Fundamentally the State should support fairness and equity in public contracts such that the parties to the contract are responsible for their actions. HB151 will help ensure that equitable treatment will prevail.

I welcome any questions or support I may offer in this pursuit.

Sincerely,
ECI/Hyer, Inc.



Terry K. Hyer, AIA

TH/snf





March 2, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

RE: HB151

Dear Representative Johnson;

I am writing in support of House Bill 151 whose purpose is to bring equity to the question of Indemnification and Hold Harmless clauses that state agencies, quasi public agencies, municipalities and other political subdivisions use.

What this bill seeks to remedy is the situation where the consultant will be held to defend an owner unless the alleged liability is based upon the sole negligence of that owner. This is uninsurable by the Consultant, and few if any of Alaska's design professionals have the financial resources to self insure this risk.

Fair practice should be implemented here. The consultant should be responsible for his negligence, the owner responsible for their negligence, and if there is joint negligence then the liability should be shared. Either way, the indemnification should be limited to exclude unrelated third party events.

As a small, employee owned Alaskan business I can tell you that we are not in a financial position to take on full liability and hold harmless the state agencies that we wish to work for. Nor will our insurance company permit it.

This bill, modeled on the language use by the State of Alaska DOT, seeks to do just that.

I urge your support for this bill.

Sincerely,
EHS-Alaska, Inc.

A handwritten signature in cursive script, appearing to read "Robert A. French".

Robert A. French, P.E.
Principal-in-Charge

ENGINEERING, HEALTH & SAFETY CONSULTANTS

March 1, 2007

Representative Craig Johnson
Alaska State legislature
House of Representatives
Juneau, Alaska

RE: HB 151, Indemnification for Professional Services Contracts

Dear Craig:

We would like to express our support of prescribing uniform contract indemnification language for all state agencies within the state of Alaska. We have experienced first hand difficulties in conducting negotiations of contracts which contain uninsurable contract clauses.


Several state agencies have recently issued contracts which have been found to be uninsurable. When a contract cannot be insured, should a claim arise the state ends up without restitution and a local business will very likely end up liquidated.

A uniform state-wide professional services contract will save the state and the industry time and resources and is just plain good business practice. There are industry standard contracts available that have been tested nationally and locally and have withstood scrutiny from both sides of the table.

We urge the legislature to hear and ultimately to pass HB 151, to provide a fair and equitable business climate within the State of Alaska.

Sincerely,
ECI/Hyer, Inc.

Terry Hyer
Brian Meissner
Mary G. Knopf



ARCHITECTURE
PLANNING
INTERIORS
DEVELOPMENT

101 WEST BENSON
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ANCHORAGE AK 99501

(907) 561-5543
(907) 562-3213-FAX

March 7, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Subject: HB 151 – Contractual Indemnification

Dear Mr. Johnson:

The purpose of this correspondence is to share my support with respect to proposed HB 151 with respect to Contractual Indemnification Language.

As a practicing Engineer and business owner, I feel that it is important for contracts between the State and Professional Service providers to be fair to both parties. In addition, contract provisions need to be reasonably insurable by our insurance providers without excessive costs that will eventually trickle down and be paid for by the public.

Thank you for your work on the proposed bill.

Sincerely,

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

Calvin C. Hay, P.E.
5520 E. 112th Avenue
Anchorage, AK 99516

cc: Senator Con Bunde
cc: Representative Bob Lynn
cc: Representative Ralph Samuels

Shawn Florio, P.E.
2020 Shore Drive
Anchorage, Alaska 99515

March 8, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

RE: HB151 – Contractual Indemnification

Representative Johnson:

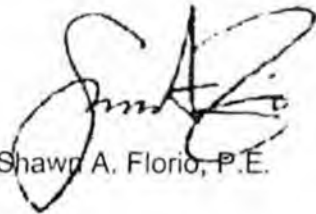
Thank you for sponsoring HB151. Although I am writing on my own behalf as a licensed engineer in the State of Alaska, I am familiar with the subject as the immediate past president of the Alaska Professional Design Council (APDC). For your reference, APDC is a consortium of professional societies that represents approximately 5,000 licensed architects, engineers, land surveyors, landscape architects and other design professionals.

Over the past few years, my involvement with APDC has exposed me to requests by owners of some projects – many times government agencies – to contractually indemnify uninsurable risks to design professionals. Many times these risks are uninsurable by the designer or his/her firm since the risk is beyond their own limit of negligence. This places the design professional in the precarious position of having to confront their client during contract negotiations with the issue, or alternatively assuming the uninsurable liability.

I support HB151 in its current form. HB151 provides uniform language for all state agencies and requires each party to be financially responsible for their own liabilities and fairly apportions joint liabilities on a comparative fault basis.

Thank you for your efforts.

Respectfully,



Shawn A. Florio, P.E.

From: John Crittenden [jcrittenden@architectsalaska.com]
Sent: Friday, March 02, 2007 4:44 PM
To: Rep. Craig Johnson
Subject: HB 151

Representative Johnson

I support this contract language. It will help to clarify responsibilities, and to clarify how indemnification clauses are supposed to work. Many contracting agencies attempt to put in clauses that try to avoid any responsibility for errors on the part of the contracting agency. This is a goose and gander issue. Please try to get this passed.

John Crittenden

John Crittenden AIA, Principal

Architects Alaska[®]
An Alaskan Corporation

900 West Fifth Ave., Suite 403
Anchorage, Alaska 99501-2029
Ph # (907) 272-3567
Fax # (907) 277-1732

jcrittenden@architectsalaska.com

www.architectsalaska.com

3/3/2007

March 7, 2007

Representative Craig Johnson
State Capitol, Room 126
Juneau, AK 99801-1182

Subject: HB 151 – Contractual Indemnification

Dear Mr. Johnson:

The purpose of this correspondence is to share my support with respect to proposed HB 151 with respect to Contractual Indemnification Language.

As a practicing Engineer and business owner, I feel that it is important for contracts between the State and Professional Service providers to be fair to both parties. In addition, contract provisions need to be reasonably insurable by our insurance providers without excessive costs that will eventually trickle down and be paid for by the public.

Thank you for your work on the proposed bill.

Sincerely,

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

Calvin C. Hay, P.E.
5520 E. 112th Avenue
Anchorage, AK 99516

cc: Senator Con Bunde
cc: Representative Bob Lynn
cc: Representative Ralph Samuels

ALASKA STATE LEGISLATURE

Interim:
716 West 4th Avenue, Suite 640
Anchorage, Alaska 99501
(907) 269-0200
FAX (907) 269-0204
Rep_Craig_Johnson@legis.state.ak.us



Session:
State Capitol, Room 126
Juneau, Alaska
99801-1182
(907) 465-4993
FAX (907) 465-3872

REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

MEMORANDUM

TO: Representative Bob Lynn, Chairman
House State Affairs Committee

FROM: Representative Craig Johnson 4

DATE: March 8, 2007

RE: Hearing Request for HIB 151, Indemnification and Hold Harmless

I respectfully request a hearing in the House State Affairs Committee for House Bill 151, "An Act requiring an indemnification and hold harmless provision in professional services contracts of state agencies, quasi-public agencies, municipalities, and political subdivisions."

Attached is a packet of information for HIB 151. This includes the current version of the bill, the sponsor's statement, and other information relevant to the bill.

If you have any questions or need additional information, feel free to contact me or my aide, Debbie Higgins, at extension 3715.

Thank you for your consideration.

HB

166

Liberty

Alaska State Legislature



Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 1

Phone: 907-465-4931

Fax: 907-465-4316

Re: HB 166 Contributions from Permanent Fund Dividends

Please draft a final CS for HB 166 Version C that passed out of the House State Affairs
Committee this morning. There were no amendments. Thank you.

* * * * *

TRANSACTION REPORT

MAR-21-2007 10:02 PM

FOR: REP LYNN

4654316

SEND

* * * * *

DATE	START	RECEIVER	PAGES	TIME	NOTE
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MAR-21	10:01 PM	2029	1	27"	OK
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Nancy Manly

To: Londi Ensor

Subject: Fiscal Notes from Bills Passed in House STA Committee Today

Attachments: HB166-DOR-PFD-3-19-07.pdf

The following bills passed out of House STA Committee: HB 13 and HB 166.

Electronic fiscal notes for HB 166 attached

HB 13 had an existing fiscal note.

Nancy

3/22/2007

Library

Nancy Manly

From: Kaci Schroeder
Sent: Wednesday, March 21, 2007 1:56 PM
To: Nancy Manly; Crystal Novotney; Carol Beecher; Sonia Christensen; Jeanne Ostnes; Terry Harvey; Deneen Tuck
Cc: Sammye Pokryfki; Heather Brakes; jerry_burnett@revenue.state.ak.us
Subject: HB 166 Changes

*This is how HB 166 Changed
And who wanted the change*

All,

I know I have talked to some of you regarding some changes to HB 166, but just wanted to let you all jointly know of the kinds of changes that we have incorporated to HB 166. I am still waiting for the CS, but these are the changes that I compiled from talking to your offices and have requested:

*Ernesto
Johnson
3/21/07
5:00 PM
5:00 PM
5:00 PM*

- 1.) Page 2, Lines 20-28: DELETE
- 2.) INSERT (somewhere in the bill): If parent organization is a "group" as defined by APOC, then that particular nonprofit will not be eligible to be included as an approved charity.
 - a. "Groups" under APOC are two or more individuals who act jointly to influence the outcome of an election. Groups are not eligible under the bill and this change will also make their non-profits ineligible.
- 3.) Clearing up language to make it apparent that the non-profits must reapply each year.
 - a. This will allow for some oversight and in the event that they do not meet the criteria set out in the bill then they will be disqualified.
- 4.) A copy of the policies and procedures of whichever entity ends up managing the program shall be on file with the Dept. of Revenue.
- 5.) There will also be a change which will allow the department to circumvent the procurement process if they chose to.

Again, I apologize for not being able to get you an actual CS before the meeting, but in talking to the drafters it is not looking like it is possible (the CS is expected later this evening). If there is anything further that you all would like to discuss about this bill please don't hesitate to contact me at 465-3306.

See you all bright and early tomorrow morning!

Kaci Schroeder Hotch
Legislative Aide to Rep. Thomas

Library

25-LS0678:C
Cook
3/21/07

CS FOR HOUSE BILL NO. 166()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE THOMAS

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to contributions from permanent fund dividends to community**
2 **foundations, to certain educational organizations, and to certain other charitable**
3 **organizations; and providing for an effective date."**

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

5 *** Section 1.** AS 43.23 is amended by adding a new section to read:

6 **Sec. 43.23.062. Contributions from dividends.** (a) Notwithstanding
7 AS 43.23.069, the Department of Revenue shall prepare the electronic Alaska
8 permanent fund dividend application to allow an applicant who files electronically to
9 direct that money be subtracted from the dividend payment and contributed to one or
10 more of the educational organizations, community foundations, or charitable
11 organizations that appear on the contribution list contained in the application. A
12 contribution to an organization may be \$25, \$50, \$75, or \$100 or may be 10 percent,
13 25 percent, 50 percent, or 100 percent of the total dividend amount. If the total amount
14 of contributions elected by an applicant exceeds the amount of the permanent fund

1 dividend that the applicant is entitled to receive, contributions shall be deducted from
2 the dividend in the order of priority elected by the applicant on the application until
3 the entire amount of the dividend that the applicant is entitled to receive is allocated
4 for contribution. The electronic dividend application form must include notice that no
5 money contributed will be used for administrative costs incurred in implementing this
6 section and that money from the dividend fund will not be used for that purpose.

7 (b) The department shall list each campus of the University of Alaska and
8 shall list each other educational organization, community foundation, or charitable
9 organization eligible under (c) and (d) of this section on the contribution list by
10 geographic region in random order, and the order shall be changed each year. On the
11 contribution list, organizations shall also be grouped by type within each geographic
12 region. The department shall provide a statement of the contributions made by an
13 individual that is suitable for federal income tax purposes to each individual who
14 elects to contribute under (a) of this section.

15 (c) The department may not include on the contribution list an educational
16 organization, community foundation, or charitable organization that is the affiliate of a
17 group. For purposes of this subsection,

18 (1) "affiliate" means an organization or foundation that directly or
19 indirectly through one or more intermediaries controls, is controlled by, or is under
20 common control with, a group;

21 (2) "group" has the meaning given in AS 15.13.400(8)(B).

22 (d) The department may include an educational organization, community
23 foundation, or charitable organization on the contribution list for a current dividend
24 year only if the organization

25 (1) files an application for inclusion on the list for that dividend year
26 on the form required by the department before June 15 of the qualifying year;

27 (2) is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal
28 Revenue Code) as an educational or a charitable organization on the date of
29 application;

30 (3) was qualified for tax exempt status under 26 U.S.C. 501(c)(3)
31 (Internal Revenue Code) as an educational or a charitable organization during the two

1 calendar years that immediately precede the year the application is filed;

2 (4) has a current Internal Revenue Service Form 990 on file with the
3 United States Department of the Treasury, Internal Revenue Service;

4 (5) is directed by a voluntary board of directors or local advisory board
5 whose members are residents of the state;

6 (6) provided in the state aid or services during the two calendar years
7 that immediately precede the year the application is filed;

8 (7) receives at least \$100,000 or five percent of its total annual
9 receipts, whichever is less, from contributions;

10 (8) has completed and provided to the department a financial audit
11 with an unqualified opinion, conducted by an independent certified public accountant
12 for the fiscal year immediately preceding the year the application is filed if the total
13 annual budget of the organization exceeds \$250,000 during that fiscal year; and

14 (9) does not make grants or contributions to an organization that is
15 exempt from taxation under 26 U.S.C. 501(c)(4) or (6).

16 (e) Unless an appropriation specifically directs that the money be used for
17 costs incurred in implementing this section, the department may not use money from
18 the dividend fund for administrative costs incurred in implementing this section even
19 if it has been appropriated for costs of administering the dividend program. The
20 department may not use money contributed under (a) of this section for administrative
21 costs incurred in implementing this section. Contributions shall be distributed to each
22 organization as soon as practicable.

23 (f) The department may use an agent or enter into a contract for the
24 implementation and operation of the contribution program under this section. Before
25 executing a contract with a corporation or other organization, the organization must
26 provide a copy of its policies and procedures to the department. A contract entered
27 into under this subsection is exempt from AS 36.30 (State Procurement Code).

28 (g) A public agency that claims a dividend on behalf of an individual under
29 AS 43.23.015(e) may not elect to make contributions from the dividend under (a) of
30 this section.

31 (h) The department may adopt regulations under AS 44.62 (Administrative

1 Procedure Act) to carry out the provisions of this section. If an organization disagrees
2 with an action of the department under this section and requests an administrative
3 hearing, the hearing shall be conducted by the office of administrative hearings
4 (AS 44.64.010).

5 (i) By January 20 of each year, the department shall submit a report to the
6 legislature identifying the organizations on the contribution list for the immediately
7 preceding year, together with the amount of contributions made to each of the
8 organizations.

9 (j) In this section, "community foundation" means a nonprofit, autonomous,
10 philanthropic institution that is organized and operated primarily as a permanent
11 collection of endowed funds for the long-term benefit of a defined geographic area
12 within one or more municipalities, that has a long-term goal of increasing its
13 permanent unrestricted charitable endowment to benefit the area served, that primarily
14 provides benefits by making grants and may also provide other forms of charitable
15 services, that makes grants that are not limited to providing one type of benefit or to
16 serving one population segment, and that makes grants to multiple grantees.

17 * **Sec. 2.** AS 43.23.062 is repealed December 31, 2010.

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

20 **APPLICABILITY.** AS 43.23.062, enacted by sec. 1 of this Act, applies to the Alaska
21 permanent fund dividends for 2008, 2009, and 2010.

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

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB166-DOR-PFD-3-19-07
 Bill Version: HB 166
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title PFD Charitable giving RDU Revenue Programs & Support
 Component Permanent Fund Dividend
 Sponsor Thomas
 Requester House State Affairs Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	76.1	38.1	38.1			
Travel	4.2	2.0	2.0			
Contractual	238.9	49.8	49.8			
Supplies	1.1	1.1	1.1			
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	320.3	91.0	91.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	320.3	91.0	91.0			
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutory Program Receipts						
TOTAL	320.3	91.0	91.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 45.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	1					
Part-time		1	1			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires the department to set up and administer a program in which PFD applicants who apply online can assign part or all of their dividend each year to one or more educational, charitable or community foundation organizations. The list of such organizations will be established through an application process according to criteria established in the bill. Appeals are anticipated from organizations whose applications to be listed are denied. The department has been given the estimate of over 2000 organizations that may apply and about 750 that may be eligible. The program will be effective beginning with the 2008 dividend with a temporary application process for that startup year only. Regulations will be done to be effective for the 2009 cycle. The program will sunset after the 2010 dividend. (continued on page 2)

Prepared by: Amy Skow, Division Manager Phone 907 465-4784
 Division Permanent Fund Dividend Date/Time 3/19/2007 10:30 a.m.
 Approved by: Jerry Burnett Date 3/19/2007
 Agency Department of Revenue

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

BILL NO. HB 166

ANALYSIS CONTINUATION

In order to implement this program for the 2008 cycle, work must begin in 2007. 2007 costs are reflected in the operating expenditures listed above and noted on the "Estimate of any current year costs". Estimated costs of work to be done by the agent are not listed on this fiscal note because they will be paid directly by Rasmussen Foundation.

HB166 states specifically that implementation and administrative costs for this bill will not come from either the charitable contributions or the Permanent Fund itself. Accordingly, the Fund Source for expenses listed within this fiscal note is assumed to be the General Fund.

Cost summary:

100	Personal Services		76.1
	1 full time position, salary basis Program Coordinator, Contract administration (program administration and *computer programming contracts)		
	Review agent's recommendations for approved organizations		
	Develop regulations		
	Respond to applicant questions and requests to withdraw/change designations, troubleshoot problems		
	Accounting and payments		
200	Travel		4.2
300	***Contractual		283.9
	*Mainframe, server, and web application changes	220.0	
	*Department of Law - regulations	5.5	
	*Regulations - public notice	1.1	
	** Printing - two additional pages to application booklet; distribution letters to participants (1099)	11.0	
	**Postage - increased postage for application booklets and distribution letters to participants	27.5	
	Data storage and computer services	2.7	
	1-800 phone calls	1.1	
	OAH Hearing costs (100 hours x \$150/hr)	15.0	
400	Supplies		1.1
	Total		\$ 365.3
	 FY 2007 expenses		 (45.0)
	Total		\$ 320.3

*One time cost
 ** Print and postage cost for 1099 based on 50,000 participants
 ***Anticipated costs for appeals (7.5) are added to contractual in years 2 and 3

HOUSE STATE
AFFAIRS
COMMITTEE
PACKET
March 20, 2007

1 **HB 166**
*Contributions from Perm
Fund Dividends*

2 **HB 151**
*Indemnity Clause in
Public Contracts*

3 **HB 92**
Jurisdiction of Ombudsman

4

5

6

7



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us

webpage: www.akrepublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

FAX 907-465-2652

Sponsor Statement for HB 166 Permanent Fund Dividend Contributions

HB 166 is an attempt to increase private philanthropy in Alaska by giving people an option of donating a portion of their Permanent Fund Dividend check to their favorite charity. Alaskans who make \$100,000 or more, rank 49th or 50th in the nation as far as percentage of income donated to charities.

In the hustle and bustle of life, we often forget about those organizations who rely solely on donations and who provide important services to our communities. HB 166 allows for a list of approved organizations to be included with a person's PFD application and allows them to check off which charities that they would like to donate to. 100% of their donation will go to the charity. The simplicity of being able to simply check the desired charity while applying for one's PFD will increase the rate of donation and give these charities another avenue to use in their fundraising.

HB 166 also requires that the charity meet certain criteria before it can be placed on the list with the PFD applications. Among the criteria, the charity must be a University of Alaska campus, or provide vocational training or post secondary education, provide a positive youth development program, workforce development, aid to the arts, or aid and services to individuals who are: elderly, low-income, in emergency situations, disabled, or mentally ill.

The Rasmuson Foundation, a charitable foundation which makes \$25 million in grants each year to Alaska organizations, has pledged to fully fund the administrative costs of the program for the first three years of the program, creating a zero fiscal impact on the state in these crucial beginning years.

HB 166 gives people a simple and convenient way to donate to their favorite charities, who make a positive impact in our communities. I urge your support of this important piece of legislation.



Charitable Giving Benefits Giver As Much as Receiver

Friday, December 22, 2006

By Ryan Messmore

On Monday morning, millions of Americans will gather with loved ones to engage in a vitally important social activity: giving gifts.

They may do so to continue family tradition, or to participate in a cultural holiday, or to celebrate the gift of a Savior. Whatever the reason, the practice of giving taps into something deep in the nature of the person.

Giving our time and money to others tends to have significant implications for our individual well-being and that of our local communities and nation. Charitable giving is associated with higher levels of health and happiness, increased prosperity and strong community organizations.

Just as significant is the way that giving and receiving gifts shape our moral vision. Given the numerous "spillover effects" of private giving for larger society, government has a strong interest in ordering society in such a way that charity can flourish.

Researcher Arthur Brooks examines the benefits of giving in his new book, "Who Really Cares: The Surprising Truth about Compassionate Conservatism." In terms of physical health and happiness, Brooks notes that people who give more charitably are 43 percent more likely to say they are "very happy" than non-givers, while non-givers are three and a half times more likely than givers to report they are "not happy at all."

In addition, several large studies have also found that senior citizens who volunteer have a 40 percent lower probability of dying in a given year than people of the same age and health level.

Giving also increases personal and well as national prosperity. Pointing to a survey conducted in 2000 that controlled for education, age, race and all the other outside explanations for giving and income increases, Brooks reports that a dollar donated to charity was associated with \$4.35 in extra income.

Of this additional income, \$3.75 was due to the dollar given to charity. At the national level, a 1 percent increase in national giving appeared to increase real GDP by about \$36 billion.

Charitable giving is important for strong local communities as well. As Brooks explains, not only do giving and volunteering correlate with honesty and promote bonds of trust among neighbors, but they also sustain numerous charities providing critical services in education, health, the arts, the environment and disaster relief. Because such organizations can provide a buffer against the authority of the state, suggests Brooks, giving to them is also important for protecting freedoms and fostering democratic values.

In addition to charity's effects on health, happiness, income and community life, giving's most powerful influence may lie in its ability to shape moral vision. The practice of voluntary giving fashions the way we see wealth, poverty, and personal obligations toward those in need.

Without charity, Americans would become more dependent on impersonal government for a vast array of services. This, in turn, would foster a social relationship where one side perceives aid as a forced penalty rather than a voluntary offering and the other side views aid as a right rather than a gift.

ADVERTISEMENT



Impersonal government checks can foster a mentality that undercuts the motivation to feel or give gratitude when received. In contrast, gifts create a kind of momentum of good will, which has the potential to bind both giver and receiver into a more personal relationship. Interestingly, Brooks found that people are much more likely to give away money they earn than money they receive from the government. Voluntary giving and receiving beget more charitable ways of seeing and living in the world.

In sum, these financial and non-financial advantages demonstrate that giving is good not only for the receiver, but also for the giver -- as well as the giving society. Government therefore has an obligation to make policy that is conducive to Americans' charitable spirit. Policy should clear the way for citizens to act upon their generosity with ease. Government should not make it difficult to engage in charitable and civic activities through burdensome legal requirements, punitive mandatory expenditures, bureaucratic red tape and controversial hiring practices.

Government should provide the fair, legal space in which faith-based charitable organizations can meet social needs.

Government can also influence charitable giving through its economic and welfare policies.

According to Brooks, government entitlement programs have a negative impact on charity -- they drive giving down among both rich and poor. On average, a working poor family is more than twice as likely to give -- and gives more than three times as much money -- and almost twice as likely to volunteer as a family receiving roughly the same amount on welfare.

What stands out from Brooks' research, however, is that the mere support for income redistribution policies tends to substitute for giving. In a 1996 General Social Survey, those who disagreed with the question, "The government has a responsibility to reduce income inequality" gave more to every type of cause and charity, including non-religious charities, human welfare agencies, and traditionally liberal causes such as the environment and the arts. This trend holds whether or not the government actually implements a policy to address inequality.

Public policy should reflect the importance of charity in America. In short, when it comes to economic inequality, liberal political opinions seem to substitute for private action. Because research reveals that giving leads to greater prosperity and a higher quality of life for the poor, the national debate concerning poverty should consider the significance of private charity in addressing this question.

The Christmas season reminds us that wise men give gifts. Giving sets off a cycle of blessing that benefits giver, receiver, and society alike. A wise government knows that is something its policies cannot replicate, but must respect

Ryan Messmore in the William E. Simon Fellow in the DeVos Center for Religion and Civil Society at The Heritage Foundation.

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Nancy Manly

From: Amber J. Scott [ascott@denalystatebank.com]
Sent: Monday, March 12, 2007 1:27 PM
To: Rep. Bob Lynn
Cc: dmcmillian@forakergroup.org
Subject: HB 166

March 12, 2007

The Honorable Bob Lynn
State Capitol, RM 104
Juneau, Alaska 99801

Dear Representative Lynn,

I am writing today to ask for your support of House Bill 166. This Act will provide Alaskans with a safe and easy way to make charitable donations to their favorite qualified non-profit organizations.

There is a growing demand placed on Alaska's non-profit organizations. Our state depends on those groups to fill in funding gaps and to do more with less. In the face of those challenges, non-profit groups try to stretch their dollars farther and build their sustainability. One way to assist in that process is to add donated money from Alaskans to the public dollars contributed by the government.

Denali State Bank is a community bank and we are deeply committed to this community and state. Our lending philosophies and the active role our staff plays in our community is a great testament to our corporate responsibility. We have 11 officers that sit on 15 boards of nonprofit organizations, and I am extremely proud of that. There is seldom a community event, whether it is Chamber-sponsored through the American Cancer Society, United Way or Boys and Girls Club, that we are not involved in. Because of our direct involvement in so many non-profit organizations, we understand the financial challenges that these organizations face.

The non-profit sector plays a huge role in our State's economy. Alaska's public charities spent over \$3.4 billion in 2004. 1 in 10 Alaskan workers is employed by a non-profit organization, and those payrolls total over \$1.151 billion last year. Presently our Alaskan non-profits are overly dependant upon the federal government for support. Currently almost \$1 billion a year comes from federal support. Wouldn't it be nice if Alaskan's had a safe, easy way to contribute individually to the charities of their choice? HB 166 will provide that accessible avenue and alleviate some of the financial burdens on our non-profits.

Thank you in advance for your support of HB 166, and for supporting the important work of Alaska's non-profit sector.

Sincerely,

Jyotsna Heckman
CEO & President
Denali State Bank

3/14/2007

Nancy Manly

From: Dennis McMillian [dmcmillian@forakergroup.org]

Sent: Tuesday, March 06, 2007 12:58 PM

To: Rep. Bob Lynn

Dear Representative Lynn:

We are writing you today to ask that you support House Bill 166, an Act that will bring one of the most exciting and positive changes to the Alaska's nonprofit sector since statehood, by providing Alaskans with a mechanism for making charitable donations to their favorite qualified nonprofits, and giving all of us an easy and safe way to support the very worthwhile Alaskan nonprofit sector too.

In the recent ISER study on the economic impact of the nonprofit sector, we confirmed that the nonprofit sector is a major part of the state's economy; the sector makes significant expenditures in the state, especially Alaska's public charities, which spent over \$3.4 billion in 2004; the sector provides a growing employment base across the state, such that one in 10 Alaska workers (31,000) is employed by a nonprofit for a total payroll of over \$1.151 billion and with 42,000 jobs in Alaska that can be traced back to the public charity organizations within the nonprofit sector. However it also shows that Alaska nonprofits are overly dependent on federal government dollars for their ongoing operations, at over \$1 billion last year alone.

Alaska has great potential to significantly increase its charitable giving and increase its non-governmental sustainability. While some organizations do a good job of fundraising in Alaska, the same study shows that as a percentage of total income, Alaska's nonprofits generate half of the national average from charitable contributions. We need to change that. When every Alaskan receiving a Permanent Fund Dividend is asked to consider making a donation to a qualified organization, our hope is that it will encourage more Alaskans to start giving back to support their community.

The Rasmuson Foundation has agreed to pay for all the administrative costs to establish such a program and continue to fund the overhead for the first three years while Alaskans learn to give in this innovative way. A process has already been developed to approve a variety of nonprofit organizations throughout the state, eliminating the tendency for just one or two organizations to benefit from this effort.

Thank you for your support of HB 166, and for supporting the important work of Alaska's nonprofit sector.

Sincerely,

Dennis G. McMillian
President
The Foraker Group



REPRESENTATIVE BILL THOMAS

ALASKA STATE LEGISLATURE DISTRICT 5

e-mail: Representative.Bill.Thomas@legis.state.ak.us

webpage: www.akrepublicans.org/thomas/

State Capitol

Juneau AK, 99801-1182

907-465-3732

888-461-3732

FAX 907-465-2652

MEMORANDUM

DATE: 3-6-07

TO: Representative Lynn, House State Affairs Chairman

FROM: Representative Thomas

RE: HB 166 Permanent Fund Dividend Contributions

I respectfully request that the House State Affairs Committee hear HB 166 Permanent Fund Dividend Contributions at its earliest convenience. HB 166 allows people to check off on their PFD application an amount of money that they may want to donate to an approved charity. This program is designed to make it convenient for people to make donations to groups that benefit our communities.

If you have any questions please don't hesitate to contact my staff, Kaci Schroeder Hotch.
Thank you.

HB

171

Failed

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 171(STA), Draft Version "M"

1 Page 3, following line 1:

2 Insert a new bill section to read:

3 **** Sec. 4.** AS 24.05.180 is amended by adding new subsections to read:

4 (c) The chair of a standing or special committee that meets during the interim
5 to consider an introduced measure shall give at least 30 days' notice of the meeting.
6 The notice must include the subject and number of the measure that will be heard.

7 (d) A member of a standing or special committee may attend a meeting held
8 by that committee during the interim telephonically or by teleconference. The member
9 may vote on any question before the committee; however, the vote shall be conducted
10 in such a manner that the public and other committee members may know the vote of
11 the member who attends telephonically or by teleconference.

12 (e) A standing committee may report a measure from committee during the
13 interim. A committee member who is voting telephonically or by teleconference shall
14 sign a copy of the committee report and indicate on the copy the member's
15 recommendation. The member shall send the signed copy by facsimile or other
16 electronic means to the committee chair. The member shall also mail the original
17 signed copy to the senate secretary or the chief clerk of the house of representatives, as
18 appropriate. The chair of the committee shall deliver the committee report and the
19 facsimile copy to the senate secretary or the chief clerk of the house of representatives
20 to be taken up when the legislature next convenes."

21

22 Renumber the following bill sections accordingly.

*Amend # 1, 171
Fixed # 2
Passed*

HB 171 – 90 Day Session Timing Changes

Existing Law	HB 171
Sec. 1 AS 18.65.085(b) Narcotics and alcohol drug enforcement report due on 30 days from start of session	Due on the first day of the regular session.
Sec 2 AS 18.65.086(b) Child abuse reports within 30 days of start of first session	Due on the first day of the first regular session.
Sec. 3 AS 24.05.080 Legislator terms begin on the second Monday following an election	Terms begin on second Monday in February
Sec. 4 AS 24.05.090 Legislature convenes on second or third Monday in January	Legislature convenes second Monday in February.
Sec. 5 AS 24.05.120 Uniform rules adopted at beginning of the first regular session	Adopted at beginning of each session.
Sec. 6 AS 24.08.035(a) Fiscal notes to be available within 5 days of request	Within 3 days of request.
Sec. 7 AS 24.08.050 Prefiled bills by January 1	Prefiled bills by February 1
Sec. 8 AS 24.08.110 Bills from first session carry over to second session	Language change
Sec 9 AS 24.10.220 Bonuses for legislators are not allowed	Bill revisor suggestion on new wording.
Sec 10 AS 24.20.171 LB&A committee organized 15 days after the organization of each legislature	10 days after the organization of each legislature
Sec 11 AS 24.20.206 LB&A report on investments within 30 days of convening	On or before first day of session
Sec 12	

AS 24.20.311 Audit reports during within 5 days of convening of each regular session	On or before convening.
Sec 13 AS 24.45.041(e) Publish directory of lobbyist registry within 45 of convening	Publish within 15 days of convening
Sec 14 AS 24.45.116 Civic league or organization contribution reporting requirements on Feb 10, April 25, and July 10	Remove Feb 10 reporting requirement.
Sec 15 AS 37.07.020(a) Budget becomes public on Dec 15	January 15 th
Sec 16 AS 37.07.040(7) Governor workbooks to Leg Fin by first Monday in January	By first Monday in February
Sec 17 AS 37.07.070 Supplemental appropriations requested by 30 th legislative day Budget amendments by 45 th legislative day	5 th legislative day 15 th legislative day
Sec 18 AS 37.10.050(c) State agency fee regulations report within 30 days of convening of regular session	Within 5 days.
Sec 19 AS 38.04.022(b) Land disposal report within 30 days of convening regular session	Within 5 days
Sec 20 AS 38.05.027(b) Cooperative resource agreement reports within 30 days of beginning of each session.	Within 5 days
Sec 21 AS 39.05.080(1) Names for confirmation within 30 says of convening session	Within 15 days
Sec 22	Application. Provisions on start of legislative terms beginning in Feb starts after 2008 election.
	Effective date of Act is Jan. 1, 2008



ALASKA STATE LEGISLATURE
HOUSE RULES COMMITTEE
REPRESENTATIVE JOHN COGHILL, CHAIRMAN
State Capitol Juneau, AK 99801-1182 (907) 465-3719
1292 Sadler Way, Fairbanks AK 99701 (907) 456-5081

HB 171 Sectional Amendments to Version "E"

Section 1. Public Safety annual report on activities of the narcotic drug and alcohol enforcement unit will be available the first day of session. Currently it is to be made available within 30 days.

Sec. 2. In odd numbered years Public Safety submits their report on repeated child sexual abuse arrests and criminal exploitation of children to legislature on first day of session

Sec. 3. Changes the beginning of the term of each member of the legislature to the second Monday of February. (in Senate version)

Sec. 4. The first session of a legislature begins on the second Monday of January, except for the session following a gubernatorial election which begins on the third Tuesday of January. The second session of a legislature starts on the second Monday of February.

Sec. 5. Requires the department affected by a piece of legislation to deliver to a requesting legislative committee a fiscal note within three days of the request. This is a change from five days and after the 90th day two days.

Sec. 6. Extends the prefile deadline from January 1 to February 1 for the second session of a legislature. The prefile for the first session of a legislature remains at January 1.

Sec. 7. Cleans up AS 24.10.220 and clarifies legislative employees cannot be awarded bonuses.

Sec. 8. Requires the Legislative Budget & Audit Committee to be organized within 10 days after the convening of the legislature.

Sec. 9. Requires the Legislative Budget & Audit Committee to prepare a report of investment programs, plans, performance, and policies of all agencies of the state that perform lending or investment functions and notify the legislature of the report on or before the first day of each regular session versus 30 days after convening.

Sec. 10. Requires the LB & A to file with the governor and the legislature its annual report summarizing audit reports on or before the first day of session versus within five days.

Sec. 11. Requires APOC to publish a directory of registered lobbyists within 15 days after session convenes. They now have 45 days.

Sec. 12. Moves the deadline for the governor's budget workbook from the first Monday in January to seven days before the legislature convenes in a regular session.

Sec. 13. The governor's request for supplemental appropriations must be provided to the legislature by the fifth day of session versus 30th day and the governor's budget amendments must be submitted by the 15th day versus the 45th day.

Sec. 14. Requires LB & A to prepare a report of fees collected and recommended fee adjustments of state agencies and provide it to the legislature by the fifth day of session versus 30 days.

Sec. 15. Requires DNR to give notice to the legislature within five days from convening that a report reflecting all money deposited to the State Land Disposal Income Fund for the prior fiscal year is available. They currently have until the 30th day.

Sec. 16. Reduces from 30 to five days after convening the deadline for DNR to submit a summary of all "cooperative resource management or development agreements" to the legislature.

Sec. 17. Requires governor to submit to the legislature within 15 days from convening the names of persons appointed to a position or membership who have not been confirmed by the legislature and persons to be appointed to fill a position or membership for a term that will expire on or before March 1 during that session. Current provides for 30 days. It also instructs the governor to immediately submit the name of someone appointed after the first 15 days by while the legislature is in regular session.

Sec. 18. This legislation has an effective date of January 1, 2008.

Blue text refers to amendments made to Version "F" by Amendment #1 moved by Representative Johnson.

Deleted Language from version E:

Sec. 18. The term of office beginning on the second Monday of February for a member of the legislature first applies to legislators elected during 2008.

Updated For
3/29/07 Meeting

HB171 90 Day Session	LEGISLATIVE DEADLINES FOR INFORMATION FROM EXECUTIVE BRANCH	Proposed Deadlines w/Jan 8th Start Date	Proposed Deadlines w/Feb 5 th Start Date	Current Deadlines w/Feb 5 th Start Date
Sec. 1	Public Safety's Narcotic Drug & Alcohol Enforcement Report	Jan. 8	Feb. 5	March 7
Sec. 2	Public Safety's Repeat Child Abuse Report & Criminal Exploitation of Children Report	Jan. 8	Feb. 5	March 7
Sec. 3	Fiscal Notes	Jan. 11	Feb. 8	Feb. 10
Sec. 4	Profile Deadline	Jan. 1	Feb. 1	Jan. 1
Sec. 5	Leg Budget & Audit Organized	Feb. 18	N/A	Feb. 20
Sec. 6	LB & A Investment Programs Report	Jan. 8	Feb. 5	Mar. 7
Sec. 7	LB & A Audit Reports Summary	Jan. 8	Mar. 5	Mar. 10
Sec. 8	APOC Lobbyists Directory	Jan. 23	Feb. 20	Mar. 22
Sec. 9	Governor's Budget Workbook	Jan. 1	Feb. 10	Jan. 5
Sec. 10	Governor's Supplemental Budget	Jan. 13	Feb. 10	Mar. 12
Sec. 11	Governor's Amendments	Jan. 23	Feb. 20	Mar. 22
Sec. 12	Leg Budget & Audit Report of Fees	Jan. 13	Feb. 10	Mar. 7
Sec. 13	DNR State Land Disposal Income Fund Report	Jan. 13	Feb. 10	Mar. 7
Sec. 14	DNR Summary Cooperative Management or development agreements	Jan. 13	Feb. 10	Mar. 7
Sec. 15	Governor submits appointments	Jan 23	Feb. 20	Mar. 7

Alaska State Legislature



Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

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FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 3

Phone: 907-465-4931
Fax: 907-465-4316

Re: HB 171 Version M - Accommodate 90-day Session

3/29/07 – The House State Affairs Committee passed out HB 171 Version M with two amendments. Please draft a Final CS for HB 171 Version M as amended. Thank you!

Amendment #1 (Gruenberg & Coghill)
25-LS0653\M.1

Amendment #2 (Coghill)
25-LS0653\M.2

passed

25-LS0653M.1
Cook
3/28/07

CONCEPTUAL AMENDMENT #1

OFFERED IN THE HOUSE BY REPRESENTATIVES GRUENBERG
TO: CSHB 171(STA), Draft Version "M" AND COGHILL

1 Page 7, line 28:

2 Delete all material and insert:

3 *** Sec. 17.** AS 24.05.150(b) is repealed.

4 *** Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REINSTATEMENT OF LAWS IN UNAMENDED FORM. AS 18.65.085(b),
7 18.65.086(b), AS 24.05.080, 24.05.090, AS 24.08.035(a), 24.08.050, AS 24.20.171(a),
8 24.20.206, 24.20.311, AS 24.45.041(e), AS 37.07.040(7), 37.07.070, AS 37.10.050(c),
9 AS 38.04.022(b), AS 38.05.027(b), and AS 39.05.080(1) shall read as they read on
10 December 31, 2007.

11 *** Sec. 19.** Sections 1 - 16 of this Act take effect January 1, 2008.

12 *** Sec. 20.** Sections 17 and 18 of this Act take effect June 1, 2009."

13

14 The Legal Services Division is directed to incorporate this amendment into CSHB 171(STA)
15 in the form required by the Manual of Legislative Drafting.

Passed

25-LS0653M.2
Cook
3/28/07

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: CSHB 171(STA), Draft Version "M"

1 Page 6, line 18:

2 Delete "fifth [30TH] legislative day"

3 Insert "30th legislative day in odd-numbered years and through the fifth legislative
4 day in even-numbered years"

5

6 Page 6, line 21:

7 Delete "15th [45TH] legislative day"

8 Insert "30th legislative day in odd-numbered years and through the 15th [45TH]
9 legislative day in even-numbered years "

10

11 Page 7, line 20, following "session,":

12 Insert "or, following a gubernatorial election year, within the first 30 days after
13 the legislature convenes in regular session,"

14

15 Page 7, lines 24 - 25:

16 Delete "15 [30] days of the convening of the regular session"

17 Insert "presentment deadline [30 DAYS OF THE CONVENING OF THE
18 REGULAR SESSION]"

*Moved
out of
Committee*

25-LS0653\M
Cook
3/26/07

CS FOR HOUSE BILL NO. 171(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE

Handwritten notes and a circular stamp.

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the date and time for convening regular legislative sessions, certain**
2 **procedures of the legislature, the date for organizing the Legislative Budget and Audit**
3 **Committee, and deadlines for certain matters or reports to be filed or delivered to the**
4 **legislature or a legislative committee; prohibiting bonuses for legislative employees; and**
5 **providing for an effective date."**

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

7 *** Section 1.** AS 18.65.085(b) is amended to read:

8 (b) The commissioner of public safety shall prepare [, **WITHIN 30 DAYS**
9 **FROM THE DATE THE LEGISLATURE CONVENES,**] a report concerning the
10 activities of the narcotic drugs and alcohol enforcement unit. The commissioner shall
11 notify the legislature on the first day of each regular session that the report is
12 available. The report must include, but is not limited to, the number of arrests made,
13 the kind, amount, and value of narcotic drugs and alcoholic beverages seized, the

1 sentences received by narcotic drug and alcohol offenders, and an overall view of the
2 narcotic drug and illicit alcohol problem in the state.

3 * Sec. 2. AS 18.65.086(b) is amended to read:

4 (b) The commissioner of public safety shall prepare, [WITHIN 30 DAYS
5 FROM THE DATE THE LEGISLATURE CONVENES] in odd-numbered years, a
6 report concerning the activities of the special unit on repeated child sexual abuse and
7 the criminal exploitation of children. The commissioner shall notify the legislature by
8 the first day of each regular session in an odd-numbered year that the report is
9 available. The report must include, but is not limited to, the number of arrests made in
10 cases of repeated child sexual abuse and the criminal exploitation of children, the
11 number of investigations that result in the Department of Health and Social Services
12 taking temporary or permanent custody of the child, the sentences received by persons
13 convicted in the state of child sexual abuse or criminal exploitation of a child, and an
14 overall view of the problems of child sexual abuse and the criminal exploitation of
15 children in the state.

16 * Sec. 3. AS 24.05.090 is amended to read:

17 Sec. 24.05.090. Duration of legislature; [REGULAR] sessions. Each
18 legislature has a duration of approximately two years, and sessions consist of a
19 "First Regular Session" that meets in the odd-numbered years, a "Second
20 Regular Session" that meets in the even-numbered years, and any special session
21 that the governor or the legislature calls. The legislature shall convene at the capital
22 for the First Regular Session [EACH YEAR] on the second Monday in January at
23 1:00 p.m. [10:00 A.M.]; however, following a gubernatorial election year, the
24 legislature shall convene on the third Tuesday in January at 1:00 p.m. The legislature
25 shall convene at the capital for the Second Regular Session on the second
26 Monday in February at 1:00 p.m. [10:00 A.M. EXCEPT AS PROVIDED IN THIS
27 SECTION. EACH LEGISLATURE SHALL HAVE A DURATION OF TWO
28 YEARS AND SHALL CONSIST OF A "FIRST REGULAR SESSION," WHICH
29 SHALL MEET IN THE ODD-NUMBERED YEARS, AND A "SECOND
30 REGULAR SESSION," WHICH SHALL MEET IN THE EVEN-NUMBERED
31 YEARS, AND ANY SPECIAL SESSION OR SESSIONS THAT THE GOVERNOR

1 OR LEGISLATURE MAY FIND NECESSARY TO CALL].

2 * Sec. 4. AS 24.08.035(a) is amended to read:

3 (a) Before a bill or resolution, except an appropriation bill, is reported from
4 the committee of first referral, there shall be attached to the bill a fiscal note
5 containing an estimate of the amount of the appropriation increase or decrease that
6 would result from enactment of the bill for the current fiscal year and five succeeding
7 fiscal years or, if the bill has no fiscal impact, a statement to that effect shall be
8 attached. The fiscal note or statement shall be prepared in conformity with the
9 requirements of this section by the department or departments affected and may be
10 reviewed by the office of management and budget. The fiscal note or statement shall
11 be delivered to the committee requesting it within three [FIVE] days of the request
12 [OR WITHIN TWO DAYS IF THE REQUEST IS MADE AFTER THE 90TH DAY
13 OF A REGULAR SESSION, OR DURING A SPECIAL SESSION OF THE
14 LEGISLATURE]. If the bill is presented by the governor for introduction in
15 accordance with AS 24.08.060(b) and the uniform rules of the legislature, the fiscal
16 note or statement shall be attached to the bill before the bill is introduced. An
17 amendment or a substitute bill proposed by a committee of referral that changes the
18 fiscal impact of a bill shall be explained in a revised fiscal note or statement attached
19 to the bill.

20 * Sec. 5. AS 24.08.050 is amended to read:

21 **Sec. 24.08.050. Prefiling of bills and resolutions.** Any member of the
22 legislature whose term extends into a forthcoming session or legislature, or a member-
23 elect may file a bill or resolution or a proposal for a bill or resolution with the
24 Legislative Affairs Agency at any time before January 1 preceding a First Regular
25 Session or at any time before February 1 preceding a Second Regular Session.

26 The agency shall place a prefiled bill or resolution that [, WHICH] is approved by the
27 sponsor [.] in proper form and deliver it to the chief clerk of the appropriate house on
28 the day on which the next session convenes or is organized for business. Prefiled bills
29 or resolutions shall be considered as introduced on the day of their delivery to each
30 house.

31 * Sec. 6. AS 24.10.220 is amended to read:

1 **Sec. 24.10.220. Bonuses for certain legislative employees.** An employee of
2 the legislature may not be awarded or paid a bonus that is in [IN] addition to
3 compensation authorized under AS 24.10.200 and 24.10.210 [, AN EMPLOYEE OF
4 THE LEGISLATURE MAY BE AWARDED AND PAID A BONUS TO REWARD
5 EXTRAORDINARY EFFORT, COMPETENCY, JOB PERFORMANCE, OR
6 UNCOMPENSATED OVERTIME. HOWEVER, AFTER JANUARY 1, 2005, THE
7 AUTHORITY TO AWARD AND PAY A BONUS UNDER THIS SECTION IS
8 TERMINATED, AND BONUSES MAY NOT BE AWARDED OR PAID AFTER
9 THAT DATE].

10 * **Sec. 7.** AS 24.20.171(a) is amended to read:

11 (a) The committee shall be organized within 10 [15] days after the
12 organization of each legislature. Members serve for the duration of the legislature
13 during which they are appointed.

14 * **Sec. 8.** AS 24.20.206 is amended to read:

15 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

16 (1) [REPEALED

17 (2)] annually review the long-range operating plans of all agencies of
18 the state that perform lending or investment functions;

19 (2) [(3)] review periodic reports from all agencies of the state that
20 perform lending or investment functions;

21 (3) [(4)] prepare a complete report of investment programs, plans,
22 performance, and policies of all agencies of the state that perform lending or
23 investment functions and notify the legislature on or before the first day [WITHIN
24 30 DAYS AFTER THE CONVENING] of each regular session that the report is
25 available;

26 (4) [(5)] in conjunction with the finance committee of each house
27 recommend annually to the legislature the investment policy for the general fund
28 surplus and for the income from the permanent fund;

29 (5) [(6)] provide for an annual post audit and annual operational and
30 performance evaluation of the Alaska Permanent Fund Corporation investments and
31 investment programs;

1 (6) [(7)] provide for an annual operational and performance evaluation
2 of the Alaska Housing Finance Corporation and the Alaska Industrial Development
3 and Export Authority; the performance evaluation must include, but is not limited to, a
4 comparison of the effect on various sectors of the economy by public and private
5 lending, the effect on resident and nonresident employment, the effect on real wages,
6 and the effect on state and local operating and capital budgets of the programs of the
7 Alaska Housing Finance Corporation and the Alaska Industrial Development and
8 Export Authority;

9 (7) [(8)] provide assistance to the trustees of the trust established in
10 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415.

11 * Sec. 9. AS 24.20.311 is amended to read:

12 **Sec. 24.20.311. Reports.** The committee shall file copies of its approved audit
13 reports including any committee recommendations with the governor, the agency
14 concerned, and the legislature. An annual report summarizing the audit reports and
15 committee recommendations made during the year shall be filed with the governor and
16 with the legislature on or before [WITHIN] the first day [FIVE DAYS] of each
17 regular session of the legislature. Reports shall be approved by a majority of the
18 committee before their release and shall be open to public inspection after their release
19 to the legislature.

20 * Sec. 10. AS 24.45.041(e) is amended to read:

21 (e) Within 15 [45] days after the convening of each regular session of the
22 legislature, the commission shall publish a directory of registered lobbyists, containing
23 the information prescribed in (b) of this section for each lobbyist and the photograph,
24 if any, furnished by a lobbyist under (c) of this section. From time to time hereafter
25 the commission shall publish those supplements to the directory that in the
26 commission's judgment may be necessary. The directory shall be made available to
27 public officials and to the public at the following locations: a public place adjacent to
28 the legislative chambers in the state capitol building, the office of the lieutenant
29 governor, the legislative reference library of the Legislative Affairs Agency, and the
30 commission's central office.

31 * Sec. 11. AS 37.07.040(7) is amended to read:

1 (7) provide the legislative finance division with an advance copy of the
2 governor's budget workbooks at least seven days before the legislature convenes in
3 a regular session [BY THE FIRST MONDAY IN JANUARY OF EACH YEAR,
4 EXCEPT THAT FOLLOWING A GUBERNATORIAL ELECTION YEAR THE
5 ADVANCE COPY SHALL BE PROVIDED BY THE SECOND MONDAY IN
6 JANUARY];

7 * Sec. 12. AS 37.07.070 is amended to read:

8 **Sec. 37.07.070. Legislative review.** The legislature shall consider the
9 governor's proposed comprehensive operating and capital improvements programs and
10 financial plans, evaluate alternatives to the plans, make program selections among the
11 various alternatives and determine, subject to available revenues, the level of funding
12 required to support authorized state services. The operating and capital budgets of
13 each agency shall be separately reviewed. During each regular session of the
14 legislature, legislative review of the governor's supplemental appropriation bills and
15 the governor's budget amendments shall be governed by the following time limits:

16 (1) requests by the governor for supplemental appropriations for state
17 agency operating and capital budgets for the current fiscal year may be introduced by
18 the rules committee only through the fifth [30TH] legislative day;

19 (2) requests by the governor for budget amendments to state agency
20 budgets for the budget fiscal year may be received and reviewed by the finance
21 committees only through the 15th [45TH] legislative day.

22 * Sec. 13. AS 37.10.050(c) is amended to read:

23 (c) Except as provided in AS 37.10.052(a), each state agency shall annually
24 review fees collected by the agency. By October 1, each state agency shall submit a
25 report to the office of management and budget regarding existing fee levels set by the
26 agency by regulation and adjustments made to fee levels by the agency during the
27 previous fiscal year, and recommended adjustments in fees set by statute that the
28 agency collects. Each year by December 15, the office of management and budget
29 shall submit a report to the Legislative Budget and Audit Committee summarizing the
30 reports and recommendations and the extent to which the fee adjustments have been
31 incorporated in the governor's budget. Within five [30] days after the convening of

1 each regular session of the legislature, the committee shall prepare a report on the
2 status of fee regulations and making recommendations for changes in regulations or
3 statutes as appropriate. The committee shall notify the legislature that the report is
4 available.

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6 (b) Within five [30] days after the legislature convenes in regular session, the
7 Department of Natural Resources shall notify the legislature that a report reflecting all
8 money deposited in the fund established under (a) of this section during the prior fiscal
9 year is available.

10 * **Sec. 15.** AS 38.05.027(b) is amended to read:

11 (b) A summary of agreements entered into under this section shall be
12 submitted to the legislature within five [30] days of the beginning of each regular
13 session.

14 * **Sec. 16.** AS 39.05.080(1) is amended to read:

15 (1) Each governor shall present to the legislature the names of the
16 persons appointed by that governor; each governor may present the name of a person
17 appointed by a previous governor; only presentment that occurs during the time that
18 the legislature is in regular session constitutes presentment under this section. The
19 governor shall, within the first 15 [30] days after the legislature convenes in regular
20 session, present to the legislature for confirmation the names of the following persons:
21 (A) persons appointed to a position or membership who have not previously been
22 confirmed by the legislature, and (B) persons to be appointed to fill a position or
23 membership the term of which will expire on or before March 1 during that session of
24 the legislature. If an appointment is made after the first 15 [30] days of the convening
25 of the regular session but while the legislature is in regular session, the governor shall
26 immediately present to the legislature for confirmation the name of the person
27 appointed.

28 * **Sec. 17.** This Act takes effect January 1, 2008.

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Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
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FAX

To: Legal Services

Fax #: 2029

From: Nancy Manly x2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 1

Phone: 907-465-4931
Fax: 907-465-4316

Re: HB 171

Please draft a State Affairs Committee CS for HB 171. The Committee will continue to work on this bill but wants to update this bill with the amendments made so far. Thank you!

Amendment #1 (Coghill)

Page 3 Line 3-8 (Delete all material – which is Section 5)

Amendment #2 (Coghill)

Page 4, lines 6-10 (Delete all material – which is Section 8)

Amendment #3 (Coghill)

Page 6, lines 11-20 (Delete all material – which is Section 14)

Amendment #4 (Coghill)

Page 6, lines 21-31 and Page 7, Lines 1-8 (Delete all material – which is Section 15)

**LEGISLATIVE DEADLINES FOR
INFORMATION FROM
EXECUTIVE BRANCH**

**Current
Deadlines
w/Feb 5th
Start Date**

**Proposed
Deadlines
w/Feb 5th
Start Date**

Public Safety's Narcotic Drug & Alcohol Enforcement Report	March 7	Feb. 5
Public Safety's Repeat Child Abuse Report & Criminal Exploitation of Children Report	March 7	Feb. 5
Fiscal Notes	Feb. 10	Feb. 8
Leg Budget & Audit Organized	Feb. 20	Feb. 15
LB & A Investment Programs Report	Mar. 7	Feb. 5
LB & A Audit Reports Summary	Mar. 10	Mar. 5
APOC Lobbyists Directory	Mar. 22	Feb. 20
Governor's Supplemental Budget	Mar. 12	Feb. 10
Governor's Amendments	Mar. 22	Feb. 20
Leg Budget & Audit Report of Fees	Mar. 7	Feb. 10
DNR State Land Disposal Income Fund Report	Mar. 7	Feb. 10
Governor submits appointments	Mar. 7	Feb. 20

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 171(STA), Draft Version "E"

1 Page 1, line 1:

2 Delete "the terms of legislators,"

3

4 Page 2, lines 16 - 22:

5 Delete all material.

6

7 Renumber the following bill sections accordingly.

8

9 Page 2, line 24, through page 3, line 2:

10 Delete all material and insert:

11 "Sec. 24.05.090. Duration of legislature; [REGULAR] sessions. Each
 12 legislature has a duration of approximately two years, and sessions consist of a
 13 "First Regular Session" that meets in the odd-numbered years, a "Second
 14 Regular Session" that meets in the even-numbered years, and any special session
 15 that the governor or the legislature calls. The legislature shall convene at the capital
 16 for the First Regular Session [EACH YEAR] on the second Monday in January at
 17 1:00 p.m. [10:00 A.M.]; however, following a gubernatorial election year, the
 18 legislature shall convene on the third Tuesday in January at 1:00 p.m. The legislature
 19 shall convene at the capital for the Second Regular Session on the second
 20 Monday in February at 1:00 p.m. [10:00 A.M. EXCEPT AS PROVIDED IN THIS
 21 SECTION, EACH LEGISLATURE SHALL HAVE A DURATION OF TWO
 22 YEARS AND SHALL CONSIST OF A "FIRST REGULAR SESSION," WHICH
 23 SHALL MEET IN THE ODD-NUMBERED YEARS, AND A "SECOND

1 REGULAR SESSION," WHICH SHALL MEET IN THE EVEN-NUMBERED
2 YEARS, AND ANY SPECIAL SESSION OR SESSIONS THAT THE GOVERNOR
3 OR LEGISLATURE MAY FIND NECESSARY TO CALL]."

4

5 Page 3, line 25:

6 Delete "February [JANUARY] 1"

7 Insert "January 1 preceding a First Regular Session or at any time before
8 February 1 preceding a Second Regular Session"

9

10 Page 6, lines 2 - 3:

11 Delete all material.

12 Insert "governor's budget workbooks at least seven days before the legislature
13 convenes in a regular session [BY THE FIRST MONDAY IN JANUARY OF EACH
14 YEAR, EXCEPT THAT FOLLOWING A GUBERNATORIAL ELECTION YEAR"

15

16 Page 7, lines 27 - 30:

17 Delete all material.

18

19 Renumber the following bill section accordingly.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

Library
SARAH PALIN, GOVERNOR

P.O. BOX 110020
JUNEAU, ALASKA 99811-0020
TELEPHONE: (907) 465-4660
FAX: (907) 465-3008

March 22, 2007

The Honorable John Coghill
Alaska State Representative
State Capitol, Room 214
Juneau, AK 99801-1182

Dear Representative Coghill:

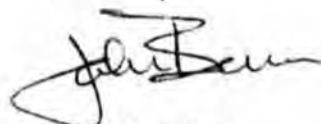
At the March 15 hearing for HB171, you asked what the Palin Administration's position was regarding Section 17 of HB171 (version 25-LS0653\ E). This letter is in response to that request.

Section 17 of the bill proposes an amendment to the number of days after the Legislature convenes that the Governor must submit names to the Legislature for confirmation for certain persons (to 15 from 30).

The proposed deadline of 15 days, presumes that the legislative session would begin on the second Monday in February (as proposed in section 4 of the bill). If the Legislature were to leave the start date of the session unchanged, the Palin Administration would propose the timeline for presentation of names to the Legislature revert back to the original language which provides the Governor 30 days to present appointments.

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

Sincerely,



John Boucher
Senior Policy Analyst

cc: The Honorable Bob Lynn, House State Affairs

25-LS0653\E
Cook
3/16/07

CS FOR HOUSE BILL NO. 171(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): **HOUSE RULES COMMITTEE**

BILL

FOR AN ACT ENTITLED

1 "An Act relating to the terms of legislators, the date and time for convening regular
2 legislative sessions, certain procedures of the legislature, the date for organizing the
3 Legislative Budget and Audit Committee, and deadlines for certain matters or reports to
4 be filed or delivered to the legislature or a legislative committee; prohibiting bonuses for
5 legislative employees; and providing for an effective date."

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

7 * **Section 1.** AS 18.65.085(b) is amended to read:

8 (b) The commissioner of public safety shall prepare [, WITHIN 30 DAYS
9 FROM THE DATE THE LEGISLATURE CONVENES,] a report concerning the
10 activities of the narcotic drugs and alcohol enforcement unit. The commissioner shall
11 notify the legislature on the first day of each regular session that the report is
12 available. The report must include, but is not limited to, the number of arrests made,
13 the kind, amount, and value of narcotic drugs and alcoholic beverages seized, the

1 sentences received by narcotic drug and alcohol offenders, and an overall view of the
2 narcotic drug and illicit alcohol problem in the state.

3 * **Sec. 2.** AS 18.65.086(b) is amended to read:

4 (b) The commissioner of public safety shall prepare, [WITHIN 30 DAYS
5 FROM THE DATE THE LEGISLATURE CONVENES] in odd-numbered years, a
6 report concerning the activities of the special unit on repeated child sexual abuse and
7 the criminal exploitation of children. The commissioner shall notify the legislature **by**
8 **the first day of each regular session in an odd-numbered year** that the report is
9 available. The report must include, but is not limited to, the number of arrests made in
10 cases of repeated child sexual abuse and the criminal exploitation of children, the
11 number of investigations that result in the Department of Health and Social Services
12 taking temporary or permanent custody of the child, the sentences received by persons
13 convicted in the state of child sexual abuse or criminal exploitation of a child, and an
14 overall view of the problems of child sexual abuse and the criminal exploitation of
15 children in the state.

16 * **Sec. 3.** AS 24.05.080 is amended to read:

17 **Sec. 24.05.080. Terms.** The term of each member of the legislature begins on
18 the second Monday in **February** [JANUARY FOLLOWING A PRESIDENTIAL
19 ELECTION YEAR; HOWEVER, FOLLOWING A GUBERNATORIAL ELECTION
20 YEAR, THE TERM OF EACH MEMBER BEGINS ON THE THIRD TUESDAY IN
21 JANUARY]. The term of representatives is two years, and the term of senators is four
22 years. One-half of the senators shall be elected every two years.

23 * **Sec. 4.** AS 24.05.090 is amended to read:

24 **Sec. 24.05.090. Regular sessions.** The legislature shall convene at the capital
25 each year on the second Monday in **February** [JANUARY] at **1:00 p.m.** **Each** [10:00
26 A.M.; HOWEVER, FOLLOWING A GUBERNATORIAL ELECTION YEAR, THE
27 LEGISLATURE SHALL CONVENE ON THE THIRD TUESDAY IN JANUARY
28 AT 10:00 a.m. EXCEPT AS PROVIDED IN THIS SECTION, EACH] legislature
29 shall have a duration of two years and **consists** [SHALL CONSIST] of a "First
30 Regular Session [,]" **that meets** [WHICH SHALL MEET] in the odd-numbered years,
31 [AND] a "Second Regular Session [,]" **that meets** [WHICH SHALL MEET] in the

1 even-numbered years, and any special session or sessions that the governor or
2 legislature may find necessary to call.

3 * Sec. 5. AS 24.08.035(a) is amended to read:

4 (a) Before a bill or resolution, ~~except an appropriation bill~~, is reported from
5 the committee of first referral, there shall be attached to the bill a fiscal note
6 containing an estimate of the amount of the appropriation increase or decrease that
7 would result from enactment of the bill for the current fiscal year and five succeeding
8 fiscal years or, if the bill has no fiscal impact, a statement to that effect shall be
9 attached. The fiscal note or statement shall be prepared in conformity with the
10 requirements of this section by the department or departments affected and may be
11 reviewed by the office of management and budget. The fiscal note or statement shall
12 be delivered to the committee requesting it within three [FIVE] days of the request
13 [OR WITHIN TWO DAYS IF THE REQUEST IS MADE AFTER THE 90TH DAY
14 OF A REGULAR SESSION, OR DURING A SPECIAL SESSION OF THE
15 LEGISLATURE]. If the bill is presented by the governor for introduction in
16 accordance with AS 24.08.060(b) and the uniform rules of the legislature, the fiscal
17 note or statement shall be attached to the bill before the bill is introduced. An
18 amendment or a substitute bill proposed by a committee of referral that changes the
19 fiscal impact of a bill shall be explained in a revised fiscal note or statement attached
20 to the bill.

21 * Sec. 6. AS 24.08.050 is amended to read:

22 **Sec. 24.08.050. Prefiling of bills and resolutions.** Any member of the
23 legislature whose term extends into a forthcoming session or legislature, or a member-
24 elect may file a bill or resolution or a proposal for a bill or resolution with the
25 Legislative Affairs Agency at any time before February [JANUARY] 1. The agency
26 shall place a prefiled bill or resolution that [, WHICH] is approved by the sponsor [,]
27 in proper form and deliver it to the chief clerk of the appropriate house on the day on
28 which the next session convenes or is organized for business. Prefiled bills or
29 resolutions shall be considered as introduced on the day of their delivery to each
30 house.

31 * Sec. 7. AS 24.10.220 is amended to read:

1 **Sec. 24.10.220. Bonuses for certain legislative employees.** An employee of
2 the legislature may not be awarded or paid a bonus that is in [IN] addition to
3 compensation authorized under AS 24.10.200 and 24.10.210 [, AN EMPLOYEE OF
4 THE LEGISLATURE MAY BE AWARDED AND PAID A BONUS TO REWARD
5 EXTRAORDINARY EFFORT, COMPETENCY, JOB PERFORMANCE, OR
6 UNCOMPENSATED OVERTIME. HOWEVER, AFTER JANUARY 1, 2005, THE
7 AUTHORITY TO AWARD AND PAY A BONUS UNDER THIS SECTION IS
8 TERMINATED, AND BONUSES MAY NOT BE AWARDED OR PAID AFTER
9 THAT DATE].

10 * **Sec. 8.** AS 24.20.171(a) is amended to read:

11 (a) The committee shall be organized within 10 [15] days after the
12 organization of each legislature. Members serve for the duration of the legislature
13 during which they are appointed.

14 * **Sec. 9.** AS 24.20.206 is amended to read:

15 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

16 (1) [REPEALED

17 (2)] annually review the long-range operating plans of all agencies of
18 the state that perform lending or investment functions;

19 (2) [(3)] review periodic reports from all agencies of the state that
20 perform lending or investment functions;

21 (3) [(4)] prepare a complete report of investment programs, plans,
22 performance, and policies of all agencies of the state that perform lending or
23 investment functions and notify the legislature on or before the first day [WITHIN
24 30 DAYS AFTER THE CONVENING] of each regular session that the report is
25 available;

26 (4) [(5)] in conjunction with the finance committee of each house
27 recommend annually to the legislature the investment policy for the general fund
28 surplus and for the income from the permanent fund;

29 (5) [(6)] provide for an annual post audit and annual operational and
30 performance evaluation of the Alaska Permanent Fund Corporation investments and
31 investment programs;

1 (6) [(7)] provide for an annual operational and performance evaluation
2 of the Alaska Housing Finance Corporation and the Alaska Industrial Development
3 and Export Authority; the performance evaluation must include, but is not limited to, a
4 comparison of the effect on various sectors of the economy by public and private
5 lending, the effect on resident and nonresident employment, the effect on real wages,
6 and the effect on state and local operating and capital budgets of the programs of the
7 Alaska Housing Finance Corporation and the Alaska Industrial Development and
8 Export Authority;

9 (7) [(8)] provide assistance to the trustees of the trust established in
10 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415.

11 * **Sec. 10.** AS 24.20.311 is amended to read:

12 **Sec. 24.20.311. Reports.** The committee shall file copies of its approved audit
13 reports including any committee recommendations with the governor, the agency
14 concerned, and the legislature. An annual report summarizing the audit reports and
15 committee recommendations made during the year shall be filed with the governor and
16 with the legislature on or before [WITHIN] the first day [FIVE DAYS] of each
17 regular session of the legislature. Reports shall be approved by a majority of the
18 committee before their release and shall be open to public inspection after their release
19 to the legislature.

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25 the commission shall publish those supplements to the directory that in the
26 commission's judgment may be necessary. The directory shall be made available to
27 public officials and to the public at the following locations: a public place adjacent to
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30 commission's central office.

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14 the governor's budget amendments shall be governed by the following time limits:

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16 agency operating and capital budgets for the current fiscal year may be introduced by
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27 agency collects. Each year by December 15, the office of management and budget
28 shall submit a report to the Legislative Budget and Audit Committee summarizing the
29 reports and recommendations and the extent to which the fee adjustments have been
30 incorporated in the governor's budget. Within five [30] days after the convening of
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2 statutes as appropriate. The committee shall notify the legislature that the report is
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6 Department of Natural Resources shall notify the legislature that a report reflecting all
7 money deposited in the fund established under (a) of this section during the prior fiscal
8 year is available.

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18 governor shall, within the first 15 [30] days after the legislature convenes in regular
19 session, present to the legislature for confirmation the names of the following persons:
20 (A) persons appointed to a position or membership who have not previously been
21 confirmed by the legislature, and (B) persons to be appointed to fill a position or
22 membership the term of which will expire on or before March 1 during that session of
23 the legislature. If an appointment is made after the first 15 [30] days of the convening
24 of the regular session but while the legislature is in regular session, the governor shall
25 immediately present to the legislature for confirmation the name of the person
26 appointed.

27 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 APPLICATION. The beginning of the term of office under AS 24.05.080, as amended
30 by sec. 3 of this Act, first applies to legislators elected during 2008 and applies thereafter.

31 * **Sec. 19.** This Act takes effect January 1, 2008.

**Attached
Information for HB 171
From
Representative Max Gruenberg**

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Elections [find](#)

Division of Elections

State of Alaska > Division of Election > Petitions > 05LEGS

INITIATIVE PETITION BILL LANGUAGE by Petition Sponsors

Petition ID: 05LEGS

"An Act relating to a 90-day regular session of the legislature; and providing for an effective date."

Proposed Bill:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA

*Section 1. AS 24.05.150 is amended by adding a new subsection to read:

(b) The legislature shall adjourn from a regular session within 90 consecutive calendar days, including the day the legislature first convenes in that regular session.

*Sec. 2 This act takes effect on the first day of the second regular session of the 25th Alaska Legislature.

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Ballot Measure 1 - 05LEGS

90-DAY SESSION LIMIT FOR LEGISLATURE

STATEMENT IN OPPOSITION

If you like power-wielding committee chairs, special interests, and high-paid lobbyists, you're going to love Ballot Measure 1. This proposed change to Alaska's statutes would play right into their hands.

On the other hand if you like your Legislature truly representative and dedicated to listening to the people of Alaska on issues that affect their lives, rights, resources, and revenues then Ballot Measure 1 deserves a "NO" vote on your ballot November 7.

Here's why:

Most Alaskans want meaningful, beneficial bills to be respectfully considered during the course of the regular sessions of each Legislature. They want appropriate committees in each house to have time to schedule hearings so that members can study legislation, hear Alaskan citizen testimony and experts, then intelligently vote their recommendations and send the bills on to the next committee of referral, if any. Some important, many-faceted bills may require consideration and recommendations from as many as three committees. A natural resources measure, for instance, may require referrals to Resources, Judiciary, and Finance.

Here's where the special interests and power brokers come in. If a bill is filed that is not to their liking there are two ways they can kill it.

First is the honorable way, by participating in honest, forthright testimony in committees, and by presenting their views to members of each house before a vote on each house floor. Of course, for an outcome to their liking they will need to round up enough negative votes (20 "nays" in the House, 10 in the Senate) to cause the bill to fail passage.

The other, easier way for the well-heeled, well-connected lobbyist or interest group is to find a friendly, sympathetic committee chair who will either outright refuse to bring up a bill for committee consideration and advancement or kill it with kindness by scheduling multiple strung-out hearings or by holding it for "more study."

What does this have to do with session limits? Obviously, the shorter the allowable session, the easier it is to stall a good bill's progress until the legislative session clock runs out. Hence the enthusiasm for Ballot Measure 1 among special interests and legislator power brokers.

Remember this: the more you limit the legislature's time to do its legitimate business, the more you limit the opportunity of Alaskans to hear the facts and share their expertise.

And by the way, session-limiting statutes don't even work. Ever since the current 120-day session went into effect in 1985 every single Legislature has had to be called back into special session one, two, or even three more times!

This is expensive and wasteful. The people of Alaska deserve better.

Please vote "NO" on Ballot Measure 1!

Mike Miller, Juneau
Former Majority Leader Alaska House of Representatives

Niilo E. Koponen, Fairbanks
Former Chair, Committee on Health, Education, & Social Services

Sam Cotten, Anchorage
Speaker of the House 1989-1990

The statement printed on this page is the opinion of the author(s) and is presented as submitted to the Division of Elections.

MEMORANDUM**State of Alaska
Department of Law****To:** The Honorable Loren Leman
Lieutenant Governor**Date:** July 1, 2005**File No.:** 663-05-0225**Tel. No.:** 269-6612**From:**Brenda B. Page
Assistant Attorney General
Labor and State Affairs - Anchorage
*B. Page***Re:** Review of Initiative Application
to Limit Legislative Session to 90
Days**I. INTRODUCTION AND SUMMARY:**

You have asked us to review an application for an initiative petition entitled "An Act relating to a 90-day regular session of the legislature; and providing for an effective date." We have completed our review. Although we believe that there is a question as to whether the initiative complies with the constitutional provisions governing use of the initiative, given the recent decision by the Alaska Supreme Court in *State v. Trust the People*, 2005 WL 1297915 (Alaska May 27, 2005), we believe that this issue is more appropriately addressed post-election. Under these circumstances, we recommend that you certify the application.

II. SUMMARY OF THE PROPOSED BILL AND ANALYSIS:**A. SUMMARY**

The bill proposed by this initiative is comprised of two sections. Section one of the bill proposes to amend AS 24.05.150, which sets forth certain procedures for adjournment of the legislature, to add a new subsection as follows: "The legislature shall adjourn from a regular session within 90 consecutive calendar days, including the day the legislature first convenes in that regular session." Section two of the bill contains an effective date provision, providing that the act takes effect on the first day of the second regular session of the 25th Alaska Legislature.

The initiative is offered in the form of a statutory amendment rather than as a constitutional amendment. The Alaska Constitution currently contains a provision that addresses the length of the regular legislative session, specifically providing that:

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The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes

...

Alaska Const., art. II, sec. 8.

B. ANALYSIS

Under AS 15.45.070, the lieutenant governor is required to review an application for a proposed initiative and either "certify it or notify the initiative committee of the grounds for denial." The grounds for denial of an application are that (1) the proposed bill is not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors. AS 15.45.080.

1. The Form of the Application

The form of an initiative application is prescribed in AS 15.45.030, which provides:

The application shall include (1) the proposed bill to be initiated, (2) a statement that the sponsors are qualified voters who signed the application with the proposed bill attached, (3) the designation of an initiative committee of three sponsors who shall represent all sponsors and subscribers in matters relating to the initiative, and (4) the signatures and addresses of not less than 100 qualified voters.

The application meets the first three requirements. With respect to the fourth requirement, the Division of Elections within your office determines whether the application contains the signatures and addresses of not less than 100 qualified voters.

2. The Form of the Proposed Bill

The form of a proposed initiative bill is prescribed by AS 15.45.040, which requires that (1) the bill be confined to one subject; (2) the subject be expressed in the title; (3) the enacting clause state, "Be it enacted by the People of the State of Alaska"; and (4) the bill not include subjects restricted by AS 15.45.010. The restricted subjects in AS 15.45.010 -- dedication of revenue, appropriations, the creation of courts or the definition of their jurisdiction, rules of court, and local or special legislation -- also are listed in article XI, section 7 of the Alaska Constitution.

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In addition to these specific subjects, a constitutional amendment also is a prohibited subject for an initiative. In defining the permissible scope of initiatives, the Alaska Constitution provides that "the people may propose and enact laws by the initiative" Alaska Const., art. XI, sec. 1 (emphasis added). In addition, under the general provision concerning "Law-Making Power," the constitution provides that "[u]nless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI." Alaska Const., art. XII, sec. 11 (emphasis added).

In drafting these sections, the framers of the Alaska Constitution specifically considered and rejected the use of initiatives for constitutional amendments. 2 *Proceedings of the Alaska Constitutional Convention* 1270-73 (Jan. 5, 1956). Therefore, the constitution can only be amended by the actions of the legislature and people in concert or by a constitutional convention as set forth in art. XIII. Neither the legislature nor the people may amend the constitution by the enactment of a statute. This prohibition on a constitutional amendment by initiative has been reaffirmed by the Alaska Supreme Court. See *State v. Lewis*, 559 P.2d 630, 639 (Alaska 1977) (stating "[t]he Alaska Constitution may not be amended by popular vote alone, without prior action by either the legislature or a constitutional convention"); *Starr v. Hagglund*, 374 P.2d 316, 317 n.2 (Alaska 1962) (noting that "[t]he initiative may be used only to enact laws, and not for the purpose of constitutional amendment. Alaska Const., art. XI and art. XII, § 11.").

We previously addressed an initiative seeking to limit the length of the regular session of the Alaska Legislature in November 1991. See 1991 Inf. Op. Att'y Gen. (Nov. 7; 663-91-0527). In that opinion, we recommended that you deny the application because the initiative, although presented as a statute, was in fact a constitutional amendment, which may not be enacted by initiative. The laws prohibiting the use of initiatives for amendments to the constitution have not changed since our 1991 opinion. There have been several decisions by the Alaska Supreme Court, however, refining the appropriate scope of pre-election review of initiative petitions. As a result, we must address not only whether this initiative constitutes an amendment to the constitution, but also whether, in light of these decisions, review of that issue is appropriate prior to placing the initiative on the ballot.

a. The Initiative as an amendment.

If imposition of a 90-day limit on legislative sessions would, in fact, amend the Alaska Constitution, such a change cannot be enacted through an initiative. The section of the Alaska Constitution governing regular legislative sessions provides that:

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The legislature shall convene in regular session each year on the fourth Monday in January, but the month and day may be changed by law. The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes except that a regular session may be extended once for up to ten consecutive calendar days. An extension of the regular session requires the affirmative vote of at least two thirds of the membership of each house of the legislature. The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with provisions controlling the length of the session.

Alaska Const., art. II, sec. 8. The second, third and fourth sentences of this provision were added by a constitutional amendment, effective December 30, 1984. (13th Legislature's SCS CSHJR 2 (1983)).

An argument can be made that reducing the maximum length of legislative sessions to 90 days does not clearly conflict with the constitution. A 90-day session would satisfy the requirement that the legislative session adjourn "no later than" 120 days from the date it convenes. On the other hand, an argument can be made that the intent of the drafters and language of the current provision governing legislative sessions supports the conclusion that the 90-day limit on legislative sessions necessarily amends the constitution.

There are arguments on both sides of the issue and a court has not had the opportunity to consider the merits of those arguments. The question remains, however, whether review of this issue should occur before or after the election.

b. The permissible scope of pre-election review.

Although a proposed amendment to the Alaska Constitution cannot be brought through the initiative process, the constitutionality of an initiative "may be reviewed either before it goes to the voters or after it is enacted." *Alaska Action Center, Inc. v. Municipality of Anchorage*, 84 P.3d 989, 992 (Alaska 2004). Pre-election review, however, is appropriate only for certain categories of challenges, the scope of which have been defined over time through Alaska Supreme Court decisions.

Prior to the Alaska Supreme Court's recent decision in *Trust the People*, the court divided challenges to initiatives into two categories to determine when review was proper. *Alaska Action*, 84 P.3d at 992. The first type of challenge invoked "the particular

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constitutional and statutory provisions regulating initiatives." *Id.* (quoting *Brooks v. Wright*, 971 P.2d 1025, 1027 (Alaska 1999)). According to the court in *Alaska Action*, this first category, comprised of challenges based on the use of the initiative process itself, can be reviewed before the initiative is placed on the ballot. *Id.* at 992-93. The second category was comprised of challenges as to whether the underlying provisions of an initiative are unconstitutional. The court in *Alaska Action* held that this second category of challenge should not be brought until after the initiative goes before the electorate, unless controlling authority leaves no room for argument about its unconstitutionality. *Id.* at 992-93.

Under the analysis set forth in *Alaska Action*, the challenge to this initiative, which is a challenge to the use of the initiative process to amend the constitution, would appear to fall within the first category. This conclusion comports with our opinion in 1991, in which we advised against certifying an initiative limiting the legislative session to 90-days because the initiative was an unconstitutional¹ use of the initiative process.

Since our previous opinion, and the decision in *Alaska Action*, however, the Alaska Supreme Court issued its decision in *Trust the People*, in which it narrowed the scope of pre-election review.¹ In *Trust the People*, the court held that pre-election review was inappropriate for a challenge asserting that the U.S. Constitution did not allow the proposed change to be brought by the initiative process. *Trust the People*, 2005 WL 1297915, at ** 10-14. The court specifically rejected the argument that pre-election review is appropriate whenever the issue is whether voters can enact the law by initiative. *Id.* at *12. The court explained that the category distinction that it set forth in *Alaska Action* "simply describes a baseline for pre-election review ..." *Id.* at *11. The court concluded that "pre-election judicial review may extend only to subject matter restrictions that arise from a provision of Alaska law that expressly addresses and restricts Alaska's constitutionally-established initiative process or to proposals that are clearly unlawful under controlling authority ..." *Trust the People*, 2005 WL 1297915, at *10. The court further explained that, "when an alleged subject-matter violation hinges on an implied constitutional restriction outside the specific restrictions enumerated in article XI, section 7 ... it is eligible for pre-election review only if it meets article XII, section 11's 'clearly inapplicable' test." *Id.* at 14.

Thus, the question in this case is whether pre-election review of an initiative that may constitute an amendment to the constitution remains appropriate after the decision in *Trust the People*. The proposed initiative does not violate the express restrictions enumerated in article XII, section 7. Therefore, under the analysis in *Trust the People*, it

¹ The court issued its opinion in *Trust the People* on May 27, 2005. Because it is so recent, the opinion has not been released for publication and remains subject to revision or withdrawal.