

ALASKA LEGISLATURE COMMITTEE FILES

2007-2008

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Sec. 39.50.200. Definitions.

(a) In this chapter,

(1) "assistant to the governor or the lieutenant governor" includes any executive, legislative, special, administrative, or press assistant to the governor or lieutenant governor, and any person similarly employed in a policy-making position;

(2) "child" includes a biological child, an adoptive child, and a stepchild;

(3) "commission" means the Alaska Public Offices Commission created under AS 15.13.020(a);

(4) "domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;

(5) "instrumentality of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including the University of Alaska;

(6) "judicial officer" means a person appointed as a justice to the supreme court or as a judge to the court of appeals, superior court, district court, or magistrate court;

(7) "mother or father" includes a biological parent, an adoptive parent, and a step-parent;

(8) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission within a home rule or general law city or borough, or a unified municipality;

(9) "public official" means

(A) a judicial officer;

(B) the governor or the lieutenant governor;

(C) a person hired or appointed in a department in the executive branch as

(i) the head or deputy head of the department;

(ii) the director or deputy director of a division;

(iii) a special assistant to the head of the department;

(iv) a person serving as the legislative liaison for the department;

(D) an assistant to the governor or the lieutenant governor;

(E) the chair or a member of a state commission or board;

(F) state investment officers and the state comptroller in the Department of Revenue;

(G) the chief procurement officer appointed under AS 36.30.010;

(H) the executive director of the Alaska Workforce Investment Board;

(I) each appointed or elected municipal officer; and

(J) the members of the board of trustees, the executive director, and the investment officers of the Alaska Permanent Fund Corporation;

(10) "source of income" means the entity for which service is performed or that is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; but if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or domestic partner, or the person's dependent children, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation, but, if the entity that is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.

(b) In this chapter "state commission or board" means the

(1) *[Repealed, Sec. 30 ch 81 SLA 2000]*.

(2) Alaska State Council on the Arts (AS 44.27.040);

(3) Alcoholic Beverage Control Board (AS 04.06.010);

(4) State Assessment Review Board (AS 43.56.040);

(5) *[Repealed, Sec. 1 ch 54 SLA 1981]*.

(6) Board of Education and Early Development (AS 14.07.075);

(7) Alaska Public Broadcasting Commission (AS 44.21.256);

(8) Alaska Public Offices Commission (AS 15.13.020);

(9) *[Repealed, Sec. 16 ch 61 SLA 1995]*.

(10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);

(11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);

(12) *[Repealed, Sec. 140 ch 4 FSSLA 1992]*.

(13) State Commission for Human Rights (AS 18.80.010);

(14) *[Repealed, Sec. 86 ch 59 SLA 1982]*.

(15) Alaska Judicial Council (art. IV, Sec. 8, Alaska Constitution);

(16) Commission on Judicial Conduct (art. IV, Sec. 10, Alaska Constitution);

(17) *[Repealed, Sec. 24 ch 22 SLA 2001]*.

- (18) Local Boundary Commission (AS 44.33.810.);
- (19) Occupational Safety and Health Review Board (AS 18.60.057.);
- (20) Board of Parole (AS 33.16.020);
- (21) State Personnel Board (AS 39.25.060.);
- (22) *[Repealed, Sec. 20 ch 110 SLA 1981].*
- (23) *[Repealed, Sec. 132 ch 9 FSSLA 2005].*
- (24) Regulatory Commission of Alaska (AS 42.04.010.);
- (25) University of Alaska Board of Regents (AS 14.40.120.);
- (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
- (27), (28) *[Repealed, Sec. 86 ch 59 SLA 1982].*
- (29) *[Repealed, Sec. 132 ch 9 FSSLA 2005].*
- (30) *[Repealed, 1983 Initiative Proposal No. 2, Sec. 6].*
- (31) Workers' Compensation Board (AS 23.30.005) and Workers' Compensation Appeals Commission (AS 23.30.007.);
- (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
- (33) Alaska Municipal Bond Bank Authority (AS 44.85.020.);
- (34) *[Repealed, Sec. 1 ch 54 SLA 1981].*
- (35) Alaska Medical Facility Authority (AS 18.26);
- (36) Alaska Oil and Gas Conservation Commission (AS 31.05);
- (37) Alaska Housing Finance Corporation (AS 18.56.010 - 18.56.900);
- (38) *[Repealed, Sec. 44 ch 24 SLA 2003].*
- (39) *[Repealed, Sec. 4 ch 75 SLA 1979].*
- (40) Board of Fisheries (AS 16.05.221 (a));
- (41) Board of Game (AS 16.05.221.(b));
- (42) Alaska Permanent Fund Corporation (AS 37.13.040);
- (43) *[Repealed, Sec. 69 ch 14 SLA 1987].*
- (44) Alaska Seafood Marketing Institute (AS 16.51.010.);

- (45) Council on Domestic Violence and Sexual Assault (AS 18.66.010);
- (46) *[Repealed, Sec. 27 ch 18 SLA 1993].*
- (47) *[Repealed, Sec. 38 ch 168 SLA 1990].*
- (48) *[Repealed, Sec. 16 ch 33 SLA 1996].*
- (49) *[Repealed, Sec. 10 ch 29 SLA 1999].*
- (50) *[Repealed, Sec. 9 E.O. No. 84 (1993)].*
- (51) *[Repealed, Sec. 102 ch 21 SLA 2000].*
- (52) *[Repealed, Sec. 10 ch 58 SLA 2006].*
- (53) the board of directors and the executive director of the Alaska Aerospace Development Corporation (AS 14.40.821);
- (54) Alaska Retirement Management Board (AS 37.10.210);
- (55) Alaska Workforce Investment Board (AS 23.15.550);
- (56) Board of Agriculture and Conservation (AS 03.09.010);
- (57) the board of directors and chief executive officer of the Alaska Natural Gas Development Authority (AS 41.41.020);
- (58) Big Game Commercial Services Board (AS 08.54.591).

STATE OF ALASKA

Department of Administration

Alaska Public Offices Commission

February 10, 2007

The Honorable Hollis French
Chair, Senate Judiciary Committee
Alaska State Senate
Juneau, Alaska

Re: SB 64, Ethics and Disclosure

Dear Senator French:

This letter is to correct one of the statements I made yesterday during the hearing on SB 64. I stated that just under 50% of the candidates in the last election cycle filed electronically. That was an error. The actual number of candidates who filed electronically was 78 out of 511, or 15% of the candidates. Enclosed is the 2006 Election Year Filing Statistics page from APOC's website.

In addition to the 2,828 campaign disclosure reports covering the 2006 election year cycle, APOC receives reports from public officials, legislators, lobbyists and employers of lobbyists. The number of those reports for 2006 break down as follows:

2006 Public Official Financial Disclosure Filers, one annual report:
615 State public officials, members of boards and commissions

2006 Legislative Financial Disclosure Filers, one annual report:
60 Legislators
5 Public member of the Select Committee on Legislative Ethics
4 Legislative directors

2006 Lobbying Law Filers:
145 Lobbyists filed 11 monthly reports = 1,595 reports
379 Employers of lobbyists filed 4 quarterly reports = 1,516 reports

You asked the number of hours required to enter the campaign disclosure reports into the on-line database. Unfortunately, it is not possible to determine the hours because, in addition to the temporary data entry clerks, the rest of the APOC staff also does campaign disclosure data entry as their time permits. We have no way of tracking how many staff hours were spent on data entry.

SARAH PALIN, GOVERNOR

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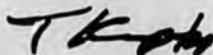
February 10, 2007

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Please let me know if you have any questions or would like any additional information

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Tammy L. Kempton
Juneau Branch Administrator

c: Brooke Miles, Executive Director

Alaska Public Offices Commission

State of Alaska > Departments > Administration > APOC > APOC-IQ > Filing Statistics

2006 Election Year Filing Statistics

Based on Report Summaries filed as of February 2, 2007

Filers		Reports	
Total Registered Filers:	698 100%	Total Reports Expected:	2828 100%
Exempt Filers:	304 43%	Reports Missing:	81 2%
Candidates:	511 73%	Reports Filed on Paper:	1209 42%
Groups:	187 26%	Reports Filed Electronically:	1172 41%
Electronic Filers:	178 25%	Reports Outstanding:	447 15%
Candidates Filing Electronically:	78 15%	Reports Filed Late:	0 0%
Groups Filing Electronically:	100 53%	Reports Filed Total:	2381 84%

Campaign Finance	
Total \$ Raised to Date by Candidates:	\$12,031,592.00
Total \$ Raised to Date by Groups:	\$5,315,171.00
Total \$ Spent to Date by Candidates:	\$10,150,391.00
Total \$ Spent to Date by Groups:	\$5,321,853.00

Statistics Legend

Term:	Description:
Exempt Filers	The candidate has filed an exemption because campaign finances are not expected to exceed a specified threshold, and reporting is not required.
Reports Missing	Reports which have not been filed for which the due date has passed.
Reports Outstanding	Reports which have not been filed for which the due date is future.
Reports Filed Late	Reports which have been filed after the required due date.

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Search by Election

2006 Municipal Elections

List All Report Due Dates for 2006 Municipal Elections

Select Reporting Cycle

Election Cycle:	Election Date:
2006 Anchorage Municipal	04/04/2006
2006 City of Ketchikan Special	04/11/2006
2006 MAT-SU Borough Special	05/02/2006
2006 Aleutians East Borough Municipal	10/03/2006
2006 Barrow Municipal	10/03/2006
2006 Bethel Municipal	10/03/2006
2006 City North Pole Municipal	10/03/2006
2006 City of Fairbanks Municipal	10/03/2006
2006 City of Ketchikan Municipal	10/03/2006
2006 Craig Municipal	10/03/2006
2006 Fairbanks North Star Borough Municipal	10/03/2006
2006 Group Municipal	10/03/2006
2006 Haines Borough Municipal	10/03/2006
2006 Homer Municipal	10/03/2006
2006 Houston Municipal	10/03/2006
2006 Juneau Borough Municipal	10/03/2006
2006 Kenai Municipal	10/03/2006
2006 Kenai Peninsula Borough Municipal	10/03/2006
2006 Ketchikan Gateway Borough Municipal	10/03/2006
2006 Kodiak Island Borough Municipal	10/03/2006
2006 Kodiak Municipal	10/03/2006
2006 Lake & Peninsula Borough Municipal	10/03/2006
2006 MAT-SU Borough Municipal	10/03/2006
2006 North Slope Borough Municipal	10/03/2006
2006 Northwest Arctic Borough Municipal	10/03/2006
2006 Palmer Municipal	10/03/2006
2006 Seward Municipal	10/03/2006
2006 Sitka Borough Municipal	10/03/2006
2006 Soldotna Municipal	10/03/2006
2006 Unalaska Municipal	10/03/2006
2006 Valdez Municipal	10/03/2006
2006 Wasilla Municipal	10/03/2006
2006 Denali Borough Municipal	11/07/2006

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Alaska Public Offices Commission

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Candidate Summary by Office and Report

2006 Fairbanks North Star Borough Municipal

- Select Office
- [Mayor](#)
 - [Assembly](#)
 - [School Board](#)

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STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR
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Department of Admini

Alaska Public Offices Comm

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state.ak

October 31, 2006

Linda Perez
Administrative Director
Office of the Governor
PO Box 110001
Juneau, Alaska 99811-0001

RE: Request for an advisory opinion about reporting and allocating the cost of collateral use of state-owned equipment in connection with a public officer's official duties and a public officer's political candidate campaign activities.
AO-08-03-CD

Dear Ms Perez:

As you are aware the Commission, by a vote of 4-1, adopted this advisory opinion at a special meeting held today, October 31, 2006. The opinion is set out below.

You have requested an advisory opinion regarding whether APOC reporting and allocating are required when a public official, using state equipment, combines official state business with campaign activity. You have represented that the principal purpose of the travel is state business and any campaign activity is secondary or collateral to the principal official business purpose of the trip. Although unstated in your letter, it was clear from your statements to the Commission on September 20 that your request concerns the Governor's activities.

Short Answer

The short answer is that reimbursement and some reporting is required. The ban in AS 15.13.145 against the use of state money to influence the outcome of an election of a candidate for state office is not violated when a public official seeking reelection makes a detour during travel on official business for a campaign activity if the official's campaign reimburses the expense of that travel at a commercially reasonable rate within a commercially reasonable time. The state is not required to report the transaction as a campaign contribution or expenditure, but the campaign must report the reimbursement as a campaign expense. Although the law does not provide expressly for allocation, we do not rule out the possibility of allocating the expense between the official business and campaign activity to determine a rate for reimbursement if the amount and timing can be defended as commercially reasonable.

Law

AS 15.13.074. Prohibited contributions.

....
(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

AS 15.13.145. Money of the state and its political subdivisions.

(a) Except as provided in (b) and (c) of this section, each of the following may not use money held by the entity to influence the outcome of the election of a candidate to a state or municipal office:

- (1) the state, its agencies, and its corporations;
- (2) the University of Alaska and its Board of Regents;
- (3) municipalities, school districts, and regional education attendance areas, or another political subdivision of the state; and
- (4) an officer or employee of an entity identified in (1) – (3) of this subsection.

(b) Money held by an entity identified in (a)(1) – (3) of this section may be used to influence the outcome of an election concerning a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by a state law or a municipal ordinance.

(c) Money held by an entity identified in (a)(1) – (3) of this section may be used

- (1) to disseminate information about the time and place of an election and to hold an election;
- (2) to provide the public with nonpartisan information about a ballot proposition or question

(d) When expenditure of money is authorized by (b) or (c) of this section and is used to influence the outcome of an election, the expenditures shall be reported to the commission in the same manner as an individual is required to report under AS 15.13.040.

AS 15.13.400. Definitions.

....
(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

- (iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;
- (iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate; or
- (v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee;

.....

(16) "public funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation.

2 AAC 50.250. Contributions.

(a) In AS 15.13 and this chapter, except as otherwise provided in this section, "contribution"

(1) has the meaning given in AS 15.13.400;

(2) includes a

(A) subscription, advance, transfer, forgiveness of all or part of a debt, relaxation of credit, or anything of value made or provided by a person, group, or nongroup entity for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and

(B) personal contribution as described in 2 AAC 50.254; and

(3) does not include

...

(G) provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office;

2 AAC 50.356. Use of public money.

(a) Funds are specifically appropriated for the purposes of AS 15.13.145(b) if the appropriating body provides notice on the public record that the funds will be used to influence the outcome of an election.

(b) In the absence of a specific appropriation, an officer or employee of an entity who is identified in AS 15.13.145(a)(4) may use money held by that entity to communicate about a ballot proposition

or question if the communication is made in the usual and customary performance of the officer's or employee's duties.

(c) For the purposes of AS 15.13.145(c)(2), information is nonpartisan if it does not advocate a position in an election. Nonpartisan information includes the official language of a ballot question, a neutral ballot summary, if provided for all candidates seeking a particular office, the candidates' names, contact information, or statements.

(d) If an entity or individual identified in AS 15.13.145(a)(1) – (4) uses money held by the entity to make an election-related expenditures, the expenditure must be disclosed on a report of contributions or independent expenditures under AS 15.13.040(d) and (e) unless the expenditure is made only to disseminate information about the time and place of an election or to hold an election.

Facts

We understand that the Governor has traveled for mixed purposes, combining official business with partisan campaign activity during his reelection campaign. Allowing the Governor to travel for both official and campaign business reconciles the need for the Governor to be available at all times to conduct the public's business with the political reality of running for reelection. The question of the Governor's travel for mixed purposes was addressed under the Alaska Executive Branch Ethics Act ("the Ethics Act") earlier this year. The Department of Law issued an opinion providing that the Ethics Act's prohibition against the use of state equipment for partisan political activity did not stop a public officer from participating in collateral partisan political activity after traveling on state aircraft for official business if the principal purpose of the travel was the performance of official duties. However, it also indicated that travel for the principal purpose of partisan political activity would violate the Act and that reimbursement to the state would not cure the violation. Your question now is how travel allowed under the Ethics Act should be reported, and whether the expenses should be allocated, under the campaign disclosure law. Thus, for purposes of this opinion, we assume that the principal purpose of the travel is official business and that campaign activity is secondary or collateral to that principal purpose.

Analysis

The Alaska Public Offices Commission administers the campaign disclosure law, and it is empowered to issue advisory opinions concerning the application of that law. AS 15.13.030.

The campaign disclosure law, similar to the Ethics Act, limits the use of state resources for election campaigns. The limitation, which appears in AS 15.13.145(a), is on the use of "money held by" the state and its agencies to influence the outcome of the election of a candidate. The limitation clearly prohibits cash contributions and expenditures to influence the election of a candidate. Whether it extends to in-kind contributions, such as the use of state equipment or services, is less clear.¹ Although the legislative history on AS 15.13.145 is not particularly helpful,² we were able to rely upon

¹ In contrast to AS 15.13.145(a), the limitation in the Ethics Act is quite explicit. AS 30.52.120(b)(6) prohibits "the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes."

² During a hearing before the House State Affairs Committee on House Bill 366, Representative David Finkstein explained the intent of proposed section 15.13.145:

other provisions of the law to guide our interpretation of AS 15.13.145(a). We have concluded that AS 15.13.145(a) prohibits the use of state equipment or services if the use would be prohibited in the campaign finance law as a contribution or expenditure.

The campaign disclosure law lists the entities that may make contributions and expenditures for or against candidates and the state is not listed. AS 15.13.065 names only individuals, groups, nongroup entities,³ and political parties as able to make contributions.⁴ "Contribution" is broadly defined in AS 15.13.400(4)(A) to include the provision of goods and services, among other things, if the purpose is to influence the nomination or election of a candidate.⁵ The meaning of "contribution" is further defined in 2 AAC 50.250(a)(3), which states, in part, that the term "contribution" excludes the

~~provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office⁶~~

Because other sections of the campaign disclosure laws prohibit the state from making contributions and expenditures, to be consistent, the restriction on the "use of [state] money" in AS 15.13.145(a) to influence the election of a candidate also should prohibit the state from providing an in-kind contribution such as travel. Relying on AS 15.13.400(4)(A) and 2 AAC 50.250, we conclude that the state may not provide travel services benefitting the governor's reelection campaign unless the campaign pays for the service or unless the state makes the service available to all candidates. From this analysis it follows that, if the governor's reelection campaign reimburses the state at a reasonably commercial rate within a commercially reasonable time for state-provided travel, state-provided travel would not be a prohibited contribution under AS 15.13.145(a).

Because reimbursement is required to avoid a violation of AS 15.13.145(a), we must address what constitutes a commercially reasonable rate for reimbursement. There are probably many possibilities. One obvious method might be to determine the state's actual costs and reimburse those costs. Another method is suggested in federal regulation, which addresses how to evaluate the cost of noncommercial travel for purposes of determining its value as a contribution in federal elections. The regulation applies commercial travel rates. A candidate using an airplane owned or leased by a corporation or individual has not received a contribution from the corporation or individual if the candidate pays for that travel at the prescribed rate within seven days of traveling. The rate

REPRESENTATIVE FINKELSTEIN moving forward referred the committee members to Sec. 15.13.145, "MONEY OF THE STATE AND ITS POLITICAL SUBDIVISION." He explained the approach was to allow money spent by a government entity on ballot propositions based on the approval of the local government body. He cited a civic concern was a possible issue, however. The subsection banned contributions from government entities to candidates. He explained there was a case where a local government body gave a contribution to a candidate. He explained most felt it was inappropriate.

(See St. Affairs Comm. (Feb. 29, 1995) (considering the House version of SB 191, which became Ch. 48 SLA 96).)

³ "Groups" and "nongroup entities" are defined in AS 15.13.400 and do not include government subdivisions.

⁴ AS 15.13.067 limits the making of expenditures to elect candidates to candidates, individuals, groups, and nongroup entities.

⁵ "Expenditure" for the purpose of influencing the nomination or election of a candidate is defined as the "transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value." AS 15.13.400(6)(i).

⁶ 2 AAC 50.250(a)(3)(G). The origin of the exclusion in 2 AAC 50.250(a)(3)(G) was Advisory Opinion AO07-09-CD at 2 (approved June 18, 1997). That opinion considered a labor union's questions about how the limits on union and corporate political activities (newly enacted in 1995) would be applied, and the Commission determined that the prohibition against a labor union's contributions to candidates did not prohibit the union from providing a service to a candidate if the union were reimbursed at a commercially reasonable rate and time or, alternatively, made the service available equally to any candidate.

paid is the cost of the lowest unrestricted and non-discounted first class air fare, if first class air fare is available. If first class air fare is unavailable, the rate is the lowest unrestricted and non-discounted coach class air fare. If neither first class nor coach commercial travel is available, the campaign must pay the charter rate for a comparable aircraft. 11 CFR § 100.93(c). Failure to pay for the travel results in an in-kind contribution from the provider. Using either of these methods for determining the value of state-provided travel would satisfy the requirement of payment at a commercially reasonable rate.

Both of these methods require the campaign to absorb the full cost of the travel, even though the purpose of the travel was mixed. You asked whether allocation is required. It is not. The campaign finance laws do not address allocating the expenses between official and campaign activities when paying for a service or facility, but we do not believe the law's silence necessarily precludes allocation. The question under 2 AAC 50.250(a)(3)(G) is whether, under the circumstances, allocation is commercially reasonable. We believe that it could be. For example, determining the actual expenses and allocating those expenses between activities and reimbursing the state for the campaign's share should satisfy the requirement in the regulation that payment be at a commercially reasonable rate.

In this opinion we have considered a couple of options to compute payment for state travel that would satisfy 2 AAC 50.250(a)(3)(G) and avoid AS 15.13.145(a)'s prohibition against the state's use of money to influence the election of a candidate. There are likely other payment methods that would be reasonable. Determining a method for computing payment seems better suited to the regulatory process, but until the Commission is able to adopt regulations, we provide the following method as commercially reasonable: an unrestricted, nondiscounted first class fare for any traveler who participates in the secondary or collateral campaign activity. If first class commercial travel is unavailable, payment should be at the fare for unrestricted, nondiscounted coach commercial travel. Charter rates for a comparable aircraft would be appropriate if commercial travel is unavailable to the particular destination. We do not preclude other methods, however, and leave the option open to the campaign and affected state agency to propose a rate for reimbursement that can be defended as commercially reasonable.

The final question is whether the use of, and reimbursement for, state equipment must be reported. AS 15.13.145(d) requires the state to report any authorized use of state money "to influence an election." We have concluded that the use of state equipment for an official purpose that may have the collateral or incidental effect of assisting an official's reelection campaign is not prohibited under AS 15.13.145(a) if it is reimbursed at a commercially reasonable rate and time. Because the expenditure is not intended or used "to influence an election," the state is not required to report it under AS 15.13.145(d).⁷

This does not mean, however, that the campaign fund or candidate paying for the travel is exempt from reporting. The reimbursement would be covered as a campaign expenditure and be reported as provided in AS 15.13.040.

⁷ But see Advisory Opinion AO97-03-CD (approved Feb. 27, 1997), which interpreted AS 15.13.145(d) to require the Alaska Judicial Council to report to the Commission as expenditures the costs of the judicial evaluations that AS 22.10.150 requires the Council to conduct and distribute before judicial retention elections. The approval notice notes that "the advice in this opinion applies only to the specific activity for which the advice was requested."

Conclusion

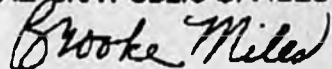
If an elected public official travels for the principal purpose of official business and also engages in collateral campaign business while traveling, the prohibition in AS 15.13.145(a) against the use of state money to influence an election is not violated if the campaign pays a commercially reasonable rate for the travel within a commercially reasonable time.

Only the Commission has the authority to approve an advisory opinion. 2 AAC 50.905. The Commission will rule on staff's proposed advice at a teleconferenced meeting on Tuesday, October 31. If you wish to testify when the Commission considers this matter, please let me know. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific facts and activity for which the advice was requested.

If you rely on staff's proposed advisory opinion in good faith, and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at (907) 276-4176.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Brooke Miles, Executive Director

cc: Commission Members
Jan DeYoung, Asst. Atty. General
Senior Staff

AO-06-03-CD



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

August 7, 2006

ARRIVED

AUG 09 2006

APOC - ANCH
PM/HC FAX
8-7-06

Ms. Brooke Miles
Director
Alaska Public Offices Commission
2221 E. Northern Lights Blvd. Room 128
Anchorage, AK 99508-4149

Dear Ms. Miles:

This is a request for an advisory opinion from the Alaska Public Offices Commission (APOC) regarding whether APOC reporting and allocation are necessary for that portion of a trip in which a public officer participates in political activities which are collateral official duties which are the primary purpose of the trip.

On June 12, 2006 I received the enclosed memorandum from David T. Jones, Senior Assistant Attorney General-Opinions, Appeals, and Ethics section:

Jones opined:

"If performance of official duties is truly the purpose of a trip, the public officer will not violate the Ethics Act by using state aircraft for the trip. That is true even if the officer also participates in collateral partisan political activities while at the destination."

We are thus seeking an advisory opinion from APOC regarding how such partisan political activities collateral to the primary, official purpose of such a trip should be reported.

We would appreciate your prompt attention to this matter.

Very truly yours,

Linda Perez
Administrative Director

Enclosure

MEMORANDUM

State of Alaska Department of Law

TO: Linda Perez
Director
Division of Administrative Services
Office of the Governor

DATE: June 12, 2006


FILE NO.: 661-06-0042

TEL. NO.: (907) 269-5169

THROUGH: David W. Márquez
Attorney General

SUBJECT: Use of State Aircraft

FROM:


David I. Jones
Senior Assistant Attorney General
Opinions, Appeals, and Ethics Section, Anchorage

You asked whether the Alaska Executive Branch Ethics Act prohibits the use of state aircraft to travel for campaign or partisan political activities. In short, it does.

The Ethics Act provides that a public officer may not "use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes."¹ The only two exceptions to this prohibition are that (1) meetings to discuss political strategy may be held at the governor's residence, and (2) communications equipment in the governor's residence may be used so long as there is no special charge to the state for the use.²

The fact that the legislature provided only these two narrow exceptions demonstrates an intention to establish a broad ban against the use of state assets for partisan political purposes. That ban includes prohibiting the use of state aircraft for campaign and other partisan political activities.

¹ AS 39.52.120(b)(6). The Act defines "partisan political purposes" as "having the intent to differentially benefit or harm a (i) candidate or potential candidate for elective office; or (ii) political party or group," but it "does not include having the intent to benefit the public interest at large through the normal performance of official duties." AS 39.52.120(b)(6)(A) and (B).

² AS 39.52.120(b)(6).

Because the Ethics Act prohibits the use of state equipment for these purposes, a public officer could not avoid a violation simply by reimbursing the state for the cost of using state aircraft. We approved reimbursement to avoid ethics violations in other contexts, but that option is unavailable for partisan political activities. We previously advised that spouses of administration officials may accompany the officials when they travel on state aircraft for state business so long as the spouses reimburse the state for the benefit provided.³ However, that conclusion was based on an analysis of the Ethics Act's provision prohibiting grants of unwarranted benefits.⁴ By contrast, the provision relevant here bars the use of state equipment for partisan political activities, subject only to the two exceptions noted previously. Consequently, reimbursement would not avoid a violation.

Travel undertaken for mixed purposes may present some close questions, and exercising good judgment in those situations is especially important. If performance of official duties is truly the primary purpose of a trip, a public officer will not violate the Ethics Act by using state aircraft for the trip. That is true even if the officer also participates in collateral partisan political activities while at the destination.⁵ However, it is important to apply careful judgment in determining the primary purpose of a trip. Indiscriminate use of state aircraft for trips combining official duties and partisan political activities will risk both violating the Ethics Act and inviting public criticism.

Accordingly, individuals traveling for the primary purpose of participating in partisan political activities should not use state aircraft for that travel. Likewise, it would be inappropriate to use state aircraft to transport more than incidental amounts of partisan political materials, such as campaign bumper stickers, buttons, or brochures.

If we can assist further in addressing these issues, please contact us.

³ Memorandum from B. Ritchie to J. Clark (Sept. 30, 2004).

⁴ *Id.* at 1 (citing AS 39.52.120(a)).

⁵ Public officers other than the governor and lieutenant governor may participate in partisan political activities only while on approved leave or otherwise off government time. AS 39.52.120(d); *see also* AS 39.25.160(j) (prohibiting campaigning on government time by state employees other than governor, lieutenant governor, and members of legislature).

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LAW

TO: Jim Clark
Chief of Staff

DATE: September 30, 2004

THROUGH: Gregg D. Renkes
Attorney General

FILE NO:

TEL. NO: (907) 465-2133

FROM: Barbara J. Ritchie
Chief Assistant Attorney General
Opinions, Appeals and Ethics

SUBJECT: Spousal Travel on King Air

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION CONFIDENTIAL ETHICS ACT ADVICE (AS 39.52.240)

Linda Perez, Administrative Services Director and Designated Ethics Supervisor for the Office of the Governor, asked me to prepare a memorandum addressing travel on the state's King Air aircraft by spouses of administration officials. At present, spouses of administration officials may accompany the officials on the King Air if they reimburse the state the cost of the flight at the lowest coach fare available on a commercial flight for that trip.

Question

What would need to be done to enable spouses of administration officials who are traveling with the Governor on the King Air at his request to fly free of charge?

Answer

The present reimbursement policy is required by the Executive Branch Ethics Act. A change to that policy would require the legislature to amend the Ethics Act.

Legal Analysis

AS 39.52.120(a) provides in pertinent part: "A public officer may not...intentionally secure or grant unwarranted benefits or treatment for any person." The current reimbursement policy is based on this section of the Ethics Act and related regulations.

“Unwarranted benefits or treatment” is defined by regulation to include “a deviation from normal procedures for the award of a benefit, regardless of whether the procedures were established formally or informally, if the deviation is based on the improper motivation.” 9 AAC 52.040(a)(1)(emphasis added).

The term “benefit” means

anything that is to a person’s advantage or self-interest, or from which a person profits, regardless of the financial gain including any . . . service, privilege, . . . advantage, . . . or anything of value;

AS 39.52.960(3).

The term “improper motivation means

a motivation not related to the best interests of the state, and includes giving primary consideration to a person’s (A) kinship or relationship with a public officer; (B) financial association with a public officer; (C) potential for conferring a future benefit on a public officer; or (D) political affiliation.

9 AAC 52.990(4).

In order to determine whether the Governor would be granting “unwarranted benefits or treatment” by allowing the spouses of state officials to travel for free on the King Air, we must examine each of these definitions in turn.

(a) Is free travel for spouses on the King Air a “benefit”?

If the Governor were to allow the spouse of an administration official to accompany the official on the King Air at no cost, the Governor would be granting a benefit to that official. Free air travel is a valuable “privilege” or “service” or “advantage” because the state official would avoid the cost of paying airfare for his or her spouse to undertake what is essentially a personal trip for the spouse. Thus, free air travel on the King Air for the spouses of administration officials would be a “benefit” under the Ethics Act.

(b) Is the benefit "unwarranted"?

As stated above, 9 AAC 52.040(a)(1) defines an unwarranted benefit as one conferred through (i) any deviation from formally or informally established procedures that is (ii) based upon an improper motive.

(i) Deviation from Procedures

Normal procedure requires people traveling on the King Air to reimburse the state if they are not traveling on official business. Providing this service free of charge for the spouses of administration officials would be a deviation from normal procedures.

(ii) Improper Motivation

A deviation is based upon an "improper motivation" if the deviation is unrelated to the state's best interests and the deviation gives primary consideration to kinship or relationship with a public officer. In this instance, the motivation would not be related to the best interests of the state: There would be no public purpose for an official's spouse to travel on the King Air for personal reasons (*i.e.*, not for official business). The primary consideration in granting the benefit would be the spouse's relationship with the administration official and the official's relationship with the Governor – precisely the type of motivations that are prohibited by the Ethics Act.

For purposes of the Ethics Act, it is irrelevant that it does not cost the state more to fly the King Air with more of its seats occupied. The focus of the Ethics Act is on the *benefit* being conferred on the administration official who would not have to pay the cost of a commercial air ticket to fly his or her spouse to a location, not the cost to the state.

Therefore, under current law, the Ethics Act precludes the spouses of administration officials from flying on the King Air unless the official reimburses the state the cost of a coach fare ticket for the spouse.

(c) How would the law need to be changed?

An amendment to the Ethics Act would be required to enable the Governor to allow spouses of administration officials to accompany the official on King Air flights free of charge. An exception to the general rule would need to provide something along the following lines:

It is not a violation of the Act for spouses of public officials to travel with the public official on state-owned aircraft for no

charge if the travel by the public official is required by the Governor and the travel by the spouse is authorized by the Governor, provided the cost to the state is the same regardless of whether the spouse is or is not on the aircraft.¹

Please let me know if you have further questions on this matter.

cc: **Linda Perez**
Administrative Services Director
Office of the Governor

Mike Nizich
Deputy Chief of Staff
Office of the Governor

¹ Such a change might have implications for the listed officials under the travel and compensation reporting requirements set out in AS 37.05.210. The billing and reporting methodology and requirements associated with useage of the King Air were examined by the Legislative Auditor in Audit No. 12-30014-02 (November 9, 2001).

AO-06-03-CD



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

August 7, 2006

ARRIVED

AUG 9 2006

APOC - ANCH
PM/HC FAX
8-7-06

Ms. Brooke Miles
Director
Alaska Public Offices Commission
2221 E. Northern Lights Blvd. Room 128
Anchorage, AK 99508-4149

Dear Ms. Miles:

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We would appreciate your prompt attention to this matter.

Very truly yours,

Linda Perez
Administrative Director

Enclosure

Consideration PA: what is state activity or campaign?
7 ex. photo op vs. campaign.

2004 use of King Air. waived cont. last week.
~~the~~ flying commercial vs. → monetary value
could be reported & fair.

- no legislative purpose. state jet
- IRS rules ~~on~~ valuing corporate jet travel

2006. campaign & state business. 2 trips is option.
but gov's avail to do other duties + security:

add'l personnel or vehicles. be careful abt how
quickly - we more.

LMC: a percentage approach. to determining jet use
reimbursement for time.

Senator Higgins: title 10 provisions. Nat'l Guard
helicopters? DJ. need add'l time. state business
presumption.

GT: amendment loss of retirement benefits?

DJ: hard to argue over principal, but details?

no amendment for today -

Because the Ethics Act prohibits the use of state equipment for these purposes, a public officer could not avoid a violation simply by reimbursing the state for the cost of using state aircraft. We approved reimbursement to avoid ethics violations in other contexts, but that option is unavailable for partisan political activities. We previously advised that spouses of administration officials may accompany the officials when they travel on state aircraft for state business so long as the spouses reimburse the state for the benefit provided.³ However, that conclusion was based on an analysis of the Ethics Act's provision prohibiting grants of unwarranted benefits.⁴ By contrast, the provision relevant here bars the use of state equipment for partisan political activities, subject only to the two exceptions noted previously. Consequently, reimbursement would not avoid a violation.

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1/2 adopted:

section — 30 days, example Peerce.

already no lobbying
no taking job you raised salary
creating "

* more strike language — adopted

no public testimony.

McGuire asks. for matrix — that summarizes
restrictions & time periods for restrictions.

more CSSB13 as amended (ind.)

CSSB14: section 6. gifts.

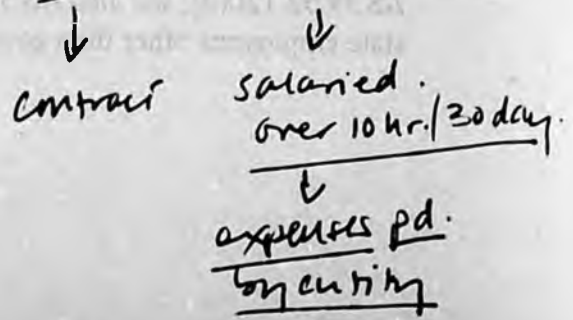
dave jones: established lobbyists presumption.

"reasonable to infer" that intended to influence.

any gift \$150 value. if gift given official member
authority to take official action.

get ruling . . .

which lobbyists? all lobbyists. profess. & representational
(get expenses paid →).



SB

69



February 3, 2007

The Honorable Hollis French, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, AK 99801-1182

RE: SB 69 (McGuire)—Support

Dear Chair French:

On behalf of the Alaska members of AARP, we encourage you and your colleagues on the Senate Judiciary Committee to support SB 69, authored by your Committee colleague Senator Lesil McGuire.

SB 69 would provide a mechanism to provide some financial support for legal assistance programs that benefit low-income Alaskans. Many older Alaskans and their families need legal support for civil issues but, due to recent funding declines, such assistance is limited. SB 69 would not draw on General Funds but would be funded through damage awards that are turned over to the state. Many states have worked creatively to continue low-income legal assistance programs. SB 69 is another example of good, positive creative public policy.

AARP recommends an "AYE" vote on SB 69.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marie Darlin".

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Senator Charlie Huggins
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Gene Therriault



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • 825 "L" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

Members of the 25th Alaska Legislature,

February 20, 2007

The Anchorage Women's Commission exists to advise the Mayor and Anchorage Assembly on matters pertaining to the status of women, and is particularly concerned with analyzing and setting priorities for women and their children at the local level. As part of our mission, the Anchorage Women's Commission recommends legislative and administrative action on women's issues. The Commission writes to you today to encourage action on HB 76 and SB 69, establishing a civil legal services fund.

In April and October 2006, The Anchorage Women's Commission solicited public testimony and comments regarding issues affecting women and children both in Anchorage and statewide. At both of the aforementioned public forums, members of the public came forward to voice their concern over the funding cuts to civil legal services programs serving low-income individuals.

Through the testimony presented at these public forums, the Women's Commission learned that often the population most in need of low cost civil legal service assistance are young families or single parents with small children – and many are victims of domestic violence. Without the assistance of non-profit organizations, low-income families are placed in a vulnerable position such that they risk loss of their homes and jobs and may be forced to forgo basic necessities such as food and medical care.

Community, Security, Prosperity



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • 825 "L" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

Equal access to justice is the right of every citizen. Equal opportunities, equal rights and equal protection under the law are rights guaranteed to each of us by the Constitution of this State. As such, civil legal assistance should be accessible to every Alaskan, regardless of their income level.

The Anchorage Women's Commission urges the Legislature to bridge the funding gap created when the state began phasing out appropriations to civil legal services organizations designed to serve the needs of low income Alaskans.

Very Truly Yours,

Tamara de Lucia

Vice-Chair, Anchorage Women's Commission.

Community, Security, Prosperity

ALASKA STATE LEGISLATURE

Session
State Capitol Building, Room 125
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
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Anchorage, Alaska 99501
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Fax (907) 269-0249



Chair
Senate State Affairs
Administrative Regulation Review

Member
Senate Judiciary Committee
Senate Resources Committee

SENATOR LESIL MCGUIRE

Sponsor Statement for SB 69

SB 69 is designed to provide a financial mechanism whereby the legislature may make appropriations to organizations that provide civil legal services to low-income Alaskans. This would be accomplished through the creation of a civil legal services account funded by provisions required under AS 09.17.020(j). This section of Alaska law requires that 50% of all punitive damage awards be turned over to the state and deposited into the general fund.

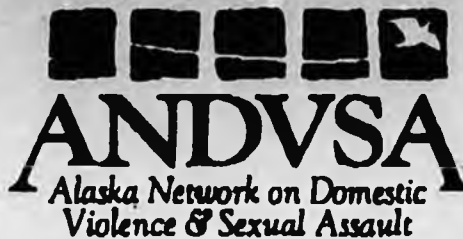
The civil legal needs of economically disadvantaged Alaskans are generally no different than anyone else's. Family law, health, will and probate issues know no socio-economic boundaries. Yet when these needs arise, self-represented litigants quite often find themselves unable to effectively represent their interests. Furthermore, these situations often place the judge in the inappropriate position of offering legal advice or even mediating between parties.

Since 1966, the Alaska Legal Services Corporation (ALSC) has assisted low-income Alaskans with their civil legal needs. The ALSC is not a state agency but rather a non-profit entity. The ALSC has been funded by a combination of state, federal and private sources. However, over the last several years these funds have been on the decline.

The inherent logic of SB 69 lies in the fact that the funds utilized to assist the disadvantaged in civil legal matters flow out of the civil legal system itself. High-stakes civil cases provide the funding mechanism for smaller but no less important cases impacting low-income Alaskans. Furthermore, necessary efficiencies are achieved throughout the entire process by working these cases through a non-profit entity such as ALSC.

SB 69 identifies an ongoing source of funding designed to aid the ALSC in its efforts to provide civil legal assistance to low-income Alaskans. This is accomplished through use of the state's 50% share of civil damage awards deposited to the general fund. It is important to note that SB 69 does not create a mandatory expenditure. Each legislature possesses an option to appropriate these monies to a civil legal services fund.

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www.andvsa.org



Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

January 22, 2007

Representative Ramras
State Capitol, Room 118
Alaska Senate
Juneau, AK 99801-1182

Dear Representatives Ramras and LeDoux:

The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) is in support of HB 76, a bill that would create a civil legal services fund with monies collected from punitive damages awards. This bill is essential to ensuring that Alaska's most vulnerable citizens have access to legal representation to enforce fundamental rights such as housing and safety for themselves and their children.

Victims of domestic violence and sexual assault often need civil legal representation when they are leaving a violent relationship. A civil legal aid attorney can help them to get housing, a divorce from an abusive partner, custody and safety for their children, and appropriate financial support so that they can sustain themselves. Without this type of assistance, many victims stay in abusive relationships. A study done through Department of Justice funding recently found that providing legal assistance to victims of domestic violence is the most effective means of ending the violence in their lives. Despite this great need, there are very few legal services attorneys in our state due to great cuts to Alaska Legal Services by the state and federal government. Our agency runs a pro bono program that fills some of the need for civil attorneys for victims, however it cannot fill the overwhelming demand. Each year we have to turn away many needy clients.

Please ensure that this bill passes and that civil legal aid has the financial support that it needs to provide attorneys to low income Alaskans.

Thank you for sponsoring this bill.

Peggy Brown

Executive Director, Alaska Network on Domestic Violence and Sexual Assault

Cc: Christine Pate, Director of ProBono Program

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE Fairbanks LAC
Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC Kotzebue MFCC
Nome BSWG Palmer AFS Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

Emily Stancliff

From: Andy Harrington [aharrington@alsc-law.org]
Sent: Thursday, January 18, 2007 12:14 PM
To: Emily Stancliff
Subject: Re: H. 76
Attachments: State funding.pdf

Emily, thanks for the email and for relaying the question.

The short answer is, ALSC does not receive a state appropriation, so the risk of another drop in a regular state appropriation is equal to the amount of our current state appropriation, i.e., zero. A more detailed response follows.

ALSC formerly received an appropriation from the State, which had been as high as \$1.2 million in FY 1984, but has not received a State appropriation since FY 2004. Most of this came through the Department of Community and Economic Development and its predecessors, for general civil work; a smaller amount came through the Department of Health and Social Services to represent individuals receiving State "Interim Assistance" in their appeals of their Social Security Disability denials. The last (FY 2004) appropriation was just through the DCED, for \$125,000. The legislature had approved an appropriation in its FY 2005 budget, but then-Governor Murkowski line-item vetoed that in the summer of 2004, and ALSC has not received an appropriation since then. I'm attaching a table that shows the history of those appropriations.

Now, for the sake of completeness, you should understand that ALSC received in 2005 a total of \$264,811 from funding sources which our audit classifies as State funds, but which are in actuality from local municipal grants and from the Alaska Mental Health Trust Authority.

First, ALSC received local grants from the Fairbanks North Star Borough, the Municipality of Anchorage, and the Mat-Su Borough. These are awarded by the local municipalities to local charities under a competitive grant application process, which varies from community to community. (In Anchorage, these are administered by the United Way, and are on a two-year cycle; in the North Star Borough, they are administered by a Borough Commission, and are on a one-year cycle; etc.) The funds come from a State/local match (I think in a 70/30 ratio) under the Human Services Matching Grant Program. ALSC received a total of \$216,760 from the three local grants during 2005 (\$123,786 from Anchorage, \$55,110 from Fairbanks, and \$43,740 from Mat-Su). Although these figures include both the state share and the local share, our audit reflects the entire \$216,760 as state funding, notwithstanding the fact that the applications are submitted to, funding decisions made by, programs administered within, and services limited to residents of, the local municipalities.

Second, ALSC's "Beneficiary Self-Sufficiency Project" receives discretionary funding from the Alaska Mental Health Trust Authority, to focus on the civil legal needs of Trust Beneficiaries. In 2005, \$42,175 came to ALSC from this source. Again, our audit reflects this as State funds. However, services funded from this source are not made available to all State residents, instead limited to Trust Beneficiaries.

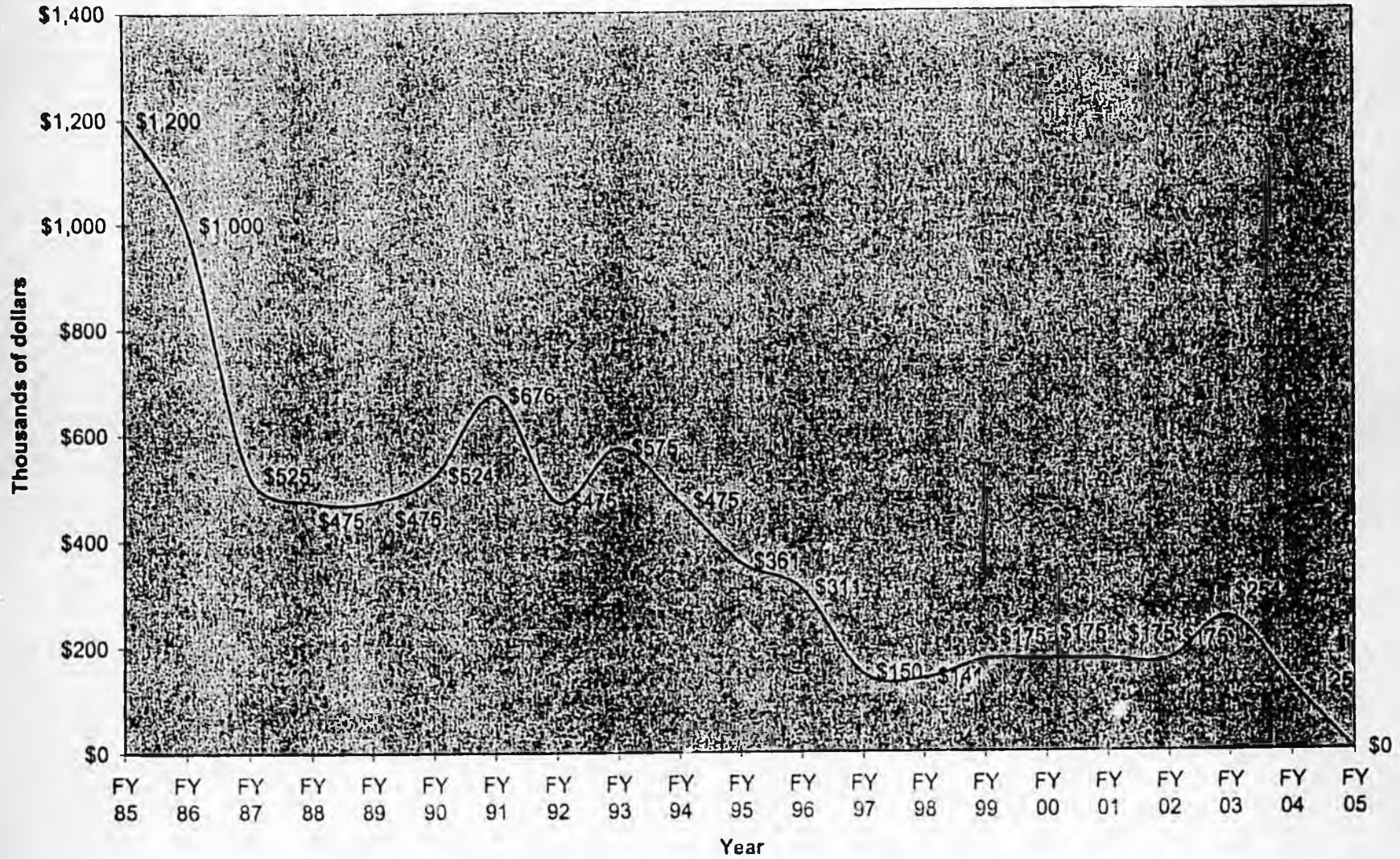
The potential for a reduction in the local or AMHTA funds is quite possible. None of these is by any means "secure," and ALSC works hard every year to deliver quality services to the constituents for each of these funding sources, and submit well-prepared competitive applications to each municipality. But if ALSC does at some point in the future lose these funds, it is more likely to be a result of a low-scored municipal grant application or a decision by the AMHTA than by legislative action.

I hope this answers your question regarding state appropriations. (Maybe more than you wanted to know, but I like to err on the side of providing too much information rather than too little.) Please let me know if I can supply further information on this or any other points, and thanks again!

Andy

Chart1

ALSC funding through State Appropriations (DCED and DHSS combined) over time



**ALSC current offices
as of 2005**



Offices ALSC has had to close



**ALSC office locations
under its 2020 goal**



STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

SARAH PALIN, GOVERNOR
1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-3903
PHONE: (907)269-5190
FAX: (907)258-0760

January 22, 2007

The Honorable Jay Ramras
Alaska State Legislature
State Capitol, Room 104
Juneau, Alaska 99801-1182

Re: HB 76, An Act relating to the creation of a civil legal services fund.

Dear Representative Ramras:

Enclosed is a spreadsheet prepared to reflect reported awards of punitive damages and collection by the state under AS 09.17.020(j). This spreadsheet reflects awards made in 2005, 2006, or which are still pending judicial action. We received a request for this information by the Executive Director of the Alaska Legal Services Corporation requesting that the information also be provided to your office. Under Alaska Civil Rule of Procedure 78(c), the Attorney General is to be provided notice of any awards of punitive damages.

Please feel free to contact me if you have any further questions.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 

Gail T. Voigtlander
Assistant Attorney General

GTV:brh
encl.

cc: Andy Harrington, Executive Director, ALSC
Deborah Behr
John Bitney

**Awards 2005 - January 2007 or which are still judicially pending
PUNITIVE DAMAGE AWARDS**

Case Name	Case Number	Case Description	Amount of Punitive Damages Awarded by Verdict (Settle)	Amount Collected	Verdict Date	State Move to Reversal	State's Calculation of State's Share	Credit for Rule 82 Award	Appeal Status	Notes
Russell v. Alaska Petroleum Contractors	3KN-99-132	Employment Action	\$600,000 reversed on appeal		01/11/01	Yes	Yet to be determined		Appeal concluded	Amount to the State yet to be determined by the trial court.
State of Alaska v Karen Carpenter, Westwood One, and Tom Leykis	S-10700/10730	Tort Claim Arising Out of Radio Communication	\$150,000.00		2002	Yes	\$75,000 minus atty fees	On appeal	Yes	On Appeal to Supreme Court. Draft circulating.
MacDonald v City of Tennessee Springs, et al.	1JU-03-228 CI	Civil Assault	\$135,000.00		03/21/06	No	\$87,500			Insufficient assets.
Rustan v Brandeis	3AN-03-6138 CI	Personal Injury	\$25,000.00		1/5/2006 Bench Trial	No	\$12,500 minus atty fees			On appeal.
Larab v. Anderson	4FA-03-02534 CI	Personal Injury	\$1000 (settlement)	\$393.00	04/06/06	No				Received 7/12/06
Ayala v. Gary Austin	3AN-01-08443 CI	Personal Injury	\$8,500	None	05/08/05	No	\$3,250 minus atty fees	Not yet determined	Possible	Pending trial court motion practice.
Doane Walker v. Ella Lind	3AN-03-4407 CI	Personal Injury	\$100,000	None	10/09/06	No	\$30,000 minus atty fees			Plaintiff plans on trying to execute against defendant's Exxon Valdez claim.
F. S. Air Service v. Cascadia	3AN-02-6488 CI	Misrepresentation/ Breach of Contract	\$300,000	None	02/27/02	No	\$150,000 minus atty fees	?	Completed	Defendant in Florida; pending criminal charges; restitution is not likely.

ALASKA WOMEN'S LOBBY

P.O. Box 20891 Juneau, Alaska 99802

Position Paper HB 76, January 2007

Thank you for the opportunity to comment on HB 76, Civil Legal Services Fund. The Women's Lobby supports passage of this legislation. It is difficult if not impossible to provide equal justice for all citizens without equal access to the courts. Unlike the criminal legal process where an attorney is provided to the accused if the person cannot afford representation, people who do not have economic advantages can be shut out of the civil legal process.

Organizations like Alaska Legal Services Corporation (ALSC) help bridge the gap, providing services to low-income citizens who need assistance navigating the courts. At some point over the course of a lifetime each of us will probably need legal assistance. Whether it is a consumer issue, housing, a will or probate issues, family matters such as adoptions, divorce, guardianships, or health issues, something will happen that requires legal expertise. With offices in many of the regional hubs in our state, ALSC can help some of the low-income people who need it. Unfortunately, adequate funding is not currently available to meet all the needs out there.

HB 76 provides an opportunity to allow ALSC's funding to stabilize so their attention can be more focused on service provision than seeking funds to keep the doors open. While ALSC receives about 40% of its funding from the Legal Services Corporation, they also work to garner private contributions through the Robert Hickerson Partners in Justice Campaign. The late Robert Hickerson devoted much of his career to ensuring equal access to the civil justice system for all Alaskans, serving ALSC as executive director from 1984 until his untimely death from cancer in 2001. We believe a funding partnership with the state will enhance ALSC's ability to raise other funds as well.

In passing HB 76, Alaska will be taking a good step forward in ensuring civil legal services will be available to Alaskan's in their time of need regardless of their economic status.

February 17, 2006

Dr. Obermeyer:

Attached is a list of the Alaska Legal Services (ALSC) attorneys working under Bar Rule 43. There is no limit on the amount of time Rule 43 attorneys may work for ALSC. Rule 43 only applies to ALSC lawyers, and does not apply to Catholic Social Services, the Disability Law Center or the Mental Health Trust.

Also included are the Legal Interns, the Rule 43.1 (military) lawyer and the Foreign Law Consultant.

Deborah O'Regan
Executive Director
Alaska Bar Association
907-272-7469
<mailto:oregan@alaskabar.org>

Rule 43 Attorneys	Date Started*	Bar Admission
Denise Bakewell	9/22/04	California
Kate Burkhart	8/15/01	Tennessee
Jody Davis	6/25/95	Ohio
Judith DeMarsh	1/19/01	California
Russell LaVigne	10/28/99	Montana
Diana Lucente	1/8/02	New York
Linda Mueller	9/14/05	Ohio
Jamy Patterson	1/6/05	South Dakota
Christina Reigh	6/25/04	Washington
Carol Yeatman	5/7/99	Nevada

* no end date as long as they are employed by ALSC

Legal Interns	Expiration Date (6 month period)
Jennifer Messick	3/27/06
Tran Smith	4/7/06
Paul Hart	5/11/06

Military Attorneys Rule 43.1	Dates of Practice (2 years)
Lt. Anthony Owens	7/8/04 - 7/8/06

Foreign Legal Consultant	Waiver Date (no end date)
Nickolai Shcherbina	9/23/93

As of 2/17/06

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DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES**

under the provisions of AS 09.43.160, the party must serve a copy of the notice of appeal upon bar counsel. If a matter on appeal is remanded to the arbitrator or panel, a decision on remand will be issued within thirty (30) days after remand or further hearing.

(v) **Suspensions for Nonpayment of an Award.** Failure to pay a final and binding award will subject the respondent attorney to suspension for nonpayment as prescribed in Alaska Bar Rule 61(c).

(Old Rule 40 [SCO 176 as amended by SCO 470] deleted and new Rule 40 added by SCO 780 effective March 15, 1987; amended by SCO 888 effective July 15, 1988; by SCO 962 effective July 15, 1989; by SCO 1045 effective January 15, 1991; by SCO 1052 effective January 15, 1991; by SCO 1147 effective July 15, 1994; by SCO 1249 effective July 15, 1996; by SCO 1314 effective July 15, 1998; by SCO 1373 effective April 15, 2000; and by SCO 1547 effective October 15, 2004)

Associations

Cases

The statutory standard of review is applicable to arbitration decisions issued pursuant to the Alaska Bar Rules; thus, findings of fact are unreviewable and the arbitrator's construction of the contract will be reviewed to determine whether it is a reasonably possible one that can seriously be made in the context in which the contract was made. *Breeze v. Sims*, Op. No. 2487, 778 P2d 215 (Alaska 1989).

Automated standard of review provided for under this rule does not violate due process under Alaska Constitution. A. *Freid Miller v. Purvis*, Op. No. 4372, 921 P2d 610 (Alaska 1996).

Argument that arbitrary and capricious standard of review applied to superior court review of bar association fee arbitration award's decision was rejected. *Boiler v. Dunlop*, Op. No. 4423, 551 P2d 1036 (Alaska 1997).

Continuation of attorney fee arbitration award may not be vacated merely by reciting without specificity that fraud existed; secondary support for particular fraud claims must be presented in opposition to award. *Law Off. of Vincent V. Wade v. Tidewater*, Op. No. 4852, 942 P2d 1141 (Alaska 1997).

Rule 41. Service.

Service of the petition by the Bar shall be by personal delivery or by certified mail, postage paid, to the respondent. Unless otherwise specifically stated in these rules, all other service shall be by personal delivery or by first class mail, postage paid, addressed to the person on whom it is to be served at his or her office or home address as last given to the Bar and shall include a certificate of service showing the date copies of the documents were served, to whom they were served, and the name or initials of the Bar

Association employee who served. The petition by mail is complete five business days after the time for performing any act shall expire five business days after service is complete.

(Old Rule 41 [SCO 176 as amended by SCO 610] deleted and new Rule 41 added effective March 15, 1987; amended by SCO 780 effective July 15, 1988)

Rule 42. Informing the Public.

Blank copies of the petition form and booklets prepared by the Bar Council shall be provided to the clerks of courts in every state.

(Added by SCO 176 dated February 15, 1987; amended by SCO 780 effective March 15, 1987; by SCO 962 effective July 15, 1989)

PART IV.

Rule 43. Waivers to Practice Law Under the Alaska Legal Services Corporation.

Section 1. Eligibility. A person not admitted to practice law in this state may receive permission to practice law in the state if such person meets the following conditions:

(a) The person is a graduate of a law school which was accredited or approved by the Council on Legal Education of the American Bar Association or the Association of American Law Schools; the person entered or graduated and is in good standing, licensed to practice before the courts of another state, territory or the District of Columbia; or the person is eligible to be admitted to practice before the courts of that state, territory or the District of Columbia;

(b) The person will practice law for the Alaska Legal Services Corporation on a part-time basis;

(c) The person has not failed the bar examination of that state.

Section 2. Application. Application for such permission shall be made as follows:

(a) The executive director of the Alaska Legal Services Corporation shall apply to the Board of Governors on behalf of a petitioner who meets the requirements of Section 1;

(b) Application shall be made on forms approved by the Board of Governors;

shall be submitted with the application. The applicant is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory or the District of Columbia.

Approval. The Board of Governors shall consider the application as soon as practicable after it has been submitted. If the board finds that the applicant meets the requirements of Section 1 above, it shall grant the application and issue a waiver to permit the applicant to practice law before all courts of the State of Alaska. The Board of Governors may delegate the power to the executive director of the Bar Association to approve such applications and issue waivers, but the Board shall review all waivers so issued at its regularly scheduled meetings.

Conditions. A person granted such permission may practice law only as required in the course of representing clients of Alaska Legal Services Corporation, and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association. Such permission shall be effective upon the failure of the person to pass the Alaska Bar examination.

(Added by amendment No. 1 to SCO 176 effective March 15, 1987; amended by SCO 232 effective December 15, 1988; by SCO 484 effective November 2, 1991; by SCO 1153 effective July 15, 1994; by SCO 1604 effective January 15, 1998; and by SCO 1604 effective October 15, 2006)

Annotations

Applying law in Alaska pursuant to this rule who is not a graduate of an ABA-accredited law school is not eligible to receive a waiver to practice law without passing the bar examination. *Eyerly v. Alaska Bar Association*, Op. No. 2392, 631 P2d 480 (Alaska 1981).

Waivers to Practice Law Under a United States Armed Forces Expanded Legal Assistance Program.

Eligibility. A person not admitted to the practice of law in this state may receive permission to practice law in the state for a period of not more than one year if such person meets all of the following conditions:

(a) The person is a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the

Association of American Law Schools when he entered or graduated and is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory or the District of Columbia;

(b) The person is an active duty member of the United States Armed Forces assigned to the Judge Advocate General's Corps or the United States Coast Guard; and

(c) The person has not failed the bar exam of this state.

Section 2. Application. Application for such permission shall be made as follows:

(a) The Staff Judge Advocate of the Military Installation to which the applicant is assigned shall apply to the Board of Governors on behalf of a person eligible under Section 1;

(b) Application shall be made on forms approved by the Board of Governors; and

(c) Proof shall be submitted with the application that the applicant is a graduate of an accredited Law School as provided in Section 1 of this rule and is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to practice upon taking the oath of the state, territory or the District of Columbia.

Section 3. Approval. The Board of Governors shall consider the application as soon as practicable after it has been submitted. If the Board finds that the applicant meets the requirements of Section 1 above, it shall grant the application and issue a waiver to allow the applicant to practice law before all courts of the State of Alaska. The Board of Governors may delegate the power to the Executive Director of the Bar Association to approve such applications and issue waivers, but the Board shall review all waivers so issued at its regularly scheduled meetings.

Section 4. Conditions. A person granted such permission may practice law only as required in the course of representing military clients or their dependents, or when accepting a case under the auspices of the Alaska Pro Bono Program under this rule, and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association. Such permission shall cease to be effective upon the failure of the person to pass the Alaska Bar examination.

(Added by SCO 345 effective December 18, 1978; amended by SCO 1333 effective January 15, 1999)

Rule 44. Legal Interns.

Section 1. Practice Authorized When. The Integrated Bar Act prohibits the practice of law by anyone not admitted to practice in Alaska. This rule does not authorize an intern to perform any function prohibited by that Act other than those specifically set forth herein.

Section 2. Definition of Legal Intern. A "legal intern" is any person who has on file with the Alaska Bar Association an effective permit issued by the Bar Association through its Executive Director.

Section 3. Eligibility for Intern Permit. Every applicant for an intern permit shall:

(a) File an application in the form prescribed by the Board and produce and file the evidence and documents herein required as proof of eligibility for the permit;

(b) Be a student who:

(1) Is duly enrolled in a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered, or is enrolled in a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school in which he or she is enrolled meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has successfully completed at least one-half of the course work required for a law degree;

(3) Has filed with the application a certificate from the dean or other chief administrative officer of his or her law school, stating that he or she meets the requirements as set forth in subsections (b) (1) and (b) (2); or

(c) Be a law school graduate who:

(1) Has graduated from a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law

school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has never failed a bar examination administered by any state of the United States, or the District of Columbia, or, despite failure, has subsequently passed such a bar examination; and

(3) Has filed with the executive director a certificate from the dean or other chief administrative officer of his or her law school which states that the legal intern applicant meets the requirements set forth in subsection (c) (1), and either

(i) A personal affidavit stating that he or she never failed a bar examination, as set forth in subsection (c) (2), or

(ii) A certificate from the supreme court of the state in which, subsequent to failure, a bar examination was passed.

Section 4. Prior Admission. Any applicant who has been admitted to practice in another jurisdiction must file a certificate of good standing from each jurisdiction in which the applicant is admitted. If not in good standing, the applicant shall submit satisfactory proof that the applicant has never been disbarred, suspended or otherwise disciplined.

Section 5. Act Authorized by Permit.

(a) A legal intern may appear and participate in the proceedings before any district or superior court in this state to the extent permitted by the judge or presiding officer if the attorney representing the client is personally present and able to supervise the intern and has filed an entry of appearance with the court and the office of the Alaska Bar Association substantially in compliance with the form set forth in Section 9 of this rule;

(b) A legal intern may also appear and participate before any district court in small claims proceedings, arraignments, pleas, bail hearings, sentencing, recorded in-chambers conferences without an attorney being personally present to supervise the intern under the following conditions:

(1) If the attorney representing the client has filed an appearance in the case and with the Bar Association substantially in compliance with the form set forth in Section 9 of this rule;

(2) If the supervising attorney files a certificate stating that the intern has previously been supervised in a similar proceeding and the supervising attorney believes the intern is competent to appear in such proceedings without the personal presence of the attorney;

(3) If the client gives written consent to the appearance. A governmental body may grant approval through its attorney; and

(4) If the judge or magistrate agrees to permit the legal intern to participate in the proceedings.

Section 6. Termination of Permit. A permit shall cease to be effective upon the occurrence of one of the following events whichever occurs first:

(a) The expiration of a period of six months from date of issuance;

(b) The failure of an intern to take the first Alaska Bar examination for which the intern is eligible;

(c) The failure of an intern to pass any bar examination.

Section 7. Renewal of Expired Permit. A permit which has expired under Section 6(a) may be renewed upon compliance with the conditions for issuing an original permit, providing there has been no prior revocation of any certificate, authorization or approval required by Section 5 of this rule. No other permit shall be renewed.

Section 8. Prior Certification. All interns certified prior to the effective date of this rule must comply with the provisions of this rule within 30 days of its effective date.

Section 9. Form. The form for entry of appearance under Section 5 of this rule shall be substantially as follows:

COMES NOW, (Name of Attorney), attorney at law, and enters his/her appearance on behalf of (Name of Party). Please service all pleadings and notices at counsel's address of record:

Pursuant to Alaska Bar Rule IV-44, (Name of Intern) hereby enters his/her appearance as a legal intern. Supervising counsel (Name of Attorney), certifies that he/she is supervising (Name of Intern) in all matters relating to this case.

(Name of Attorney), also certifies that (Name of Intern) has been supervised in previous proceedings and that the legal intern is competent to appear alone in the following proceedings: (Name of Intern) is a legal intern within the meaning of Alaska Bar Rule IV-44.

DATED: _____

 SUPERVISING ATTORNEY
 DATED: _____

LEGAL INTERN
 CONSENT

I, (Name of Client),
(Name of Intern) hereby agree that
 may represent me in this
 case under the supervision of (Name of Attorney).

DATED: _____

 CLIENT
 CONSENT

IT IS HEREBY ORDERED that (Name of Intern) may hereby appear in the above entitled case for all proceedings except

DATED: _____

 JUDGE

(Added by Amendment No. 2 to SCO 176 dated June 28, 1974; and amended by Amendment No. 3 to SCO 176 dated September 17, 1974; by Amendment No. 4 to SCO 176; by SCO 342 effective December 18, 1978; by SCO 433 effective November 1, 1980; and by SCO 1153 effective July 15, 1994)

Rule 44.1. Foreign Law Consultants.

(a) Introduction. A person who is admitted to practice in a foreign country as an attorney or counselor at law or the equivalent, and who complies with the provisions of this rule for licensing of foreign law consultants, may provide legal services in the State of Alaska to the extent allowed by this rule.

(b) Eligibility. In its discretion, the court may license to practice as a foreign law consultant, without examination, an applicant who:

(1) for a period of not less than 5 of the 7 years immediately preceding the date of application:

(A) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country, and

(B) has engaged either (i) in the practice of law in that country or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in that country;

(2) be of good moral character, which will be found unless prior or present conduct of the applicant

would cause a reasonable person to believe that the applicant, if admitted to practice as a foreign legal consultant, would be unable or unwilling to act honestly, fairly and with integrity; and

(3) intends to practice as a foreign law consultant in the State of Alaska.

(c) Applications.

(1) An applicant for a license as a foreign law consultant shall file with the Executive Director at the office of the Alaska Bar Association an application, in duplicate, in the form provided by the Board. The application must be made under oath and must contain information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board. Any notice required or permitted to be given an applicant under these rules, if not personally delivered, will be delivered to the mailing address declared on the application unless notice in writing is actually received by the Board declaring a different mailing address. An applicant shall submit two duplicate 2-inch by 3-inch photographs of the applicant showing a front view of the person's head and shoulders. The application is deemed filed only upon receipt of a substantially completed form with payment of all required fees. Applications received without payment of all fees or which are not substantially complete will be promptly returned to the applicant with a notice stating the reasons for rejection and requiring payment of such additional fees as may be fixed by the Board as a condition of reapplication.

(2) The application must be accompanied by the following documents, together with duly authenticated English translations if the documents are not in English:

(A) a certificate from the authority having final jurisdiction over professional discipline in the foreign country or jurisdiction in which the applicant was admitted to practice, which must be signed by a responsible official, or one of the members of the executive body of such authority, and which must be accompanied by the official seal, if any, of the authority, and which must certify:

(i) as to the authority's jurisdiction in such matters,

(ii) as to the applicant's admission to practice in the foreign country, the date of admission and the applicant's good standing as an attorney or counselor at law or the equivalent, and

(iii) as to whether any charge or complaint has ever been filed against the applicant with the author-

ity, and, if so, the substance of each charge or complaint and the adjudication or resolution thereof;

(B) a letter or recommendation from one of the members of the executive body of the authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, together with a certificate from the clerk of the authority, or of the court, attesting to the genuineness of the person's signature;

(C) a letter of recommendation of at least two attorneys or counselors at law or the equivalent admitted in and practicing in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant, and their appraisal of the applicant's moral character; and

(D) other relevant documents or information that may be required by the Court or by the Board.

(3) The statements contained in the application and the supporting documents will be reviewed by the Board who shall report the results of their review with recommendations to the court. Prior to the grant of any license, the court must be satisfied of the good moral character of the applicant.

(4) In considering whether to license the applicant as a foreign law consultant under this rule, the court has discretion to consider whether an attorney in Alaska would be allowed a reasonable and practical opportunity to establish an office to give legal advice to clients in the applicant's country of admission. In order to exercise its discretion, the court must require a reasonable showing that:

(A) an attorney in Alaska actively sought to establish an office in the applicant's country of admission;

(B) the authority in the foreign country, having final jurisdiction over the application process, in subsection (A) denied the attorney in Alaska the opportunity to establish an office in that foreign country; and

(C) the denial in subsection (B) raises questions as to the adequacy of the opportunity for an attorney in Alaska to establish an office in the foreign country.

(d) **Hardship Waiver.** Upon a showing of compliance with the provisions of subsections (b)(1) or (c)(2) of this rule would cause the applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign law consultant, the court may waive the application of such provisions and permit the

applicant to make any other showing as is satisfactory to the court.

(e) **Scope of Practice.** A person licensed as a foreign law consultant under this rule may provide legal services in the State of Alaska, subject to the limitations that the person shall not:

(1) appear for another person as attorney in any court or before any magistrate or other judicial officer in the State of Alaska, or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized by Civil Rule 81(a)(2);

(2) prepare any deed, mortgage, assignment, discharge, lease, agreement, sale or any other instruction affecting title to real estate located in the United States of America;

(3) prepare:

(A) any will or trust instrument affecting the disposition of any property located in the United States of America, and owned by a resident of the United States of America, or

(B) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument concerning the marital relations, rights or duties of a resident of the United States of America, or the custody or care of the children of a resident;

(5) provide professional legal advice on the law of the State of Alaska, any other state or territory of the United States of America, the District of Columbia, the United States or any foreign country other than the country where the consultant is admitted as an attorney or counselor at law or the equivalent, whether provided incident to the preparation of legal instruments or otherwise. If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than where the consultant is admitted as an attorney or counselor at law or equivalent, the foreign law consultant shall consult a attorney, counselor of law or the equivalent in the other jurisdiction on the particular matter, obtain written legal advice and transmit the written advice to the client;

(6) in any way represent that the person is licensed as an attorney or counselor at law in the State of Alaska, or the equivalent in any jurisdiction, unless so licensed; or

(7) use any title other than "foreign law consultant" provided that the person's authorized title and the jurisdiction in the foreign country in which the person

is admitted to practice as an attorney or counselor at law or the equivalent may be used if the title, firm name, and the name of the foreign country are stated together with the title "foreign law consultant."

(f) **Disciplinary Provisions.**

(1) A person licensed to practice as a foreign law consultant under this rule is subject to the jurisdiction of the Alaska Supreme Court, the Disciplinary Board of the Alaska Bar Association, the Rules of Disciplinary Enforcement, and Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association.

(2) A person licensed to practice as a foreign law consultant shall execute and file with the clerk, in the form and manner as the court may prescribe:

(A) a statement that the foreign law consultant has read and will observe the Rules of Disciplinary Enforcement, Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association, and the Code of Professional Responsibility;

(B) an undertaking or appropriate evidence of professional liability insurance, in an amount as the Court may prescribe, to insure the foreign law consultant's proper professional conduct and responsibility;

(C) a signed document stating the foreign law consultant's address within the State of Alaska and designating the clerk of this court as the consultant's agent upon whom process may be served, with the effect as if served personally upon the consultant, in any action or proceeding brought against the consultant arising out of or based upon any legal services rendered or offered to be rendered by the consultant within or to residents of the State of Alaska, if due diligent service cannot be made upon the consultant at the consultant's address; and

(D) a commitment to notify the Court of any resignation or revocation of the foreign law consultant's admission to practice in the foreign country of admission, or of any censure, suspension, or expulsion respecting admission.

(SCO 946 effective January 15, 1989)

PART V. LAWYERS' FUND FOR CLIENT PROTECTION

Rule 45. Definitions.

(a) The "Board" is the Board of Governors of the Alaska Bar Association.

(b) The "Fund" is the Lawyers' Fund for Client Protection of the Alaska Bar Association.

ACCESS TO CIVIL JUSTICE TASK FORCE:

REPORT AND RECOMMENDATIONS

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I. Executive Summary

The past five years has been marked by massive decreases in funding for social and legal services to low and moderate income Alaskans. This change corresponds to a decline in federal funding of programs assisting these individuals nationwide. The need for these services however has not declined. Indeed, it is greater than ever.

In Alaska, as in many states, the effect of these funding cuts created a crisis for groups charged with providing legal and social assistance to the poor and near-poor. The impact on Alaska Legal Services Corporation (Alaska Legal Services), the primary provider of civil legal services to the poor, was particularly profound. As various groups mobilized individually in response, it rapidly became apparent that a joint effort, examining the legal needs of Alaska's low- and moderate-income population and recommending new ways of meeting those needs, would ensure the most comprehensive and effective approach to the problem.

This movement spurred the creation of the Equal Access to Civil Justice Task Force in November 1997. Its mandate was to explore the unmet legal needs of Alaskans and to suggest ways of meeting those needs. The Task Force included representatives from as many parts of the community and state (urban and rural) as possible, including judges, business leaders, members of the private bar, court officials, and legal services providers. The recommendations formulated by the Task Force are directed to Alaska Legal Services, the private bar, the court system, other legal services providers and the state legislature.

This report presents the Task Force's recommendations. It is divided into three sections. First, a summary of the Task Force's prioritized recommendations is set out. Second, a narrative section provides an overview of the work and history of this Task Force, the legal needs of the poor and Alaska's poverty population, and outlines the history of Alaska Legal Services and its funding. The third section contains the various subcommittee findings and Steering Committee/Task Force approved recommendations.

This report contains a request to the Alaska Supreme Court to authorize the formation of an Implementation Task Force to put into place the recommendations set forth here.

II. Summary of Recommendations

The Steering Committee approved and presented to the Task Force approximately 60 specific recommendations. Over the course of a two-day meeting, the Task Force reviewed and prioritized those recommendations. The following list represents only these 22 prioritized recommendations. More detailed explanations of these and all the other recommendations appear in the last section of this report with a list of the findings made by each subcommittee to support the recommendations. (The page cite after the prioritized recommendations refers to the page in the report where the more detailed explanation of the recommendation appears). There is no significance to the order of the prioritized recommendations, i.e. Recommendation A has no greater priority than Recommendation V.

A. The Alaska Supreme Court should establish an "Access to Civil Justice Implementation Task Force" to act upon and put into place the recommendations forwarded by this Task Force.

B. The Alaska Bar Association should develop an Alaska "Modest Means Program" to provide moderate-income Alaskans (those who do not qualify for Alaska Legal Services), access to representation by attorneys who have agreed to charge a reduced hourly rate for their services. [p. 20]

C. A "One-Stop Shopping" customer-oriented intake and referral service for low-income clients with potential legal problems should be established. The service would include the development of a mentoring program for volunteer lawyers and would provide information on alternative dispute resolution and other resources. All resources in this "One-Stop Shopping" service would be available in as many different languages and formats as possible in order to assist the greatest number of people. This service would be available on-line and by an 800 number. [p. 26, 35]

D. By the year 2001, secure significant increased funding for Alaska Legal Services, at a minimum to 1982 levels. Even in 1982, the funding level was only minimally adequate funding for Alaska Legal Services. Updated to 2001 dollars that figure would be \$5,000,000 that should be raised from traditional and new sources. [p. 24-25]

E. Increase rural Alaska Legal Services staff and open an Alaska Legal Services office with attorneys on staff in every community that maintains an Alaska Superior Court. [p. 25]

F. Alaska Legal Services should increase coordination with other service providers, particularly in rural areas where there already may be a network of providers or staff willing and able to establish an affiliation with Alaska Legal Services. [p. 25]

- G. Alaska Legal Services and the Alaska Bar Association should coordinate a request to the American Bar Association regarding law students' externships outside a school's geographical area, to permit law students to come to Alaska (a state with no law school), and work at Alaska Legal Services for the externship period. [p. 26]
- H. The concept of an expanded and liberated (free of Congressional restrictions) Pro Bono Program should be explored.¹ [p. 29]
- I. A Pro Bono Asylum Project should be created to assist immigrants seeking political asylum in the United States. (A free continuing legal education class was held in March 1999, and is scheduled for March 2000 in Anchorage for attorneys willing to take on a pro bono asylum case. In 1999, thirty attorneys out of 40 attending accepted cases. Follow-up meetings are being held bi-weekly to provide mentoring for these attorneys). [p. 22]
- J. A Pro Bono Naturalization Program should be created to work with elderly and disabled immigrants. [p. 22]
- K. The Alaska Pro Bono Program should adopt administrative procedures that would allow for attorneys to assist other pro bono attorneys by doing discrete tasks such as research or motion preparation. [p. 30]
- L. The Alaska Pro Bono Program should develop a mentoring program. (This has already been implemented). [p. 29]
- M. The Alaska Bar Foundation should continue to seek new ways of increasing "Interest On Lawyer Trust Accounts" funding. [p. 30]
- N. The Alaska Bar Association should recommend that the Alaska Supreme Court adopt the American Bar Association's Model Rule 6.1 an aspirational guideline that all attorneys should perform 50 hours of pro bono work per year. [p. 29]
- O. The Alaska Bar Association should especially encourage public sector attorneys to perform pro bono work. [p. 29]
- P. The Alaska Bar Association should provide free continuing legal education classes to pro bono attorneys in poverty law areas, with the condition that the attorneys would then be obligated to take a pro bono case. (This was initiated in

¹ Currently, the Alaska Pro Bono Program operates under the same Congressional case restrictions as Alaska Legal Services. This might soon change as Alaska Legal Services has received oral and written confirmation from the national Legal Services Corporation approving a new plan for the Pro Bono Program which would in effect, sever it from Alaska Legal Services, and thus from the restrictions attached to the receipt of federal monies.

March 1999 with the presentation of two such seminars, one dealing with immigration law and the other with domestic violence). [p. 29, 36]

Q. The University of Alaska (at Anchorage, Fairbanks and Juneau) Paralegal Certificate Program should explore the placement of interns in the programs proposed in Recommendations B and C. [p. 35]

R. Establish a statewide "Alternative Dispute Resolution Steering and Implementation Committee" to evaluate and coordinate statewide alternative dispute resolution needs and make periodic recommendations to the Judicial Council. The committee's scope would include issues raised in this report as well as identifying sources of funding. The membership should include stakeholders listed in this report in addition to people who work in the field of domestic violence, from the community at large, and from the municipal government. [p. 31]

S. Establish a salaried statewide alternative dispute resolution Coordinator position. The person in this position would act as staff to the "Alternative Dispute Resolution Steering and Implementation Committee", and would establish a resource center for alternative dispute resolution materials. [p. 32]

T. Establishment of a "Pro Se Steering and Implementation Committee" which would regularly meet with court staff to discuss and develop pro se assistance. This committee would be court-administered and organized with as broad a membership as possible. This committee would also coordinate with the "One-Stop Shopping" Service described in Recommendation C and with the Pro Se Forms Committee described in Recommendation U. [p. 40]

U. The Alaska court system's existing Forms Committee membership should be modified to include forms users and practitioners. The work of this modified committee should be broadened to include regular review of court forms. The Forms Committee should focus on making the forms available in as many languages and formats as possible. [p. 40]

V. Systemic civil justice, legal and administrative snags should be reviewed and changes made to make the systems and agencies more client oriented. [p. 40]