

# ALASKA STATE SENATE

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**Senator Ralph Seekins**  
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## Senate Bill 146 Sponsor Statement

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**“An Act relating to indemnity agreements between public entities in the state.”**

Senate Bill 146 terminates an expanding practice among state entities of deflecting liability through the use of indemnity (aka “defense” or “hold harmless”) agreements. These agreements alter the liability of contracting parties by shifting one party’s liability to another contracting party.

State agencies are often called upon to work in partnership with one another toward fulfillment of various public purposes. These relationships may involve land use permits, facility sharing, cooperative construction projects and joint public education programs. Of course, just like the private sector, an agreement must be drawn up describing that which each public agency is responsible for accomplishing. In so doing, each agency often calls upon its own legal counsel to draw up the contractual arrangement. These contracts will usually include indemnity language.

The issue addressed by Senate Bill 146 centers on eliminating the use of indemnity language in inter-agency contracts. Proper indemnification typically requires each agency’s respective legal counsel to: (1) study the particulars; (2) negotiate among the parties, and; (3) craft the language intended to hold an agency harmless, all at considerable expense. The irony, of course, is that the cost of any negligent event is ultimately borne by the public *irrespective* of which agency is responsible — indemnified or not. So what public purpose is being served by this practice?

To the extent indemnity language is precluded from contractual agreements between and among state agencies, it is expected that a substantial savings of time and money will be realized. In other words, contractual agreements between agencies of the state — devoid of indemnity language — could be developed and implemented much more efficiently which, ultimately, better serves the public interest.

Senate Bill 146 makes the use of indemnity agreements drawn up between state agencies void and unenforceable. The intended result is to promote a more efficient use of public resources by avoiding superfluous costs associated with drawing up inter-agency contracts.