

Original sponsor: Judiciary Committee

Offered: 5/30/80
Referred: Rules

1 IN THE SENATE

BY THE RULES COMMITTEE

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HOUSE CS FOR SENATE BILL NO. 588 am H

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act continuing the existence of the Board of Govern-
7 ners of the Alaska Bar Association and amending the
8 statutes relating to the practice of law in the state;
9 amending Alaska State Supreme Court Bar Rules 2, 7, and
10 62; and providing for an effective date."

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

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* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to

13

read:

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(2) Board of Governors of the Alaska Bar Association (AS 08.-

15

08.040) - June 30, 1981.

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* Sec. 2. AS 08.08.010 is amended to read:

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Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is

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created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar

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Association, referred to in this chapter as the Alaska Bar. The Alaska

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Bar shall have a common seal, may sue and be sued, and may, for the

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purpose of carrying into effect and promoting the objects of the Alaska

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Bar, enter into contracts and acquire, hold, encumber and dispose of

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real and personal property.

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(b) Except as otherwise provided by this chapter, the Alaska Bar

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is subject to statutory requirements imposed on state agencies including

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but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.310.

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44.62.312 and AS 44.66.

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* Sec. 3. AS 08.08.020 is repealed and re-enacted to read:

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Sec. 08.08.020. MEMBERS. A person licensed to practice law in the

1 state may become a member of the Alaska Bar.

2 * Sec. 4. AS 08.08.040 is amended to read:

3 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There
4 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be
5 elected under bylaws and regulations adopted [PROMULGATED] by the board.

6 (b) The board consists of eight [NINE] active members elected by
7 the active members of the Alaska Bar and three persons who are appointed
8 by the governor and who are not attorneys.

9 * Sec. 5. AS 08.08.050(a) is amended to read:

10 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) Two
11 members of the board shall be elected by and from among the members of
12 the association resident in the first judicial district; four members of
13 the board shall be elected by and from among the members of the associa-
14 tion resident in the third judicial district; two members by and from
15 among the members of the association resident in the combined area of
16 the second and fourth judicial districts. Three members who are not
17 attorneys shall be appointed by the governor and are subject to confir-
18 mation by the legislature in joint session [; AND ONE MEMBER AT LARGE
19 FROM THE ENTIRE STATE].

20 * Sec. 6. AS 08.08.050(b) is amended to read:

21 (b) Members of the Board of Governors shall hold office for three
22 years and until their successors are elected or appointed and qualified.

23 * Sec. 7. AS 08.08.050(c) is repealed and re-enacted to read:

24 (c) Board members shall be selected annually, on the following
25 triennial rotation:

26 (1) in the first year, one member shall be appointed; one
27 member shall be elected from the first judicial district, one member
28 from the combined second and fourth judicial district, and one member
29 from the third judicial district;

1 (2) in the second year, one member shall be appointed; one
2 member shall be elected from the first judicial district, one member
3 from the combined second and fourth judicial district, and one member
4 from the third judicial district;

5 (3) in the third year, one member shall be appointed and two
6 members shall be elected from the third judicial district.

7 * Sec. 8. AS 08.08.060 is amended to read:

8 Sec. 08.08.060. ELECTION OF OFFICERS. The active members of the
9 Alaska Bar [WHO ARE IN ACTUAL ATTENDANCE AT THE ASSOCIATION'S ANNUAL
10 CONVENTION] shall elect by a majority vote [DURING THE CONVENTION] the
11 association's officers from the membership of the Board of Governors.

12 * Sec. 9. AS 08.08.070 is repealed and re-enacted to read:

13 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) The board shall fill
14 a vacancy in the elected membership of the board until the next annual
15 election.

16 (b) The governor shall appoint a member to fill a vacancy in the
17 appointed membership of the board for the unexpired term.

18 * Sec.10. AS 08.08 is amended by adding a new section to read:

19 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312
20 apply to the meetings of the board. Members of the Alaska Bar and the
21 public shall be given 30 days notice of meetings of the board except for
22 emergency meetings dealing with the executive administration of the bar
23 examination. Meetings of the board shall take place in the state.

24 * Sec. 11. AS 08.08.080 is amended to read:

25 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise
26 provided in this chapter or the Alaska Bar Rules, the board may adopt
27 reasonable provisions

28 (1) concerning membership and the classification of member-
29 ship in the Alaska Bar;

1 (2) providing for employees of the Alaska Bar, the time,
2 place and method of their selection, and their respective powers, duties,
3 terms of office, and compensation;

4 (3) concerning annual and special meetings;

5 (4) concerning the establishment, collection, deposit, in-
6 vestment, and disbursement of membership and admission fees, penalties,
7 and all other funds;

8 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL
9 SUBDIVISIONS OF THE ALASKA BAR;]

10 (6) providing for all other matters affecting in any way the
11 organization and functioning of the Alaska Bar;

12 (7) providing for continuing legal education and for certifi-
13 cation of a continuing legal education program;

14 (8) establishing and maintaining a program for the certifica-
15 tion of attorneys as specialists.

16 (b) The board may

17 (1) approve and recommend to the state supreme court [ADDI-
18 TIONAL] rules for promulgation by the court including rules concerning
19 admission, [AND] discipline, licensing and continuing legal education
20 [AND DEFINING THE PRACTICE OF LAW];

21 (2) adopt reasonable bylaws and regulations consistent with
22 this chapter and the Alaska Bar Rules;

23 (3) sue in the name of the Alaska Bar in a court of competent
24 jurisdiction to enjoin a person from doing an act constituting a vio-
25 lation of this chapter;

26 (4) fix the annual membership fee for active, [AND] inactive,
27 and judicial members;

28 (5) recommend to the legislature changes to this chapter and
29 to the provisions of state law generally.

1 * Sec. 12. AS 08.08.085 is amended to read:

2 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of
3 Governors shall report annually to the presiding officers of the legis-
4 lature on all matters concerning admissions, discipline of members, and
5 disbarment proceedings, except for those matters defined as confidential
6 by court rule.

7 (b) The report of the Board of Governors shall note

8 (1) each addition, modification, or repeal of a bylaw or
9 regulation of the Alaska Bar;

10 (2) each addition, modification, or repeal of the Alaska Bar
11 Rules proposed to or adopted by the state supreme court.

12 * Sec. 13. AS 08.08.100 is amended to read:

13 Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT. The bylaws and
14 regulations adopted by the board or the members of the Alaska Bar under
15 this chapter are [NOT] subject to the Administrative Procedure Act
16 (AS 44.62).

17 * Sec. 14. AS 08.08 is amended by adding new sections to read:

18 Sec. 08.08.105. THE PRACTICE OF LAW. (a) A person who is an
19 attorney, or who is not an attorney but who represents himself to be an
20 attorney, and who performs any of the following acts on behalf of another
21 person, with or without compensation, is engaged in the practice of law;

22 (1) appearance in or conduct of litigation or performance of
23 an act in connection with proceedings, pending or prospective, before a
24 court in the state unless otherwise provided by court rule;

25 (2) appearance in or conduct of litigation or performance of
26 an act in connection with proceedings pending or prospective before
27 another body constituted by law to settle controversies;

28 (3) giving counsel as to a person's legal rights or obliga-
29 tions;

1 (4) preparation or procurement of instruments or other papers
2 creating, limiting, claiming, granting, terminating, or otherwise se-
3 curing legal rights; or

4 (5) engaging in an act or other practice determined by the
5 supreme court to constitute the practice of law.

6 (b) A person who is not an attorney and who does not represent
7 himself to be an attorney and who for compensation performs an act
8 described in (a) of this section is engaged in the practice of law
9 unless he performs an act set out in (a)(2) - (5) of this section and
10 the act is performed as part of the regular conduct of business the
11 primary purpose of which is other than the performance of an act set out
12 in (a) of this section and if the act does not consume a majority of the
13 person's work time.

14 (c) The provisions of (b) of this section do not apply to a person
15 working under the direct supervision of an attorney in the course of
16 that employment or to a government employee in the course of his em-
17 ployment.

18 (d) The provisions of (b) of this section do not apply to a person
19 employed by a nonprofit corporation that is engaged in public interest
20 activities during the course of his employment by the nonprofit cor-
21 poration. A nonprofit corporation may be represented in court by an
22 officer or director who is not an attorney, notwithstanding AS 22.20.-
23 040, on a showing to the court that

24 (1) the nonprofit corporation cannot afford the expense of
25 hiring an attorney for the proceeding; and

26 (2) the officer or director is competent to represent the
27 nonprofit corporation before the court.

28 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board
29 of Governors shall administer the bar examination under the Alaska Bar

1 Rules.

2 (b) The Board of Governors may contract with another state or a
3 testing organization for the preparation and grading of a portion of the
4 Alaska Bar examination.

5 (c) The Board of Governors shall contract with persons experienced
6 in the administration of bar examinations for advice on the preparation
7 and grading of the portion of the bar examination prepared under the
8 direction of the board.

9 (d) The Board of Governors shall establish and maintain standards
10 for experience and training of persons who administer the portion of the
11 bar examination prepared under the direction of the board.

12 * Sec. 15. AS 08.08.207(a) is amended to read:

13 (a) Every person who desires subsequently to qualify as a general
14 applicant for admission to the practice of law [ALASKA BAR] without
15 having been graduated from an approved law school shall register as a
16 law clerk as provided by this section. He must be a bona fide resident
17 of the state and shall present satisfactory proof that he has been
18 granted a bachelor's degree (other than bachelor of laws) by a college
19 or university offering the degree on the basis of a four-year course of
20 study and has successfully completed his first year of studies at a law
21 school.

22 * Sec. 16. AS 08.08.210(a) is amended to read:

23 (a) A [NO] person may not engage in the practice of law in the
24 state unless he is licensed to practice law in Alaska [AND IS AN ACTIVE
25 MEMBER OF THE ALASKA BAR]. A member of the bar in good standing in
26 another jurisdiction may appear in the courts of the state under the
27 rules the supreme court may prescribe.

28 * Sec. 17. AS 08.08.210(c)(3) is amended to read:

29 (3) is employed by or under contract to the legislature and

1 whose activities would constitute the practice of law under this chapter
2 [AND UNDER ALASKA BAR RULES], until the results are released of the
3 third Alaska Bar examination following that person's employment.

4 * Sec. 18. AS 08.08.210(d) is amended to read:

5 (d) Employees of the Department of Law whose activities would
6 constitute the practice of law under this chapter [AND UNDER ALASKA BAR
7 RULES] are required to obtain a license to practice law in Alaska, no
8 later than 10 months following the commencement of their employment.

9 * Sec. 19. AS 08.08.230(a) is amended to read:

10 (a) Any person [NOT AN ACTIVE MEMBER OF THE ALASKA BAR AND] not
11 licensed to practice law in Alaska who engages in the practice of law
12 under this chapter or [REPRESENTS HIMSELF AS ENTITLED TO ENGAGE IN THE
13 PRACTICE OF LAW AS THAT TERM IS DEFINED IN THE ALASKA BAR RULES, OR AN
14 ACTIVE MEMBER OF THE ALASKA BAR] who wilfully employs such a person
15 knowing that the [SUCH] person is engaging in the practice of law or
16 representing himself to be entitled to so engage is guilty of a class A
17 misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
18 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

19 * Sec. 20. AS 22.05 is amended by adding new sections to read:

20 ARTICLE 2. ATTORNEYS.

21 Sec. 22.05.180. LICENSE FOR THE PRACTICE OF LAW. (a) The annual
22 fee for a license to engage in the active practice of law in the state
23 is \$25. The annual fee for inactive practice is \$10 and the annual fee
24 for members of the judiciary is \$20. Fees are payable to the clerk of
25 the supreme court. Fees collected by the supreme court under this
26 section shall be deposited in the general fund.

27 (b) The supreme court may define the active and the inactive
28 practice of law for the purposes of (a) of this section.

29 Sec. 22.05.190. REGISTER OF LICENSED ATTORNEYS. (a) The clerk of

1 the supreme court shall maintain a register of attorneys licensed to
2 practice law in the state.

3 (b) The clerk shall suspend the license of an attorney who is
4 delinquent in the payment of his annual fee under rules adopted by the
5 supreme court.

6 (c) The supreme court may adopt by court rule a schedule of
7 penalties for late payments of fees. An attorney suspended under (b) of
8 this section may be readmitted to practice under the rules of the
9 supreme court.

10 * Sec. 21. Alaska State Supreme Court Bar Rule 2, Section 1(b), is
11 amended to read:

12 (b) Be a graduate of a law school which was accredited or approved
13 by the council of legal education of the American Bar Association or the
14 Association of American Law Schools when the applicant entered or
15 graduated or submit proof that the law course required for graduation
16 from such a law school will be completed and that a degree will be
17 received as a matter of course before the date of examination. An ap-
18 plicant who has not graduated from a law school accredited under this
19 section who has been licensed to practice law in one or more jurisdic-
20 tions in the United States for five years since his admission is eli-
21 gible to take the bar examination. Graduates of law schools in which
22 the principles of English common law are taught but which are located
23 outside the United States and beyond the jurisdiction of the American
24 Bar Association and the Association of American Law Schools, may qualify
25 for examination upon proof that the foreign law school from which they
26 graduated meets the American Bar Association Council of Legal Education
27 Standards for approval;

28 * Sec. 22: Alaska State Supreme Court Bar Rule 7, Section 1, is amended
29 to read:

1 Section 1. An applicant who has been denied an examination permit
2 or who has been denied certification to the Supreme Court for admission
3 to practice shall have the right within thirty days after notice of such
4 denial to file with the Board a written verified statement of appeal.
5 Failure timely to file an appeal statement shall constitute waiver of
6 appeal rights. In his statement an applicant shall state all grounds
7 upon which he intends to rely and may:

8 (a) object to the form of notice from which such appeal is taken
9 on the ground that it is so indefinite or uncertain that he cannot
10 reasonably prepare his statement;

11 (b) present new matter on which he relies to establish his eli-
12 gibility for admission to practice.

13 An applicant who is denied an examination permit or who is denied
14 certification shall allege facts which, if true, would establish an
15 abuse of discretion or improper conduct on the part of the Board, the
16 Executive Director, the Committee or a master. If the allegation in the
17 verified statement is [ARE] found to be sufficient by the Board, a
18 hearing shall be granted. A hearing shall be granted to an applicant
19 denied certification if his score on the bar examination is within five
20 points of the passing grade of the bar examination.

21 * Sec. 23. AS 08.03.010(b)(11); AS 08.08.090, 08.08.210(b), 08.08.220,
22 and 08.08.250 are repealed.

23 * Sec. 24. The provisions of AS 08.08.050 as amended by secs. 5 - 7 of
24 this Act that relate to the election of the members of the Board of Governors
25 of the Alaska Bar take effect at the first regular election of members of the
26 Board of Governors held after January 1, 1981. The term of the member of the
27 Board of Governors elected at large at the election held during 1980 ter-
28 minates on the appointment by the governor and qualification of the three
29 non-attorney members of the Board of Governors under AS 08.08.050(a) as

1 enacted in sec. 4 of this Act.

2 * Sec. 25. The governor shall appoint non-attorney members to the Board
3 of Governors for the following initial terms: one member for a three-year
4 term; one member for a two-year term; and one member for a one-year term.

5 * Sec. 26. Section 3 of Alaska Supreme Court Bar Rule 2 is repealed.
6 Section 7 of Alaska Supreme Court Bar Rule 3 is repealed.

7 * Sec. 27. Section 21 of this Act amends Alaska Supreme Court Bar Rule 2.
8 Section 22 of this Act amends Alaska Supreme Court Bar Rule 7.

9 * Sec. 28. Section 13 of this Act has the effect of changing Alaska
10 Supreme Court Bar Rule 62 by requiring the Board of Governors of the Alaska
11 Bar to adopt bylaws and regulations under the Administrative Procedures Act
12 (AS 44.62) and not under Bar Rule 62.

13 * Sec. 29. AS 39.50.200 is amended by adding a new subparagraph to read:
14 (SS) The Board of Governors of the Alaska Bar Association.

15 * Sec. 30. This Act takes effect June 30, 1980.
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