

1979

FREE CONFERENCE COMMITTEES 1979

LIST OF FILES (PAGE 1)

HB 66

FREE CONFERENCE COMMITTEE GENERAL FILE (FREE CONFERENCE
ON SUNSET OF HEALTH BOARDS)

HB 446

SB 240

SB 242 - FILE NO. 1

SB 242 - FILE NO. 2

SB 243 - FILE NO. 1

SB 243 - FILE NO. 2

SB 244 - FILE NO. 1

SB 244 - FILE NO. 2

SB 245 - FILE NO. 1

SB 245 - FILE NO. 2

SB 246 - FILE NO. 1

SB 246 - FILE NO. 2

SB 247

SB 248 - FILE NO. 1

SB 248 - FILE NO. 2

SB 947

HB

66

April 5, 1979

RE: FCC CSHB 66

Section 23

Eligible veterans are entitled to a discount of up to a maximum of 75% on the purchase price, which amounts to 5% per year of residency or \$37,500 whichever is less. There is no such discount under current law, *however,*

Section 25 *refers to the*
Definition *of a* eligible veteran. (See attached zerox copy)
Blocked off in red

Section 28 & 29

The Veterans Preference Law does not apply to land sold under this bill, such as priority for first selection.

Size of Land lots:

Residential: not less than 2 acres and not larger than 5 acres.

Agricultural: not less than 20 acres and not larger than 320 acres.

Conditions:

The land may not be sold or subdivided for a period of 10 years from the time of signing the contract. The department of natural resources is authorized to conduct "in-house" appraisals.

(g) After receiving the deposit required under (a) of this section, the director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price of the land and the terms of sale. The receipt shall be acknowledged in writing by the purchaser. A contract of sale shall be executed in the same form and manner as required under § 55 of this chapter.

(h) An aggrieved lottery participant may appeal to the commissioner within five days after the lottery is conducted for a review of the lottery procedures.

(i) The director may include in contracts for sale of land under this section terms which

(1) require purchasers to use or occupy, or both, the land purchased for a reasonable period of time after a sale;

(2) prohibit the resale of land purchased by the initial purchaser until the requirements imposed under (1) of this subsection, if any, are satisfied. (§ 4 ch 176 SLA 1978)

Effective date. — Section 6, ch. 176, SLA 1978, makes this section effective July 18, 1978, in accordance with AS 01.10.070(c).

Sec. 38.05.058. Land discount program. (a) The director shall grant to eligible persons a discount on the purchase price of land sold for residential use under this chapter at the rate of five per cent of the purchase price of the land purchased for each full year that the purchaser is a resident of the state. A discount granted under this section may not exceed 50 per cent of the total purchase price of the land or a value of \$25,000, whichever amount is less. A discount may be used by an eligible veteran to purchase land offered at a restricted sale under § 67 of this chapter.

(b) To be eligible for a discounted purchase price under (a) of this section, a person shall

- (1) have been physically present in the state for the 12-month period before the sale except for brief intervals, military service, attendance at an educational or training institution or for absence for good cause;
- (2) maintain a place of residence in the state;
- (3) be registered to vote in the state;
- (4) not have claimed residence in any other state for any purpose during the 12-month period immediately before the sale;
- (5) show by all attending circumstances that his intent is to make Alaska his continuous residence; and
- (6) have attained the age of 18 at the date of sale.

(c) A person seeking to establish eligibility for a discount under this section shall present proof meeting the criteria set out in (b) of this section to the director. A person who submits information to the director under this section knowing it to be false is guilty of a felony and, upon

conviction, is or by a fine of

(d) A person who purchases land under this section in state land. A road development determined by cases, a cash land shall be

(e) The provisions of

Effective date SLA 1978.

Sec. 38.05.065. land sold at a price to be paid in a period of 10 years or more by annual level-payment

(b) The cost of the remainder of the annual installment payments plus interest rate on similar land determined by a year or above

(c) The director for each sale purchase price commissioner conditions, in proper to provisions of this chapter to appropriate to specific provisions in accordance with AS 5 ch 17

Effect of an amendment, of rewrote this section

SECTIONAL ANALYSIS OF FCC CSHB 66

Section 1. Technical amendment; see sections 6 and 7.

Section 2. Provides that the following municipalities must select land to satisfy their municipal land entitlements before the date set out after each:

- 1) unified municipalities, organized boroughs and cities - October 1, 1980.
- 2) new municipalities - 1 year after certification of entitlement.

This section also provides that a portion of an entitlement may be selected after the deadline if the entitlement cannot be satisfied because of a shortage of vacant unappropriated and unreserved land suitable for residential, industrial or commercial use, because the land selected has not been tentatively approved for patent to the state, or because the land has been selected by a party who is also entitled to select the land.

Section 3. The Director of the Division of Lands is required to approve selections within 9 months of selection and convey patent to lands selected by the municipality not later than 3 months after the survey plat is approved.

Sections 4 and 5. Makes certain amendments which are necessary to remove references to AS 29.18.205(g) (joint consideration provision) which is repealed in section 49 of this bill.

Section 6. The state must comply with municipal subdivision regulations except that the platting board may not disapprove the plat or require the state to build roads or capital improvements.

Section 7. Preliminary plats for state subdivisions must be submitted to the local platting authority at least 60 days before they are filed by the Commissioner of Natural Resources.

Sections 8, 9 and 10. Second class boroughs may establish service areas by ordinance for vacant, unappropriated and unreserved municipal land. Second class boroughs may establish service areas by ordinance for vacant, unappropriated, unreserved state land with the concurrence of the Commissioner of the Department of Natural Resources. Second class boroughs may provide those services necessary to develop state or municipal land in compliance with local planning and platting ordinances. Surplus money received from a disposal of land in a service area returns to the borough.

Section 11.

a) Establishes the land disposal bank which, must contain by July 1, 1979, 250,000 acres of state land classified for the following purposes:

1. remote cabin sites;
2. residential/recreational;
3. commercial; and
4. Industrial

b) By January 1, 1981 the land disposal bank must contain at least 500,000 acres of state land classified for the above purposes.

c) After January 1, 1981 the land disposal banks must always contain at least 500,000 acres of state land.

d. The Commissioner must withdraw land from the disposal bank located outside a municipality which has been offered for disposal but not conveyed within 5 years after inclusion in the land disposal bank.

e. Three alternative financing requests for the disposal for state land in the land disposal bank are to be submitted each fiscal year along with the governor's budget. At least 100,000 acres must be offered each year.

f. Any person or municipality may make nominations of land to be included in the land disposal bank. The Commissioner of the Department of Natural Resources must make a written reply if he decides not to place the nominated lands in the land disposal bank. Nomination hearings are to be held semi-annually.

Section 12. Technical amendment.

Section 13. CLASSIFICATION AND SALE OF STATE LAND IN MUNICIPALITIES

a) Notwithstanding AS 18.04, by September 1, 1980, the Commissioner of Natural Resources is required to classify all state land located in municipalities which he determines is best suited for the following purposes:

1. Designation by the legislature as a state park, recreation area, game refuge, sanctuary, or fish and game critical habitat area;
2. Designation by the Governor as a state monument or historic site;
3. Designation by the Commissioner of Natural Resources and Commissioner of the Department of Transportation and Public Facilities as wilderness trails, campsite, road side rests and recreational beaches;

4. Designation by the Commissioner of Natural Resources as trails and foot paths;
5. Remote parcels and remote cabins;
6. Agricultural;
7. Commercial;
8. Timber and commercial quantities;
9. Grazing;
10. Greenbelts;
11. Industrial;
12. Materials;
13. Minerals including oil and gas;
14. Public recreation;
15. Watersheds;
16. Wildlife habitat;
17. Easements for public facilities utilities and pipelines for the transportation of oil and gas;
18. Airstrips and transportation facilities

b) State land which has not been classified for one of the purposes specified above or which has not been nominated for selection or selected by a municipality is available for disposal under the terms outlined in Section E.

c) Before September 1, 1979 the Commissioner must identify land located in a municipality suitable for classification for the purposes established above. State land not identified for those purposes is available after September 1, 1979 for residential disposal. The land available for disposal is to be divided into surveyed districts.

d) Land located within the survey district "suitable for residential use" shall be subdivided and surveyed into

parcels which may not exceed 5 acres. The Commissioner will first survey those districts which contain land which may be developed immediately for residential use at the least cost to the state and potential purchasers. Land which is unsuitable for residential use will not be surveyed. The Commissioner must justify that decision with a written finding which includes reasons for the determination. The findings shall be filed in the Office of the Commissioner and in the appropriate district offices.

e) After subdivision plat is recorded, the land surveyed in the survey district shall be sold as follows:

1. 80% of the parcels sold by lottery (38.05.057; 38.05.065)
2. 10% under the homesite program (38.06)
3. an additional 10% under the homesite program except that if more than one eligible person applies for the same homesite, the winner is determined by lottery.

f) State selections made after the effective date of this act shall be classified within 2 years in accordance with above procedures.

Section 14. Technical amendment.

Section 15. This section rewrites subsection a. of the lottery law (38.05.057). The purchase price of land sold by lottery shall be the fair market value (no change) as determined by

the Commissioner, but may not be less than \$400 per acre, or \$100 per acre if the land is for agricultural purposes only (new). The Commissioner may sell land by lottery for less than fair market value if he determines a scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values (no change). Before the Commissioner determines the purchase price he must consult with the assessor of the municipality (new). Each successful lottery applicant must, at the time of signing the contract, deposit 5% of the purchase price (no change). If residency discounts are used, he must deposit 5% of the discounted purchase price (new).

Section 16. Changes residency eligibility for lottery sales from 3 years to 1 year.

Section 17. Technical amendment.

Section 18. Lottery application fees have been increased from \$10 to \$25.

Section 19. Lottery application period is increased from a minimum of 30 days to 45 days.

Section 20. Notice of the application period and date of lottery is given in accordance with AS 35.05.34 (the general land disposal notice statute).

Section 21. Adds a new section to lottery statute. No lottery is required if only one application for a parcel is received. If no applications are received, or if a purchaser fails to sign a contract or pay the deposit within the required time, the parcel shall be offered to the first eligible person under the same terms and conditions as originally offered.

Section 22. Technical amendment.

Section 23. Residency discounts may be used for any land sold which is classified for a "use other than commercial or industrial" (law now says: "residential"). Eligible veterans are entitled to a discount of up to 75% off (5% per year of residency) the purchase price or \$37,500 whichever is less (no such discount under current law; residents only get up to 50% or \$25,000 whichever is less; 5% per year of residency).

Section 24. Provides that the cash down payment of 5% may be taken off the discounted purchase price of the land (now the down payment is taken off the top).

Section 25. Defines eligible veteran.

Section 26. Sets the interest rate for auction sales as the prevailing rate for real estate mortgage loans made by the federal land banks for the farm credit districts for Alaska at the time the contract is signed (law now says: no less than 5%).

Section 27. Sets the interest rate for lottery sales as prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska. (law now says: no less than 5%; no more than usury rate).

Section 28 and 29. The Veterans Preference Law does not apply to land sold under this bill.

Section 30. Agricultural land sold under 38.05.069 may not be less than 20 acres nor more than 320 acres (no minimum under current law). Agriculture land acquired under this section must be used for agricultural purposes (no minimum under current law).

Section 31. CLASSIFICATION AND DISPOSAL OF REMOTE PARCELS

- a) Allows the Commissioner of the Department of Natural Resources to classify and sell land in remote areas to eligible persons. A remote parcel may not exceed 40 acres. The Commissioner determines within each remote parcel selected, the amount of land that may be used for "residential purposes." Land that may be used for residential purposes may not be less than 2 acres nor exceed 5 acres.
- b) The Commissioner is authorized to prescribe parcel selection procedures in accordance with this section.
- c) Remote parcels are sold by lottery.
- d) Within 15 days after staking a parcel, the applicant must file a sketch plat with the Department and apply to lease the land. The lease granted under this section will be for 7 years with an option to renew for a second 5 year term. The annual rental is \$150 a year for the first 5 acres plus an additional \$50 for each additional acre staked.
- e) The remote parcel may not be assigned, conveyed or otherwise transferred but may be inherited.
- f) After revocation or termination of the lease, improvements remaining must be managed in accordance with 18.05.090.

Section 32. PURCHASE OF LAND IN A REMOTE PARCEL:

a) Land in a remote parcel leased for "residential purposes" (2 to 5 acres) may be purchased if the lessee, prior to expiration of the lease, surveys the land and erects a "habitable dwelling" on that land.

b) The lessee may also purchase land in excess of the land used for "residential purposes" if he complies with (a) above, surveys the additional land, and constructs permanent improvements (airstrips, buildings, etc.) on that land.

c) The purchase price shall be the fair market value at the time the survey and plat is approved by the Commissioner.

d) Terms for payment are specified on 38.05.065(b). (5% down; 20 years to pay). The land may not be leased, sold or otherwise conveyed before 10 years after the date the contract sale is signed. The land may not be subdivided for 10 years after contract is signed.

e) If the purchaser fails to comply with the conditions, the contract is void.

REMOTE CABIN PERMITS

a) After September 1, 1980 the Commissioner may issue a permit for a cabin on remote state land if its classified under 38.05.047(4)(3)(b). The permit may not be less than 25 years.

b) After September 1, 1981, the Commissioner may issue a permit for a remote cabin on state land in the unorganized borough if the land is classified under AS 38.05.300 and 305.

c) The fee is \$100. The permit will be terminated before expiration of the term if permittee doesn't comply with conditions of the permit. After termination of the permit, improvements are managed in accordance with 38.05.090.

d) If the land subject to a remote cabin permit is offered for sale or long term lease the permittee gets first choice. The land is sold for fair market value.

SENIOR CITIZENS EXEMPTION: Rural property occupied as a permanent place of abode by resident 65 years of age or over and leased by that resident from the state is exempt from the payment of an annual lease rent.

Section 33. The Commissioner shall classify for surface use lands and areas where he considers it necessary and proper. No land except by act of the State Legislature, may be closed to multiple purpose use if the area involved is over 640 acres (minor changes to current law).

Section 34. Not later than February 1 of each year, Commissioner must submit a written report to each house of the Legislature which describes classifications of state land made during the preceding year.

Section 35. This section requires notice of classifications and disposals to village corporations and unincorporated communities in the unorganized borough with 25 or more permanent residents

located within the vicinity of the land (now law only requires notice to municipalities and regional corporations).

Section 36. Before land may be sold or leased in the unorganized, borough the Commissioner must consider and mitigate the adverse effects on traditional uses by residents in the vicinity of the land to be disposed.

Section 37 and 38. The Department is authorized to conduct "in-house" appraisals.

Section 39. Notice of the auction sales must be published once a week for 4 (law now says: 3) weeks prior to the auction in newspapers of general circulation in the state and by the electronic media covering the regions of the state in which it is located (provision adds electronic media). If there is no newspaper of general circulation, notices must be posted not later than 4 (law now says: 3) weeks before the public auction in 3 public places near the land to be sold. The auction may not be less than 45 days after publication of the first notice or later than 5 weeks following the last appearance of the public notice. (no change)

Section 40. Notice of the lottery sales and homesite disposals are to be published in newspapers of general circulation and by the electronic media covering the region of the state in which the land is located at least once a week for 4 consecutive weeks before the beginning of the application period. If there is no newspaper of general circulation in the vicinity of the land, notice shall be posted not later than 4 weeks before the land is offered in 3 public places near the land.

Section 41. Notice of homestead availability is published in accordance with Section 37 above.

Section 42. Homestead permittees must occupy the land for 35 months out of 5 years (months of 3 years; 5 months of 3 years if a 20 year resident). (current law now says 2)

Section 43. Municipalities may not select land subject to an amended lease under Sec. 12, Ch. 138, SLA 1977, as amended by Sec. 2, Ch. 182, SLA 1978, until the expiration of the lease or until January 1, 1981 whichever is earlier.

Section 44. A person who uses a cabin or shelter on remote state land is entitled to receive a permit to use that land for a remote cabin or shelter if:

1. he applies in writing before Sept. 1, 1980;
2. the cabin was constructed by him or his ancestor before Jan. 1, 1979; and
3. he is the primary user of the cabin

REPEALERS

Section 45.

1. 29.18.20) c - g; g - i; 29.18.207(a)(b); 29.18.213(1) - relating to the repeal of joint consideration provisions in the municipal entitlements law. (see sections 2 - 5)

2. AS 29.33.090(d) - This section provides that no homestead permits may be issued until a local assembly has restricted use of state land found suitable for homestead entry.

3. 38.08.010(c). No land may be classified for homesite entry which:

- a) would threaten fish regeneration
- b) lacks water
- c) is unsuitable for onsite sewage disposal, if no other methods are feasible

4. 38.08.070. No state land may be classified for homesite entry unless studied and jointly approved by state and municipality.

5. 38.08.080. Within municipalities, homesites can only be offered on land zoned for residential use only. Outside municipalities, Division of Lands must restrict use of land to residential purposes.

6. 38.05.325. Homestead entry authorization.

FREE CONFERENCE
COMMITTEE GENERAL
FILE. (FREE CONFERENCE
ON SUNSET
OF HEALTH BOARDS)

FREE CONFERENCE COMMITTEES ON

- FCCS HB 446 Psychology Board
240 Medical Board
244 Pharmacy Board
245 Dispensing Opticians
248 Physical Therapy
242 Chiropractic Examiners
246 Dental Board
243 Optometry Board
247 Veterinary Examiners

including "General File" materials, minutes of meetings, tapes of meetings

MAY 29, 1980

FINAL FREE CONFERENCE COMMITTEE MEETING

8:30am

AGENDA

no suorem

1. Extension of the Medical Board
2. Housekeeping bill
3. Complaint Processing
4. Revision of the sunset process

WORK ORDER REQUEST FORM

NS 8581

KEYWORDS: Sunset

ASSIGNED TO Walker

REQUEST FOR: BILL RESOLUTION RESEARCH OTHER

SUBJECT Legislative Oversight

REQUESTED FOR House Rules Committee B. Margo Waring EXT. _____

* DELIVER TO Margo/ Senator Sturgulevski TAKEN BY Walker

INSTRUCTIONS, EXPLANATIONS Note (1) this is a duplicate of WO 8582 prepared for

the Senate.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH _____

RETURN _____

TO REQUESTER

APPROVED: BCR Director, Legal Services

Director, Research

REVIEWED _____

IN 5/17 DUE inero 5/19

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROO READER

Sponsor: Rules Committee by request

DRAFT

FINAL

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Nº 8582

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IN 5/17 DUE Intro 5/19

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TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

DRAFT

FINAL

SENATOR
ARLISS STURGULEWICKI

COMMITTEES
CHAIRMAN
Community & Regional Affairs

VICE-CHAIRMAN
Commerce

Health & Social Services



Senate

2987 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-8712

FREE CONFERENCE ON SUNSET (HEALTH BOARDS)

AGENDA

Time & Place: Thursday, March 20 at 8:30 a.m. in Beltz Rm. (Rm. 211 Cap.)

Topics:

1. Status report on practice acts: all are at Legal Services except Nursing, Veterinarians, Psychology & Medical
2. Status report on complaint processing--memorandum 3/11/80 of Waring to Griggs & Burke
3. Decision regarding revision of the sunset process--memo of 3/8/80 of Waring to Malone & Sturgulewski
4. Discussion of the "pre-screening" concept.

Alaska State Legislature



Senate

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN
Community & Regional Affairs

VICE-CHAIRMAN
Commerce

Health & Social Services

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3712

Free Conference on Sunset (Health Boards)

STATUS REPORT

The Co-Chairs of the Sunset Free Conference on the Health Boards have met several times to discuss mutual concerns and to identify an approach acceptable to the position taken by the Senate and the position taken by the House. From those meetings and discussions by each chair with members of their committees and houses, a series of issues were identified as free conference concerns:

1. changes in practice acts
2. improvement of the complaint processing system
3. consideration of changes in the sunset process

1. Representative Malone and Senator Sturgulewski spoke with Senator Hackney regarding changes in practice acts to be heard by the Senate HESS Committee. Staff developed a list of changes which would be introduced into all the practice acts. These are now in Legal Services. It should be noted, however, that two practice acts, Nursing and Veterinarians, are on the House side in HESS. A list of the items for inclusion as minimum changes in the practice acts is attached. (Attachment A)

2. Regarding complaint processing, the item clearly identified as one of the most significant to the public and of concern to the chairs, has been approached as a matter not of statutory change but as an administrative change. A memorandum concerning this matter is attached. (Attachment B)

3. It appears that the first round of sunset reviews has called into question the sunset process itself. The Free Conference may consider and will discuss changes in the sunset process. At the direction of the co-chairs, staff prepared a memorandum on this subject. (Attachment C)

4. Pre-screening was seen as a way of systematizing the inclusion of new professions in the licensing system. Legal Services has been requested to draft legislation which will describe a pre-screening process. The drafting request is attached as Attachment D.

Attachment A

List of items for consideration in revision of health professions practice acts.

- a. Board membership and composition
 - 1 lay member for 5 person board
 - 2 lay members for 7 person board
 - limitation of membership to 2 consecutive 4-year terms
- b. Fee schedule revision
 - fee should be increased
 - work toward a two tier system, one higher fee for owner/operator/supervisor types and a lower fee for the supervised.
- c. Board effectiveness
 - Include in the AS 08 for DOL an assignment of responsibility for board orientation and development.
- d. Umbrella
 - Give instructions to Legal Services to check for inconsistencies, for unconstitutional provisions, either in restraint of trade or whatever. Eliminate all references to "good character," "professional conduct," etc., unless this behavior is defined.
 - Make sure that out-of-state licensees who have been credentialed through a process and by standards equivalent to Alaska is licensed by endorsement
 - Eliminate standards which protect the economic interest of the occupational group or reducing information flow or by restricting competition.
 - Change license renewal provisions: a license should be good for a longer period of time, renewed less frequently, but should be renewable only upon proof to the board of continued competency.
 - Boards should promulgate regulations for the determination of continued competency.
- e. Licensing violations: make sure that each board may revoke, suspend, or take any other disciplinary action necessary to correct any incompetency determined by the board.
- f. Recruitment: Add to AS 08 for DOL a board membership recruitment obligation: DOL shall annually solicit through public advertisement professional and lay members for the boards; the advertisements shall explain the function of the boards in protecting the public interest and persons should be encouraged to submit resumes and letters of interest. DOL shall interview potential board members as convenient. New board members will be selected by the Governor from that pool of candidates.
- g. Board removal
 - Under the section regarding removal of board members, make sure that each practice act specifies that board members may be removed for unexcused absences, judgment in a hearing of a license violation, conflict of interest or anything else detrimental to the public interest served by the board.

February 25, 1980

TO: Health and Allied Health Professions Board Members

FROM: Senator Arliss Sturgulewski^(al)
Representative Hugh Malone *H.M.*
Co-Chair of the Free Conference Committee on Sunset

We would like to acknowledge and thank you for your patience regarding the outcome of the sunset process as it has effected your board. We also recognize that many of you have concerns about the direction that our Free Conference may take. The purpose of this letter is to let you know what has been happening and what you can expect to have happen in the near future.

As we are sure you are aware, there were several significant differences between the positions of the House and of the Senate on the sunsets of the health professions' boards. These differences had important implications for practice act changes. Both the co-chairs of the Free Conference felt that board members and other interested parties would have a greater opportunity for input on practice act changes through the regular committee process. Therefore, we have agreed that the Senate Health and Social Services Committee, chaired by Senator Glen Hackney, will introduce and hold hearings on practice act changes. Senator Hackney anticipates reporting practice act bills out of his committee by the first of April, for action on the Senate floor. From there, bills will be sent to the House for appropriate referral. At that point the Free Conference will convene and consider such items as extensions and extension schedules and any remaining business appropriate to the Free Conference.

We urge you to participate in the practice act revision process through the Senate Health and Social Services Committee. Your experience and insight will be invaluable.

March 11, 1980

TO: Ann Griggs, Director
Division of Occupational Licensing

Susan Burke
Assistant Attorney General

FROM: Margo W. Karing
Assistant to Senator Sturgulewski

On March 11, 1980 I met with Ann Griggs to discuss my memorandum of February 29, 1980 regarding the processing of complaints. During that meeting, Ms. Griggs stated that the Division of Occupational Licensing is working in a direction concerning complaint processing substantially similar to the process as outlined by Ms. Burke in the memorandum of February 29. The Division of Occupational Licensing is in the process of drafting a procedures manual that will define that process and has already instituted appropriate forms and logging mechanisms.

To facilitate the development of an identifiable process, perhaps it would be helpful if all of us could sit down and discuss this matter together. I would suggest that Mrs. Griggs make available to Ms. Burke and myself the following: a revision of the draft procedures manual that conforms to the process as stated in the February 29 memorandum, with notations of differences, and a flow chart that illustrates those procedures, with decision points marked and complaintant communication points identified. Further, for each of those decision points, it would be helpful if we had some preliminary set of decision standards available for discussion.

Perhaps we could meet at Ms. Griggs' office at 10:00 a.m. on ~~March 21~~ ^{April 1.}
As you know, solution of the complaint processing problem is of considerable concern to the committee. On behalf of the co-chairs of the Free Conference on Sunset, I want to thank both of you for your time and attention to this matter.

cc: Senator Sturgulewski
Representative Malone



Official Business

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

ATTACHMENT C

March 8, 1980

TO: Senator Arliss Sturgulewski
Representative Hugh Malone

FROM: Margo W. Karing & Paul Quesnel

RE: Sunset Free Conference Committee

Our previous memorandum on this subject (Feb. 29, 1980) conveyed to you the options and recommendations of Gerald Wilkerson, Legislative Audit. In this memorandum, we would like to present a fuller discussion of the issue of revision of the sunset process.

To establish a context for decisions about sunset revisions, a restatement of the policy approach of the sunset legislation may be appropriate. The significant difference between sunset and previously existing audit and review laws (as embodied in AS 24.20, Legislative Budget and Audit and AS 37.07 Executive Budget Act) is the provision for automatic termination of programs and agencies unless positive joint legislative action is taken. The philosophic assumption informing this approach is that needless government regulation over the private lives of individuals exists that creates a costly and needless burden. Hence, only positive action would save these agencies from automatic extinction. This bias of "guilty til proved innocent" is the key distinction between traditional audit and review mechanisms and the mechanism available in the sunset process.

Alaska's experience with sunset has not been atypical: few agencies have been allowed to terminate. A great deal of time, energy, and money has gone into reviewing boards and determining both their effectiveness and the adequacy of their enabling legislation. However, apparently, few legislators have felt a deep commitment to sunset, and several standing committees have found their time overwhelmed by the demands of the sunset process.

It is within this context that our instructions were given: to review the sunset process with a goal of a revision which would focus on those agencies/boards which require review, free regular committees from the burden of so tight a schedule, yet maintain the sunset process.

While the instructions are clear, the criteria used for judging any particular option are stringent: any number of alternatives would achieve the first two criteria; very few will meet the added criterion of

maintaining a process in which agencies/boards are automatically terminated unless positive action is taken by the legislature.

Discussion of Alternatives

1. The first alternative is the one suggested by Mr. Wilkerson (memorandum of February 29, 1980) in which legislators annually target agencies for sunset. While this option preserves the appearance of the existing sunset process, it should be noted that the power to annually target agencies/boards for sunset already exists under AS 24.20.271 relating to legislative audit. Passage of legislation which would enact this option would essentially duplicate existing authorities. Nothing more would be achieved than would be achieved by the simple repeal of sunset. Additionally, since bills would need to be signed by the Governor, possible veto could endanger this approach.

2. As mentioned in the memorandum of February 29, 1980, stretching out the existing schedule would meet the three criteria we were given, with the exception of focussing on agencies "in need" of sunset review. Even so, this option merits further discussion, as its implementation could be within the function of the Free Conference Committee itself. Legislative Legal Services informs us that the original intention behind placing the health boards in one group for sunset review was to achieve certain efficiencies in approach and to provide for coordination in review, so that consolidations, cross references and other inter-disciplinary approaches could be undertaken by the legislature. However, the Free Conference could elect to extend the life of the health boards by varying lengths. For example, while the Psychology Board might be extended for one year, the Board of Nursing could be extended for six or eight years, effectively staggering reviews over a longer time period. Such action would achieve all three objectives: more frequent attention on those boards "in need" of review, less work for the standing committees, and retention of the sunset process.

3. If greater attention is paid to the concept of "less work" than to the other criteria, other options suggest themselves.

a) The sunset legislation allows for joint hearings on the agencies/boards. If joint hearings were held, less total legislative time would be spent; it would be easier for board members to participate, and the whole process would be less expensive. These benefits would be increased if boards were extended for greater periods of time, as suggested in 2 above.

b) Most states, in their sunset legislation, review only licensing/regulatory boards. If the Sunset Act were amended to eliminate the program agencies, then the work load would be reduced. In support of this concept, it should be remembered that program agencies can and are routinely reviewed and audited, that the executive budget process performs similar performance reviews and that the perceived burden of government regulation on the lives of citizens comes substantially from the public interest efforts of licensing and regulatory boards. Hence, if program agencies were to be removed from the sunset list, all three criteria would be observed, without great loss, as program agencies can and are routinely reviewed under traditional mechanisms.

Either or both of the options mentioned in 3(a) and (b) can be supported by the following argument. During the first cycle of sunset reviews, a great deal has been learned regarding the conduct of the process. In 1983, when the boards would again be sunsetted, review criteria will be easier to establish, the organization and scheduling of hearings should be easier, and, perhaps most significantly, there should be less to review as most of the boards will have undergone considerable revision of their practice acts.

4. There is a fourth alternative which would also meet the criteria given to us. This option does not necessarily involve changes in the sunset process or in the scheduling of boards for review. Instead, the legislature itself could establish an alternative process for the sunset reviews. A standing Sunset Committee (perhaps a Joint Committee) would be established. Staff would be hired for this committee. In favor of this option are several efficiencies of effort. Although the same time and money would be spent as now, those efforts and funds could be more efficiently used. Staff would develop an expertise in the sunset process, hearings could be held over the interim, deadlines would be more easily met, and the public could be educated regarding the public interest goals of the boards, thus encouraging greater public participation in the sunset hearings. The theoretical loss involved in this option would be the expertise of existing standing committees.

This option could be combined with those detailed in 3(a) and (b) above.

After this memorandum was written, we received a copy of the "House Commerce Committee Interim Report, Sunset in Alaska, 1979-1980." On page 32 of that document a recommendation is made to establish a permanent committee on sunset. A copy of that page is attached to this memorandum.

Summary

There are several options which meet the criteria assigned to us for use in selecting optional revisions of the sunset process. Several of the options can be combined. Of importance in the consideration of these options is whether or not you wish to pursue an aggressive sunset review program. If so, the process selected should be well established and supported. On the other hand, you may consider that the primary value of sunset has already been achieved by the first sunset cycle: revisions to practice acts have been made, board performance has been improved, management adjustments have occurred, and some boards may have been terminated. In other words, we see this juncture as a further determination of the public interest and how that may be served.

Enclosure

Alaska State Legislature

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN
Community & Regional Affairs

VICE-CHAIRMAN
Commerce

Health & Social Services



Senate

2987 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH Y
JUNEAU, ALASKA 99811
(907) 485-8712

March 17, 1980

ATTACHMENT D

TO: Billy Berrler, Director
Division of Legal Services

FROM: Senator Arliss Sturgulewski

RE: Drafting Request

I would appreciate having a bill drafted on the subject of pre-screening of occupations seeking to be licensed for consideration by the Free Conference on Sunset of the Health Occupations Boards. The intent of the legislation is to deal with the fact that each legislative session, new groups are considered for inclusion among those professions regulated by occupational licensing. Last session introduced several, including social workers, for such consideration. A method is needed to evaluate the claims of these groups, possibly to exclude them (thereby obviating the need for future sunset reviews), and, if included, to provide a systematic approach to their future sunset reviews. The Council of State Governments recommends such an approach, currently embodied in the statutes of the State of Minnesota and the Commonwealth of Virginia. Applied to Alaska, statutes would assign responsibility to the Division of Occupational Licensing for a review of the public need for occupational regulation, prior to submission to the legislature. The DOL would make a finding whether a profession or occupation not presently regulated should be regulated and, if so, what degree of regulation should be imposed to protect the public health, safety, and welfare. The Division of Occupational Licensing would be directed to consider such alternatives to licensing as statutory changes in civil or criminal law or in state agency powers. If such approaches are inadequate, DOL would next consider registration, certification or licensure, dependent upon such evaluation criteria as whether the public is exposed to a health, safety or welfare hazard; the views of non-practitioners of that profession, whether alternative services that are regulated are available, whether high standards of professional competence are currently upheld by practitioners; whether the public is generally expert enough to evaluate the competence of practitioners; whether professional associations currently provide the public with adequate protection against incompetent practitioners; whether current laws are adequate to protect the public; whether the characteristics of the profession make it impractical or impossible to prohibit detrimental practices; whether the practitioner performs a service which may have detrimental effects on third parties relying on the expert knowledge of the practitioner. In addition, each group seeking regulatory control would be required to submit to DOL detailed information regarding those criteria. Provision should be made for hearings to give the applicant group and the public an opportunity to present evidence, views and supporting information

which would also be conveyed to the legislature. If regulation seems likely, proposed regulations would be presented at the same time so that standards and so forth of the proposed board would be known before a decision is made regarding regulation of that occupation.

I am enclosing xerox copies of legislation which accomplishes the same goals and a discussion produced by the Council of State Governments which may be helpful in this regard.

Enclosure

Sunset Disc.

¹⁹⁹⁴ Sunset worksheet - Judiciary ok - might not review w/out it

Clare - DOL simpler, cheaper

Conger - Standing Committee - expertise, public can focus on one, 2 sessions of staff w/ a sunset + nothing else

Christian Baker - S Comm. opposed to Standing Comm. LBA does centralized review & Standing Comm. would be centralized, base "objectivity" + more participation to + in legislature.

Staggering is the way to go; all comes up; joint hearings mandatory. ~~ok~~ as legist. review (Wilkinson's idea).

Mian Dubois - maintain sunset philosophy, Mike feels this is imp't.

Wilkinson - legislative review, selected annually, based on public/personal input. Interest, gauge workload, veto can be overridden. In the past, legislators request sp. audit of program that come to their attention. Not much chance in doing it over & over ~~no~~ diminishing returns / Committees get more staff + more \$ to do this.

Anna process would be too political Wilkinson's way. Makes lobbying efforts too imp't. Automatic review - interim review leading to sunset review. Likes Permanent Comm. for consistency reasons - diff committees deal w/ it differently. Criteria would be helpful.

Bob - non-automatic is heard or not heard makes politics/lobbying more imp't. Standing Comm. = professional review

group. Regular Comms = like a jury & →
changes hesperinely. H Commerce - sunset as
a way of getting at other stuff - relationships
to bills on similar topics

Walker "bds + commissions" + 44 66 010 + 08 ones
Can these be separated out? Some automatic (08)
& some selected - (44) or 11 - by legislature.

Wilkinson - real intent was state agencies, not bds
& commissions. Standing Comm ~~was~~ ^{regular} not real sensible
for that.

Walker former balance, what legisl willing & able to do -
44 bds come up auto & affirmative action to
determine on 08 & agency programs need to be
targeted anyway.

Christian - mechanics are the problem; not the philosophy
"may" to "shall" re joint hearings. Disc on this -
work sessions/debaterations would be sep. but hearing to
take testimony together. Exchange of soapboxes for
efficiency

"encourage" "when possible to save taxpayer's" "staff
to work together etc" DeBois No Permanent Comm.

I invited them all to the FCC mtg

Walker coordinate AGS // GROUP MEMO?

1. Practice Acts

Senate / House

S → FCC (decision) → H
→ ok

allow comm. system to do ok. FCC to review
& to untangle for future avoid deluge by
extending differentially

Malone - H adoption → FCC decides ok → act on
resolution based on 1st house's version. Let houses
can't on bill & on FCC report.

Bd by Bd decision
+ onto floor

joint hearings

2) Complaint processing

Manual to FCC members

Report on complaint statistics, backlog
& future

3) Process

anticipated - MCK - only prob if so next time
around

Fahrentz - god has some fit. We smoother must
go round

Malone - procedures/laws not enough to pay attn
to citizens.

Archie - limitation on process

LBA - agency reviews

Fahrenkamp - LBA not too good / M's

Malone - ag/bds selected for rev. based on where probes are & those seen by reviewers. Bds/progrs selected for sunset based on where they see probes, based on screening process → LBA list → to legis (shorten/lengthen)

Mikes - LBA does this now. Standards? Malone - yes, standards for priorities to get on list. Not to exclusion of reg. review (scratch where there is an itch). ~~LBA~~

Auton. review slower. LBA rev. by st & procedural order. - Interim Comm → hearings → complaint list → sunset

MCK - reg rev. id's bds need sunset / no complaints / A - part of standard for LBA. "Need" for pt. act changes evaluated; mandatory review → no more neglect. A - bds could report to LBA MCK - OC ^{required} could come in w/ annual bill re p.a. changes (1 - ^{biannual} 2 yr) is regular process for p.a. act changes, esp nec. if sunset process changed.

A - is there need. MCK - based on sunset fr. years of neglect.

A - worth it? Malone - write Wilkerson to discuss in more detail & in touch w/ Rep Miller's group. Dave Walker - specific recs.

Malone - need recs fr. Wilkerson re staff needs of LBA.

Duncan for budget

4. Prescreening - bring it back for Comm.

Malone - gd idea

Jenna - #1 "bogged down" reconsider S p.a → FCC
PA changes are house changes + accepted by bds + profs.

+ some non - controversial bd recs. If no S controversy,
may get involved in hearings, & not go. Frustration to bds.

reconsider

Malone - look at scheduling probs. . . .

Jenna - 2 yrs. etc

Next Meeting

- 1) Griggs - report on complaint status, bca 'alog + future
- 2) Invite Duncan / Milkerson staff needs LBA
 Dave Walbert - specific recs.
 "keep in touch w/ DuBois' group"

Passed

May 13, 1980

Senator Clem Tillion, President
Alaska State Legislature

Terry Gardiner, Speaker
Alaska State Legislature

Mr. Speaker:
Mr. President:

It is the intent of this Free Conference Committee that the provisions of Sec 18 of CSSB 261 provide that members currently serving on the state Physical Therapy Board continue to serve until their current terms expire.

Senate Members:

House Members:

Senator Sturgulewski, Chairman

Representative Malone, Chairman

Senator Bennett

Representative Osterback

Senator Fahrenkamp

Representative Bettisworth

Alaska State Legislature

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
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Commerce

Health & Social Services



Senate

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH Y
JUNEAU, ALASKA 99811
(907) 465-3712

FREE CONFERENCE ON SUNSET Bills

Meeting # 2

Saturday May 10, 1980 11:00 am Senate HSS Room Assembly Bldg.

AGENDA

1. Discussion of health board practice acts.
2. Extension schedule and decision on extension of boards.
3. Pre-screening legislation.
4. Complaint Processing.

FCC #2.

1. Mea Bd ~~SB~~

SB 580

FCCS SB 240

A - Summary of approach.

Malone - On practice act - questions
& requested delay tel. level of agenda.

McKinnon agreed.

2. Bd Pharmacy

FCCS 244

SB 550 am

motion in amendments to Maine

Notice to extend Board. & meeting

FCCS SB 244 - telecon camp.

terminations. No objection to SB 550.

3. Bd Dispensing Opticians

SB 541

FCCSSB 245

Malone - p. s. changes are what H wants

& FCCS same procedure as the other

Bd. & so much to ~~so~~ pass FCCSSB 245.

A on staggered & then candidate

No objection. All "do pass".

4. Physical Therapy Bd.

FCCSSB 248

CSSB 261

Motion: 2 on 261 Sec. 18

A Paul Cager - intent is

so present Bd. members can serve out their term of office. Motion felt this should be clarified

Motion - appear FCCS 248 w/ letter of intent clarifying Sec 18 of CSSB 261. No disc of objection.

5. Chiropractic Examiners

FCCSSB 242

SB 578

Disc. of SB 578. Motion - public interest served better by endorsing bill + do not have previous H stand. Fairbank noted adoption of FCCSSB 242. No objection + adopted.

6. Pre screening legislation

H - requested people to take a look. Explained.

Falrenkamp - too much regulation?

Moore - wants to see it introduced even if it won't go far. Would be publicly available for next session. Explained some reasons -

legislative decision. Provides better info for decision making -

F - How to handle?

Moore - part of Comm Report - letter stating reasons, + offering legislation w/ request for Rules Comm to intro, even if remote chance of passage; public record comment.

Falk - speed up by preparing for their signatures.

M - more proc. Falk - letter to be signed by all. but w/o "Do Pass" rec - feels needs handling + public discussion.

7. Complaint Processing

A - summary of actions on the subject: method to expedite complaints.

Ann Briggs: summary - Oct 79 Audit report, ombudsman help, A & FCC staff assistance. Procedures Manual. Copies in packet - not final, just draft.

A - structured process? Ann had said they didn't need more staff - will the process help?

Ann HB 1005 SB 580 add investigators

Malme - procedure packet, a on Ann - change - eq's

Malme - lengthy report. Asked Ann to go over at next meeting - the procedures' - changes in man - had complaints reviewed by dir. - the report. For next meeting + available to staff icon. For review + as part of FCC Report. Thanks to Ann for diligence etc.

8. Draft FCC Reports

Malone - AS on pre-screening legislation. W/ clarification at one pt = letter on pre screening bill. ~~AS~~ FCC takes no part. position on leg's provisions as no hearings yet. And if agreeable, letter circulated for signature.

9. A - ~~A~~ other Draft FCC Report materials. ^{members to} ~~discuss now~~ get back on whether it should be in final report.

10. Draft on Pt Bdk letter of intent by Paul Carter.
No objection.

11. Medical Board

FCCS SB 240

SB 580

[update of where other ppl were - P. C.]

A - when? PC no STRESS problems.
in Rules.

A - FCC Comm. Thursday? 130

McK in - Ostedt back out.

Malone - Medicaid amendment,
SB deals w/ 4 concerns, 14
bd compensation etc.

Asked McK if he felt ready
to consider the bill? McK -
concerned re public member
& on merger vs exec
director goes w/ DC.

Malone: delay Med Bd to
130 Thursday required.
Agreed

Adjourned.



Official Business

Alaska State Legislature

JOINT SENATE AND HOUSE
COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
LOCAL GOVERNMENT STUDY

Co-Chairmen
Senator Arliss Sturgulewski
Representative Bill Parker

Address all
correspondence to:
LOCAL GOVERNMENT STUDY

Pouch V
State Capitol
Juneau, Alaska 99811

FREE CONFERENCE COMMITTEE MEETING #3

Thursday, May 15 at 1:30 p.m. in Butrovich Room

Agenda

1. SB 243 - Optometry Bd.
SB 246 - Dental Bd.
SB 240 - Medical Bd.
2. FCC Drafts
 - a) "housekeeping" amendments ✓
 - b) revision to Sunset process
 - c) complaint processing ✓

FCC #3

1. Optometry Bd

H Commerce amendments discussed
Moline moved to pass FCCSB 243.
Discussion. Pass w/o objection.

2. Dental ^{FCC} SB 246

SB 561 am 5
Reduction of H Commerce
amendments. Necessity assessed
Moline to pass FCCSB 246
by full roll call w/o objection.
Compliments in written bill
by Duets.

3. FCC SB 247 SB 584

Anna Verrate - all bill passed
not changes
Moline moved FCC SB 247
" will handle P&C Act +
redemption w/ Rep. Buchheit.
Discussion of '85 redemption
pass w/o objection.

Bennett - 243 asked for clarification
of practice not changes in H.
Commerce.

4. Have we keeping letter
revised

Malone felt it a good idea
noted need for interim Committee
& left legislation rather than
judicial action letter & moved
the letter as part of Conf
Comm Report. Revised w/o
objection.

Malone suggested draft
legislation by done for
intro. for next meeting
at fall in up

5. Summary -

Mich. Co.

Mich. Co.

Michigan Home Admin. HB 417,

Map for the FCC

complaint procedure } next
revised legislation } meeting

Next meeting - prep for ^{before} 1⁰⁰ SAT.

Room

file copy passed

May 14, 1980

Representative Terry Gardiner
Speaker of the House

President Clem Tillion
President of the Senate

Mr. Speaker:
Mr. President:

The Free Conference Committee, as part of its deliberations, finds that there is a need for certain amendments to clarify and perfect existing statutory language and recommends legislative action on the following:

1) AS 44.66.010(a) uses the word "expire" when it should use "are terminated."

2) Statutory language should be developed to address what happens when the legislature does not comply with the AS 44.66.050(d) procedure or deadlines.

3) If the legislature intends for the boards, etc., identified in AS 44.66.010 to be effected by the one year wind-down period in the same way as the Title 8 boards, then the Free Conference Committee recommends that the second sentence of AS 08.03.020(a) be added to AS 44.66.010(b) and that the word "otherwise" be deleted from that sentence to indicate that the boards, etc., retain full powers during the wind-down period.

4) If the legislature intends that the standing committees meet and conduct the oversight process during the interim, the Free Conference Committee recommends that such an intention be expressed in the oversight statutes.

Senator Arliss Sturgulewski
Chairman, Senate FCC

Representative Hugh Malone
Chairman, House FCC

Senator Don Bennett

Representative Bob Bettisworth

Senator Bettye Fahrenkamp

Representative Alvin Osterback

passed

May 14, 1980

Representative Terry Gardiner
Speaker of the House

Senator Clem Tillion
President of the Senate

Mr. Speaker:
Mr. President:

The Free Conference Committee recommends that in SB 551, page 2, line 22-24 be deleted. Eliminating as a board duty:

"(2) order a licensee to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue."

Senator Arliss Sturgulewski
Chairman, Senate FCC

Representative Hugh Malone
Chairman, House FCC

Senator Don Bennett

Representative Bob Bettisworth

Senator Bettye Fahrenkamp

Representative Alvin Osterback

May 13, 1980

Senator Clem Tillion, President
Alaska State Legislature

Terry Gardiner, Speaker
Alaska State Legislature

Mr. Speaker:
Mr. President:

During the research of the Free Conference Committee into the hearings, audits, and history of the health and health related boards and from discussions with representatives of the administration, board members and legislators, it became increasingly clear to the Committee that additional screening processes might insure that professions which sought regulation were, indeed, needing of regulation through establishment of boards, licensing, and practice acts. It was felt by the Committee that screening of professions and development of substantive answers to a wide variety of questions about professions seeking regulation was advisable and would best be handled through the executive branch of government for action by the legislature.


Therefore, the Free Conference Committee had legislation drafted which establishes such a systematic review of professions seeking regulation. The Committee wishes to make clear that in signing this letter there is no endorsement or approval of this particular bill, as there have been no hearings on this bill. Rather, the Committee feels strongly that the concept needs to be available to the public and circulated, and the public should have an opportunity to respond to legislators regarding this concept between now and the next legislative session.


The Free Conference Committee requests that the Rules Committees of the House and of the Senate introduce this legislation so that it may be publically available for discussion, hearing and eventual action.

Senate Members:

House Members


Senator Sturgulewski, Chairman


Representative Malone, Chairman


Senator Bennett


Representative Osterback


Senator Fahrenkamp


Representative Betrisworth

shame
into
psych

Introduced: 5/12/80
Referred: Health, Education &
Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 583

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of psychology; and providing
8 for an effective date."

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

10 * Section 1. AS 08.01.100(a) is amended to read:

11 (a) Except as otherwise provided by statute, [ALL] licenses shall
12 be renewed biennially on the dates set by the department with the ap-
13 proval of the respective board.

14 * Sec. 2. AS 08.86.010 is amended to read:

15 Sec. 08.86.010. CREATION AND MEMBERSHIP OF BOARD. There is created
16 a Board of Psychologist and Psychological Associate Examiners. It
17 consists of four [THREE] licensed psychologists, and one person [T O
18 PERSONS] who has [HAVE] no direct financial interest in the health care
19 industry.

20 * Sec. 3. AS 08.86.020 is amended to read:

21 Sec. 08.86.020. APPOINTMENT AND TERM OF OFFICE. Members of the
22 board are appointed by the governor and confirmed by the legislature for
23 staggered terms of four [THREE] years. [THE TERMS OF THE PUBLIC MEMBERS
24 SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME TIME.] A member
25 serves at the pleasure of the governor. A person who has served two
26 successive complete terms may not be reappointed until four years from
27 the expiration of the second term.

28 * Sec. 4. AS 08.86 is amended by adding a new section to read:

29 Sec. 08.86.025. REMOVAL OF BOARD MEMBERS. A member of the board

1 may be removed from office by the governor for cause. The board may by
2 regulation provide that unexcused absences from meetings constitute
3 cause for removal.

4 * Sec. 5. AS 08.86.030 is amended to read:

5 Sec. 08.86.030. BOARD MEETINGS. The board shall hold at least
6 three meetings annually [A REGULAR ANNUAL MEETING]. The board may hold
7 special meetings at the call of the chairman or of a majority of the
8 [TWO] board members.

9 * Sec. 6. AS 08.86.070(a) is amended by adding new paragraphs to read:

10 (5) define, by regulation, areas and techniques of practice
11 in psychology for which specialty training is required and establish
12 standards for specialty designation in the field of psychology;

13 (6) adopt regulations requiring proof of continued competency
14 before a license is renewed.

15 * Sec. 7. AS 08.86.070 is amended by adding a new subsection to read:

16 (c) The board may, after a hearing, order disciplinary sanctions
17 against a person who violates this chapter, an order of the board, or a
18 regulation of the board.

19 * Sec. 8. AS 08.86.130 is amended to read:

20 Sec. 08.86.130. QUALIFICATION FOR EXAMINATION. A person is en-
21 titled to take an examination if the board finds he

22 [(1) HAS NOT ENGAGED IN DISHONORABLE CONDUCT RELEVANT TO THE
23 PRACTICE OF PSYCHOLOGY;]

24 (2) holds a doctoral degree with primary emphasis on psy-
25 chology from an accredited school with an approved program;

26 (3) has at least one year's experience acceptable to the
27 board.

28 * Sec. 9. AS 08.86.140 is repealed and re-enacted to read:

29 Sec. 08.86.140. FEES. The following fees shall be imposed under

1 this chapter as applicable:

- 2 (1) application fee..... \$ 25
- 3 (2) examination fee..... \$125
- 4 (3) credential review fee..... \$125
- 5 (4) initial license fee..... \$200
- 6 (5) license renewal due every 4 years..... \$200

7 * Sec. 10. AS 08.86.150 is amended to read:

8 Sec. 08.86.150. [OUT-OF-STATE] LICENSE BY CREDENTIALS. A person
9 who is licensed or certified as a psychologist by an authority other
10 than Alaska is entitled to be licensed in Alaska without examination if

11 (1) he holds a doctoral degree with primary emphasis on psy-
12 chology from an accredited school;

13 (2) the examination and qualification requirements for his
14 out-of-state license or certificate were essentially ~~equal~~ ^{comparable} to
15 or higher than the examination and qualification requirements for
16 licensure under this chapter [IN ALASKA AT THE TIME HE WAS LICENSED]; or

17 ~~or~~ (3) he is a diplomate in good standing of the American Board
18 of Examiners in Professional Psychology;

19 (4) he completes and returns the proper application forms,
20 submits proof of continued competency as required by regulation of the
21 board, and pays the credential review [OUT-OF-STATE CERTIFICATE] fee.

22 * Sec. 11. AS 08.86.162(2) is amended to read:

23 (2) holds a master's degree with primary emphasis on psy-
24 chology from an accredited [OR APPROVED] educational institution which
25 has an approved program, with the equivalent of at least 24 semester
26 credit hours of ~~graduate~~ ^{graduate} course work directly related to a [COUNSELING OR
27 ANOTHER] specialized area of psychology in which licensure is requested,
28 including a practicum;

29 * Sec. 12. AS 08.86.162(3) is amended to read:

1 (3) has at least three years' supervised experience after
2 obtaining a master's degree within the past ten years [, TWO OF WHICH
3 ARE IN ALASKA, AND INCLUDING ONE YEAR'S SUPERVISED POSTGRADUATE EXPE-
4 RIENCE ACCEPTABLE TO THE BOARD];

5 * Sec. 13. AS 08.86 is amended by adding a new section to article 3 to
6 read:

7 Sec. 08.86.164. SCOPE OF PRACTICE. (a) A psychological associate
8 shall be licensed for specific activities or areas of competence as
9 determined by the nature and extent of his training and experience, and
10 these areas shall be specified on the license.

11 (b) A psychological associate shall function under the supervision
12 of a licensed psychologist.

13 (c) Supervision of a licensed psychological associate is the
14 responsibility of the supervising licensed psychologist, and includes
15 face-to-face consultation as required by the nature of the work of the
16 psychological associate which is consistent with accepted professional
17 practices in psychology. The supervising psychologist is responsible
18 for insuring that the extent, kind and quality of the psychological
19 services performed are consistent with the training and experience of
20 the psychological associate.

21 (d) A psychological associate and his supervisor shall register
22 with the board a statement of the intended area of practice and arrange-
23 ments for supervision.

24 * Sec. 14. AS 08.86.180(a) is amended to read:

25 (a) Unless he is licensed under this chapter, a [NO] person may
26 not practice psychology, or offer to practice psychology, or represent
27 to the public that he is a psychologist or that he practices psychology.
28 A person represents himself to be a psychologist when he holds himself
29 out to the public by a title or description of services incorporating

1 the words "psychology", "psychological", "psychologist", "psychometry",
2 "psychometrics", "psychometrist", "psychological counseling", "psycho-
3 logical counselor", "psychotherapy", "psychotherapeutic", "psychothera-
4 pist", "psychanalysis", or "psychoanalyst", or when he holds himself out
5 to be trained, experienced or qualified to render services in the field
6 of psychology.

7 * Sec. 15. AS 08.86.180(b) is amended to read:

8 (b) This section does not apply to

9 (1) a person employed by a governmental unit, educational
10 institution or private agency who may be required to engage in some
11 phase of work of a psychological nature in the course of his employment,
12 if the employer maintains appropriate supervision of psychological
13 activities and professional conduct, and if the person is performing
14 the psychological activities as part of the duties for which he was
15 employed, is performing the activities solely within the facilities of
16 the organization in which he is employed or under the supervision of
17 the organization in which he is employed, and does not render or offer
18 to render psychological services to the public for compensation in
19 addition to the salary he receives from the organization;

20 (2) a student, intern, or resident in psychology pursuing a
21 course of study approved by the board as [IS] qualifyi g training and
22 experience for a psychologist, if his activities constitute a part of
23 his supervised course of study and he is designated by titles such as
24 "psychology intern" or "psychology trainee";

25 (3) a qualified member of another profession, such as a
26 *drug abuse or alcoholism counselor,* social worker, or pastoral counselor, in doing work of a psychological
27 nature consistent with his training and consistent with the code of
28 ethics of his profession, if he does not hold himself out to the public
29 by a title or description of service incorporating the words "psycho-

1 logy", "psychological", "psychologist", "psychometry", "psychometrics",
2 "psychometrist", "psychotherapist", "psychoanalysis", "psychoanalyst" or
3 represents himself to be trained, experienced or qualified to render
4 services in the field of psychology;

5 (4) (repealed)

6 (5) ~~a person practicing~~ *as a part of the* medicine, if he is licensed to prac-
7 tice medicine. *a physician licensed under AS 08.08.010*

8 * Sec. 16. AS 08.86 is amended by adding new sections to read:

9 Sec. 08.86.204. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

10 After a hearing, the board may impose a disciplinary sanction on a
11 person licensed under this chapter when the board finds that he

12 (1) secured a license through deceit, fraud, or intentional
13 misrepresentation;

14 (2) engaged in deceit, fraud, or intentional misrepresenta-
15 tion in the course of providing professional services or engaging in
16 professional activities;

17 (3) advertised professional services in a false or misleading
18 manner;

19 (4) has been convicted of a felony or other crime which
20 affects his ability to continue to practice competently and safely;

21 (5) intentionally or negligently engaged in or permitted the
22 performance of patient care by persons under his supervision which does
23 not conform to minimum professional standards regardless of whether
24 actual injury to the patient occurred;

25 (6) failed to comply with this chapter, with a regulation
26 adopted under this chapter, or with an order of the board;

27 (7) continued to practice after becoming unfit due to

28 (A) professional incompetence;

29 (B) failure to keep informed of  or use current profes-

1 sional theories or practices;

2 (C) addiction or severe dependency on alcohol or other
3 drugs which impairs his ability to practice safely;

4 (D) physical or mental disability;

5 (8) engaged in lewd or immoral conduct in connection with the
6 delivery of professional service to patients.

7 Sec. 08.86.206. DISCIPLINARY SANCTIONS. (a) When it finds that a
8 licensee is guilty of an offense under AS 08.86.204, the board may
9 impose the following sanctions singly or in combination:

10 (1) permanently revoke a license to practice;

11 (2) suspend a license for a determinate period of time;

12 (3) censure a licensee;

13 (4) issue a letter of reprimand;

14 (5) place a licensee on probationary status and require him

15 to

16 (A) report regularly to the board upon matters involving
17 the basis of probation;

18 (B) limit practice to those areas prescribed;

19 (C) continue professional education until a satisfactory
20 degree of skill has been attained in those areas determined by the
21 board to need improvement;

22 (6) impose limitations or conditions on the practice of a
23 licensee.

24 (b) The board may withdraw probation status if it finds that the
25 deficiencies which required the sanction have been remedied.

26 (c) The board may summarily suspend a license before final hearing
27 or during the appeals process if the board finds that the licensee poses
28 a clear and immediate danger to the public health and safety if he
29 continues to practice. A person whose license is suspended under this

1 section shall be entitled to a hearing by the board no later than seven
2 days after the effective date of the order. The person may appeal the
3 suspension after a hearing to a court of competent jurisdiction.

4 (d) The board may reinstate a license which has been suspended or
5 revoked if the board finds after a hearing that the applicant is able to
6 practice with reasonable skill and safety.

7 (e) The board shall seek consistency in the application of dis-
8 ciplinary sanctions, and significant departure from prior decisions
9 involving similar situations sha' be explained in findings of fact or
10 orders.

11 * Sec. 17. AS 08.86.210 is amended to read:

12 Sec. 08.86.210. PENALTY. A person who violates this chapter
13 [AS 08.86.170, 08.86.180, 08.86.185, OR 08.86.190] is guilty of a
14 class B misdemeanor.

15 * Sec. 18. AS 08.86.230(2) is repealed and re-enacted to read:

16 (2) "to practice psychology" means to render or offer to
17 render for a fee to individuals, groups, organizations or the public for
18 the diagnosis, prevention, treatment, or amelioration of psychological
19 problems and emotional and mental disorders of individuals or groups or
20 for conducting research on human behavior, a psychological service
21 involving the application of psychological principles, methods, and
22 procedures of understanding, predicting, and influencing behavior,
23 including

24 (A) the principles pertaining to learning, perception,
25 motivation, emotions, and interpersonal relationships;

26 (B) the method and procedures of interviewing, counsel-
27 ing, psychotherapy, biofeedback, behavior modification, and hypno-
28 sis;

29 (C) constructing, administering and interpreting tests

1 of mental abilities, aptitudes, interests, attitudes, personality
2 characteristics, emotions, and motivations;

3 * Sec. 19. AS 08.86.230(5) is repealed and re-enacted to read:

4 (5) "psychological associate" means a person licensed under
5 this chapter who renders specific psychological services in association
6 with a licensed psychologist and complies with AS 08.86.164;

7 * Sec. 20. AS 08.86.230(10) is amended to read:

8 (10) "private agency" means a clinic or private practice, or
9 custodial, rehabilitative or health care organization whose mental
10 health services are under the direction of a licensed psychologist [,]
11 or psychiatrist [, OR A CUSTODIAL, REHABILITATIVE OR HEALTH CARE ORGANI-
12 ZATION WHICH IS ACCEPTABLE TO THE BOARD];

13 * Sec. 21. AS 08.86.230(11) is amended to read:

14 (11) "supervised experience" as used in AS 08.86.162(3)
15 ["SUPERVISION"] means the equivalent of at least one hour a week of
16 personal interview with a supervisor whose educational qualifications
17 are consistent with the level of activity being supervised; [A SUPER-
18 VISOR IS RESPONSIBLE FOR INSURING THAT THE EXTENT, KIND AND QUALITY OF
19 THE PSYCHOLOGICAL AND COUNSELING SERVICES PERFORMED ARE CONSISTENT WITH
20 A PSYCHOLOGICAL ASSOCIATE'S TRAINING AND EXPERIENCE, AS WELL AS HIS
21 OBEDIENCE TO THE PROVISIONS OF THIS CHAPTER.]

22 * Sec. 22. AS 08.86.230 is amended by adding a new paragraph to read:

23 (12) "approved program" means a program which meets the
24 requirements established by the American Psychological Association
25 Education and Credentialing Committee in Psychology for an approved
26 program.

27 * Sec. 23. AS 44.62.330(a) is amended by adding a new paragraph to read:

28 (47) Board of Psychologist and Psychological Associate
29 Examiners (AS 08.86.010).

1 * Sec. 24. AS 08.86.070(a)(3), 08.86.185, and 08.86.230(6), (7), (8), and
2 (9) are repealed.

3 * Sec. 25. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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TO: ARLISS
FROM: MARGO
RE: SUNSET REVIEWS: HEALTH BOARDS

Methodology: During the last couple of days, I spent time discussing the health board sunset reviews with a number of concerned and involved people, including Janna Verrati of the Alaska Health Coalition, Ann Criggs of the Division of Occupational Licensing and Susan Burke and Connie Sipe of the Attorney General's staff. Christian Baerler also worked on the subject and was of considerable assistance. I read the Legislative Audits, Alaska Statutes, regulations, and other relevant materials. The suggestions which follow represent a position which is apparently supported by all parties and addresses perceived long and short term needs. More information can be provided regarding perceptions and commitments of the various parties.

Analytic Assumptions: Work on this assignment was conducted in the context of several philosophic assumptions regarding both the sunset process and the place of regulatory licensing boards in the governmental structure.

- 1) The sunset process should succeed at achieving the goals described in the enabling legislation. Patterns established in the review of the health boards will significantly effect future review activities.
- 2) The dominant function of licensing boards is protection of the public health, safety and welfare.
- 3) Professionals in a field are far more likely to be competent judges of the competency of fellow practitioners than are lay persons uneducated in a particular field. Therefore, boards composed of professional members are preferable to alternative decision structures which employ non-professionals in decision making capacities.
- 4) Since the function of boards is consumer protection by maintaining high professional standards among practitioners, and since it is possible for professionals to use boards for exclusionary purposes, the public welfare is better protected by inclusion of consumer advocate members on boards and by a balanced relationship with the administrative arms of government.

General Findings: In the course of my discussions and readings, I have come to several conclusions which I would like to share with you regarding the sunset process as it relates to the health boards.

- 1) All those concerned with both the sunset process and the licensing functions have approached both these responsibilities with good will and a desire to see an efficient, effective and fair system emerge. Most parties are apparently willing to negotiate and compromise in order to see that goal reached. State agency personnel have particularly

attempted, over the last year, to improve their performance.

2) As pointed out by the testimony of the Alaska Health Coalition, the sunset process to date has not been a thorough and systematic one. Apparently, no one feels that adequate hearing has been given to concerned parties.

3) There is a greater focus on function and achievement than on cost and cost reduction. While, of course, everyone is concerned about the latter, no one is more concerned with cost reduction than with higher levels of achievement.

4). The health boards can be considered as a discreet grouping, both in terms of sunset reviews already conducted and in terms of future directions which might be taken, with the proviso that outcomes of these reviews should be consistent with directions desired of other licensing boards that are not health related.

5) My own perception of the existing situation regarding the health related licensing boards is that they need help in fulfilling their obligations to protect the public health, safety and welfare. My own values direct that a solution to this situation lies in creating a structure which can enable them to fulfill this obligation on their own, with continued administrative assistance from the Division of Occupational Licensing. Strategically, this means that it is necessary to redistribute power between the boards and the Division by giving the boards more information regarding their responsibilities, the "system", in which they operate, and other organizational tools.

6) Last, but hardly least, is my perception that no one wants to spend a great deal of time or energy on this subject during this session. While staff and concerned parties all agree that something should be done, no one apparently is willing to devote much energy to it now. People seem to want it "over and done with" early in the session.

The Strategy: The recommendations in this section are a direct result of both my assumptions and findings as outlined in the preceding sections. I feel that it is a strategy that makes those concessions desired by concerned parties, provides an acceptable level of action for this session, while at the same time details work that needs to be done for a full approach to the subject. I would be glad to discuss this perception further with you, largely for my own understanding of legislative processes.

Free Conference Committee: The following measures are recommended for free conference action. Each one addresses either a pressing need or points in a direction which will be reinforced by recommended future legislation.

1) All the health boards should be continued for two years. Two year continuance will enable the boards to fully implement the recommendations of Legislative Audit and the actions of this legislative session. The impetus provided by the sunset review process should mobilize those boards whose activities have not been fully in accord with the Statutes. If additional

legislation is drafted during the summer of 1980, the boards will also have time to implement those directions. At the conclusion of the two year period, it should be possible to reassess board effectiveness in a more systematic fashion that will be both more equitable and , hopefully, more just. The Senate and the Boards want continuance, but the House does not.

2) Continuance should be contingent upon inclusion in the Centralized Licensing Section of Title 8 of certain conditions regarding board membership and composition.

a) Length of term of any board member should be limited to two consecutive terms, not to exceed four years.

b) Each seven person board should have 2 consumer advocate members and each five person board should have one lay member.

2(b) above is a compromised position between the needs of boards to have numbers of working professional members for distribution of board work and the general desire to see a number of lay persons on boards who will thwart any tendencies toward monopolistic or other professionally exclusionary practices.

These two conditions should address expressed concerns of both the House and the Senate and are supported by the Alaska Health Coalition and the Division of Occupational Licensing.

3) Fee schedule revision is desired by all parties. Fees for the health licenses are fixed in Statute and have not been revised in many years. There is general agreement that fees should be set in regulations rather than in Statutes, so that changes can be more readily made in response to inflationary pressures and changing wage structures. I recommend that fees be set by joint agreement between the boards and the Division of Occupational Licensing. Rather than having a different fee for each of the professions, statutes should be revised, regarding health profession licensing, to provide for a dual flat fee system: one fee for supervised health professionals (for example, dental hygienists and physical therapists and nurses) and a higher fee for professionals who could supervise and have their own business (for example, doctors and dentists). The two tier flat fee system (supervised v. owner/operator) is supported by the Alaska Health Coalition and is in keeping with results, as reported to me by C. Basler, of hearings held.

4) One of the greatest complaints of the Boards and also a focus of the Legislative Audits was the existing non-system of complaint processing. Complaints are the heart of the consumer protection responsibility of the boards: action on complaints is the major means of assuring the competence of practitioners. Currently, there is no concept of timely processing of complaints and a great deal of vagueness regarding each party's responsibilities. Because complaints are poorly handled, disciplinary actions are few. During the first week of January, the administration has shifted responsibility for Investigations from OL to the Dept. of Public Safety. While this may mean that investigations

SB94 proposes amend-
ment to licensing fee Act
but a
difficult
approval

are conducted in a more timely and professional manner, it does not establish the basic ground rules and structural relationships necessary to insure protection of the public interest. I recommend that the system for processing complaints lobbied for by the Alaska Health Coalition be adopted by statutory amendment. A copy of the relevant sections are attached to this memorandum. Regularization of complaint handling, in addition to being supported by the Coalition, DOL and others, is also supported by the Attorney General's office (Susan Burke and Connie Sipe). The amendments offered by the Alaska Health Coalition provide for notification of the board of investigations, use of one professional member's expertise by the investigator (this member is then disqualified from further judicial functions of the board to protect due process considerations), and other frequently mentioned concerns. I would like to see the additional inclusion in this section of responsibility assigned to the DOL for a quarterly listing of disciplinary actions: practitioner's name, violation, penalty (if any). This listing should be made available to the public in order to further bolster the boards' responsibility not to their respective professions but to the public welfare.

5) The Free Conference should also direct funds (either a six-month temporary position or a contract of about \$20,000) for a short-term board orientation and development project. The goal of this project would be provision of uniform information to all the health related boards of their statutory responsibilities, methods of operation, relationship to other agencies of government, assistance with solving perceived problems and general board development and group process skills. The boards will, I think, favor this approach and assistance. It will enable the boards, if properly done, to achieve greater parity with the Division, while at the same time eliminating some of the current difficulties which exist between the boards, OL, and the AG regarding responsibilities and communication.

6) The Psychology Board is currently being reviewed by Senator Hackney's committee. If the Free conference is begun after that review is completed, and if Senator Tillion will assign that bill to the Free Conference, it is recommended that all current members of

the Psychology Board be removed and new members be appointed (a resolution to the Governor, perhaps?) Apparently, this Board has been having and creating more problems than any other and least fulfilling its obligation to the public. Removal of members, while at the same time preserving the Board, should address the desires of those who have dealt with that Board. Ms. Verrati will be speaking with Senator Hackney about this matter.

7) This last item is the most complex, but also the most important. The Free Conference should accompany the bill outlined in 1-5 above with a Letter of Intent. This Letter should detail the findings regarding the sunset review of the health boards in terms of general problems and difficulties. Such a review should be the prologue to a recommendation for intensive interim work (summer of 1980) to revise Title 8. The revision should include the following items. These items are the ones which have been found acceptable to the Alaska Health Coalition, C. Basler, OL and the AG's staff personally.

a) There is common agreement that, at a minimum, Title 8 should be revised for clarity, internal consistency, and elimination of legally unenforceable provisions. The Centralized Licensing provisions of Title 8 were included in 1964. Most of the chapters dealing with Boards were included in Territorial days. A thorough re-evaluation is called for at this time.

b) Each legislative session, new groups are considered for inclusion among those professions regulated by occupational licensing. Last session introduced several, including social workers, for such consideration. A method is needed to evaluate the claims of these groups, possibly to exclude them (thereby obviating the need for future sunset reviews), and, if included, to provide a systematic approach to their future sunset reviews. The Council of State Governments recommends such an approach, currently embodied in the statutes of the ^{State of Minnesota and the} Commonwealth of Virginia. Applied to Alaska, statutes would assign responsibility to the Division of Occupational Licensing for a review of the public need for occupational regulation, prior to submission to the Legislature. The DOL would make a finding whether a profession or occupation not presently regulated should be regulated and, if so, what degree of regulation should be imposed to protect the public health, safety, and welfare. DOL would be directed to consider such alternatives as statutory changes in civil or criminal law or in state agency powers. If such approaches are inadequate, DOL would next consider registration, ^{or} certification, ^{or} licensure dependent upon such evaluation criteria as whether the public is exposed to a health, safety or welfare hazard; the views of non-practitioners of that profession; whether alternative services that are regulated are available; whether high standards ~~of~~

of professional competence are currently upheld by practitioners; whether the public is generally expert enough to evaluate the competence of practitioners; whether professional associations currently provide the public with adequate protection against incompetent practitioners; whether current laws are adequate to protect the public; whether the characteristics of the profession make it impractical or impossible to prohibit detrimental practices; whether the practitioner performs a service which may have detrimental effects on third parties relying on the expert knowledge of the practitioner. In addition, each group seeking regulatory control would be required to submit to DOL detailed information regarding those criteria. Provision should be made for hearings to give the applicant group and the public ~~an~~ an opportunity to present evidence, views and supporting information which would also be conveyed to the legislature. If regulation seems likely, proposed regulations would be presented at the same time so that standards and so forth of the proposed Board would be known before a decision is made regarding regulation of that occupation.

c) Regarding existing occupational licensing boards in the health and related fields, several changes should be made to Title 8 to ensure a more efficient and equitable licensing system that more adequately protects the public health, safety, and welfare. Licensing standards: The establishment of initial licensing standards should be determined by the boards and recommended to the legislature, provided that those standards meet such criteria as meeting a definable public need at a minimum level of regulation; that the scope of practice be defined in such a way as to avoid fragmentation and inefficiency in the delivery of services; that evaluation procedures and standards be related to safe and effective practice; that out-of-state licensees or applicants have fair access to the credentialing process; that no standards should be included which protect the economic interest of the occupational group either by reducing the flow of information to consumers concerning fees, qualifications or attainments or by any other means lessening competition. It should be remembered that the Licensing Boards represent an interest distinct from that of professional associations whose codes of ethics need not become law.

Once granted, a license should be valid so long as the holder can provide evidence of continued competency. Currently, few, if any, of the boards are concerned with the continued competency of practitioners. License renewal is an automatic process, dependent upon payment of a licensing fee. Even those who have not actually practiced the occupation remain "qualified" for decades to practice at any time upon the public. It is recommended that the two year license renewal system be replaced with a five year renewal based upon proof of continued competency. Each board would determine the standards for this proof, whether by mandatory continued education, by reexamination, by peer professional evaluation or any other standards they might determine as suitable

to the skills, evolving information and technological change within the profession, and state of the testing art. This substitution, in addition to further protecting the public interest in the regulation of health occupations, would also remove a costly and time consuming responsibility from the Division of Occupational Licensing which now notifies each practitioner biannually of the need for license renewal.

Licensing violations: Each board should be enabled not only to revoke or suspend a license if the licensee has been found in violation of a license provision, but also to mandate such disciplinary action as may be deemed necessary to correct any incompetency in the violator's practice of the profession, by requiring educational courses, proof of the acquisition of new skills, and so forth. Additionally, each board should be able to assess a fine, paid by the practitioner in violation of a license requirement to the patient or consumer of that service whom she/he has harmed or injured. Public accountability of the boards should also mean accountability to the private individual who has suffered by incompetent practice.

Information: Individual boards should be accountable to the public. At the present time, there is insufficient information passed on to consumers of health care services by the boards for wise decisions to be made either in terms of individual care or in terms of the effectiveness of the board in protecting the public health, safety, and welfare. Title 8 should be amended to require the Division of Occupational Licensing to collect and publish such data as numbers of complaints filed, disposition of cases, disciplinary actions taken against practitioners by each board. If a case has been passed on to another agency or group, that agency or group should provide the Board and DOL with information regarding disposition and disciplinary action taken in such a manner that this information could be included with the quarterly reports.

Board Membership: In addition to those items concerning length and limit of term and lay membership proposed for Free Conference action, Title 8 should be amended to provide for recruitment of Board Members. Currently, board membership is determined by the Governor who selects new members from recommendations made by the board and the professional association. This process should be amended to allow for broader recruitment of interested professional and lay members. Annually, the Division of Occupational Licensing should advertise and solicit the public to place their names in a "pool" for membership on the various health professions' licensing boards. Responsibilities of board members would be given and candidates requested to provide adequate personal information to justify their selection. The Governor would then select from this pool of candidates. It is hoped that this new process would solve several difficulties in the existing system: long term vacancies while solicitations of recommendations are being made, too few committed lay member candidates, and under representation of non-association practitioners.

Further, regarding board members, provision should be made for the removal of Board members for a variety of causes, including, but not limited to, judgement of licensing violation, lack of attendance at meetings, and other causes which are detrimental to the public interest being served by the Board.

It is implicit in the preceding sections that amendment of Title 8 to include these items implies a consolidation and standardization of those sections of Title 8 which relate to the health professions licensing boards.

Discussion: It was my initial assessment that the two phased approach outlined in the above sections provided a means of dealing with the issues that have been of paramount concern in the sunset review process, while at the same time fulfilling the legislative obligation set forth in the sunset legislation itself. My own assessment was that the full list of Title 8 revisions as they concern the health professions licensing boards could not be accomplished through the Free Conference. My own inexperience in this arena may mean a far different assessment by you. Please let me know you thinking on this matter.

HB

4 4 6

Introduced: 5/12/80
Referred: Health, Education &
Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 583

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of psychology; and providing
8 for an effective date."

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

10 * Section 1. AS 08.01.100(a) is amended to read:

11 (a) Except as otherwise provided by statute, [ALL] licenses shall
12 be renewed biennially on the dates set by the department with the ap-
13 proval of the respective board.

14 * Sec. 2. AS 08.86.010 is amended to read:

15 Sec. 08.86.010. CREATION AND MEMBERSHIP OF BOARD. There is created
16 a Board of Psychologist and Psychological Associate Examiners. It
17 consists of four [THREE] licensed psychologists, and one person [TWO
18 PERSONS] who has [HAVE] no direct financial interest in the health care
19 industry.

20 * Sec. 3. AS 08.86.020 is amended to read:

21 Sec. 08.86.020. APPOINTMENT AND TERM OF OFFICE. Members of the
22 board are appointed by the governor and confirmed by the legislature for
23 staggered terms of four [THREE] years. [THE TERMS OF THE PUBLIC MEMBERS
24 SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME TIME.] A member
25 serves at the pleasure of the governor. A person who has served two
26 successive complete terms may not be reappointed until four years from
27 the expiration of the second term.

28 * Sec. 4. AS 08.86 is amended by adding a new section to read:

29 Sec. 08.86.025. REMOVAL OF BOARD MEMBERS. A member of the board

1 may be removed from office by the governor for cause. The board may by
2 regulation provide that unexcused absences from meetings constitute
3 cause for removal.

4 * Sec. 5. AS 08.86.030 is amended to read:

5 Sec. 08.86.030. BOARD MEETINGS. The board shall hold at least
6 three meetings annually [A REGULAR ANNUAL MEETING]. The board may hold
7 special meetings at the call of the chairman or of a majority of the
8 [TWO] board members.

9 * Sec. 6. AS 08.86.070(a) is amended by adding new paragraphs to read:

10 (5) define, by regulation, areas and techniques of practice
11 in psychology for which specialty training is required and establish
12 standards for specialty designation in the field of psychology;

13 (6) adopt regulations requiring proof of continued competency
14 before a license is renewed.

15 * Sec. 7. AS 08.86.070 is amended by adding a new subsection to read:

16 (c) The board may, after a hearing, order disciplinary sanctions
17 against a person who violates this chapter, an order of the board, or a
18 regulation of the board.

19 * Sec. 8. AS 08.86.130 is amended to read:

20 Sec. 08.86.130. QUALIFICATION FOR EXAMINATION. A person is en-
21 titled to take an examination if the board finds he

22 [(1) HAS NOT ENGAGED IN DISHONORABLE CONDUCT RELEVANT TO THE
23 PRACTICE OF PSYCHOLOGY;]

24 (2) holds a doctoral degree with primary emphasis on psy-
25 chology from an accredited school with an approved program;

26 (3) has at least one year's experience acceptable to the
27 board.

28 * Sec. 9. AS 08.86.140 is repealed and re-enacted to read:

29 Sec. 08.86.140. FEES. The following fees shall be imposed under
30

1 this chapter as applicable:

- 2 (1) application fee..... \$ 25
3 (2) examination fee..... \$125
4 (3) credential review fee..... \$125
5 (4) initial license fee..... \$200
6 (5) license renewal due every 4 years..... \$200

7 * Sec. 10. AS 08.86.150 is amended to read:

8 Sec. 08.86.150. [OUT-OF-STATE] LICENSE BY CREDENTIALS. A person
9 who is licensed or certified as a psychologist by an authority other
10 than Alaska is entitled to be licensed in Alaska without examination if

11 (1) he holds a doctoral degree with primary emphasis on psy-
12 chology from an accredited school;

13 (2) the examination and qualification requirements for his
14 out-of-state license or certificate were essentially similar to
15 or higher than the examination and qualification requirements for
16 licensure under this chapter [IN ALASKA AT THE TIME HE WAS LICENSED]; or

17 (3) he is a diplomate in good standing of the American Board
18 of Examiners in Professional Psychology;

19 (4) he completes and returns the proper application forms,
20 submits proof of continued competency as required by regulation of the
21 board, and pays the credential review [OUT-OF-STATE CERTIFICATE] fee.

22 * Sec. 11. AS 08.86.162(2) is amended to read:

23 (2) holds a master's degree with primary emphasis on psy-
24 chology from an accredited [OR APPROVED] educational institution which
25 has an approved program, with the equivalent of at least 24 semester
26 credit hours of ^{graduate} course work directly related to a [COUNSELING OR
27 ANOTHER] specialized area of psychology in which licensure is requested,
28 including a practicum;

29 * Sec. 12. AS 08.86.162(3) is amended to read:

1 (3) has at least three years' supervised experience after
2 obtaining a master's degree within the past ten years [, TWO OF WHICH
3 ARE IN ALASKA, AND INCLUDING ONE YEAR'S SUPERVISED POSTGRADUATE EXPE-
4 RIENCE ACCEPTABLE TO THE BOARD];

5 * Sec. 13. AS 08.86 is amended by adding a new section to article 3 to
6 read:

7 Sec. 08.86.164. SCOPE OF PRACTICE. (a) A psychological associate
8 shall be licensed for specific activities or areas of competence as
9 determined by the nature and extent of his training and experience, and
10 these areas shall be specified on the license.

11 (b) A psychological associate shall function under the supervision
12 of a licensed psychologist.

13 (c) Supervision of a licensed psychological associate is the
14 responsibility of the supervising licensed psychologist, and includes
15 face-to-face consultation as required by the nature of the work of the
16 psychological associate which is consistent with accepted professional
17 practices in psychology. The supervising psychologist is responsible
18 for insuring that the extent, kind and quality of the psychological
19 services performed are consistent with the training and experience of
20 the psychological associate.

21 (d) A psychological associate and his supervisor shall register
22 with the board a statement of the intended area of practice and arrange-
23 ments for supervision.

24 * Sec. 14. AS 08.86.180(a) is amended to read:

25 (a) Unless he is licensed under this chapter, a [NO] person may
26 not practice psychology, or offer to practice psychology, or repr sent
27 to the public that he is a psychologist or that he practices psychology.
28 A person represents himself to be a psych:ologist when he holds himself
29 out to the public by a title or description of services incorporating

1 the words "psychology", "psychological", "psychologist", "psychometry",
2 "psychometrics", "psychometrist", "psychological counseling", "psycho-
3 logical counselor", "psychotherapy", "psychotherapeutic", "psychothera-
4 pist", "psychoanalysis", or "psychoanalyst", or when he holds himself out
5 to be trained, experienced or qualified to render services in the field
6 of psychology.

7 * Sec. 15. AS 08.86.180(b) is amended to read:

8 (b) This section does not apply to

9 (1) a person employed by a governmental unit, educational
10 institution or private agency who may be required to engage in some
11 phase of work of a psychological nature in the course of his employment,
12 if the employer maintains appropriate supervision of psychological
13 activities and professional conduct, and if the person is performing
14 the psychological activities as part of the duties for which he was
15 employed, is performing the activities solely within the facilities of
16 the organization in which he is employed or under the supervision of
17 the organization in which he is employed, and does not render or offer
18 to render psychological services to the public for compensation in
19 addition to the salary he receives from the organization;

20 (2) a student, intern, or resident in psychology pursuing a
21 course of study approved by the board ~~as~~ [IS] qualifying training and
22 experience for a psychologist, if his activities constitute a part of
23 his supervised course of study and he is designated by titles such as
24 "psychology intern" or "psychology trainee";

25 (3) a qualified member of another profession, such as a
26 social worker, ~~or~~ ^{drug or alcohol abuse counselor,} pastoral counselor, in doing work of a psychological
27 nature consistent with his training and consistent with the code of
28 ethics of his profession, if he does not hold himself out to the public
29 by a title or description of services incorporating the words "psycho-

1 logy", "psychological", "psychologist", "psychometry", "psychometrics",
2 "psychometrist", "psychotherapist", "psychoanalysis", "psychoanalyst" or
3 represents himself to be trained, experienced or qualified to render
4 services in the field of psychology;

5 (4) (repealed)

6 (5) ~~a person practicing medicine, if he is licensed to prac-~~

7 ~~... a physician engaged in the normal practice of medicine~~
8 ~~... a person practicing medicine, if he is licensed to prac-~~

* Sec. 16. AS 08.86 is amended by adding new sections to read:

9 Sec. 08.86.204. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.

10 After a hearing, the board may impose a disciplinary sanction on a
11 person licensed under this chapter when the board finds that he

12 (1) secured a license through deceit, fraud, or intentional
13 misrepresentation;

14 (2) engaged in deceit, fraud, or intentional misrepresenta-
15 tion in the course of providing professional services or engaging in
16 professional activities;

17 (3) advertised professional services in a false or misleading
18 manner;

19 (4) has been convicted of a felony or other crime which
20 affects his ability to continue to practice competently and safely;

21 (5) intentionally or negligently engaged in or permitted the
22 performance of patient care by persons under his supervision which does
23 not conform to minimum professional standards regardless of whether
24 actual injury to the patient occurred;

25 (6) failed to comply with this chapter, with a regulation
26 adopted under this chapter, or with an order of the board;

27 (7) continued to practice after becoming unfit due to

28 (A) professional incompetence;

29 (B) failure to keep informed of ~~current~~ current profes-

f medicine

1 sional ~~theories~~ or practices;

2 (C) addiction or severe dependency on alcohol or other
3 drugs which impairs his ability to practice safely;

4 (D) physical or mental disability;

5 (8) engaged in lewd or immoral conduct in connection with the
6 delivery of professional service to patients.

7 Sec. 08.86.206. DISCIPLINARY SANCTIONS. (9) When it finds that a
8 licensee is guilty of an offense under AS 08.86.204, the board may
9 impose the following sanctions singly or in combination:

10 (1) permanently revoke a license to practice;

11 (2) suspend a license for a determinate period of time;

12 (3) censure a licensee;

13 (4) issue a letter of reprimand;

14 (5) place a licensee on probationary status and require him

15 to

16 (A) report regularly to the board upon matters involving
17 the basis of probation;

18 (B) limit practice to those areas prescribed;

19 (C) continue professional education until a satisfactory
20 degree of skill has been attained in those areas determined by the
21 board to need improvement;

22 (6) impose limitations or conditions on the practice of a
23 licensee.

24 (b) The board may withdraw probation status if it finds that the
25 deficiencies which required the sanction have been remedied.

26 (c) The board may summarily suspend a license before final hearing
27 or during the appeals process if the board finds that the licensee poses
28 a clear and immediate danger to the public health and safety if he
29 continues to practice. A person whose license is suspended under this

1 section shall be entitled to a hearing by the board no later than seven
2 days after the effective date of the order. The person may appeal the
3 suspension after a hearing to a court of competent jurisdiction.

4 (d) The board may reinstate a license which has been suspended or
5 revoked if the board finds after a hearing that the applicant is able to
6 practice with reasonable skill and safety.

7 (e) The board shall seek consistency in the application of dis-
8 ciplinary sanctions, and significant departure from prior decisions
9 involving similar situations shall be explained in findings of fact or
10 orders

11 * Sec. 17. AS 08.86.210 is amended to read:

12 Sec. 08.86.210. PENALTY. A person who violates this chapter
13 [AS 08.86.170, 08.86.180, 08.86.185, OR 08.86.190] is guilty of a
14 class F misdemeanor.

15 * Sec. 18. AS 08.86.230(2) is repealed and re-enacted to read:

16 (2) "to practice psychology" means to render or offer to
17 render for a fee to individuals, groups, organizations or the public for
18 the diagnosis, prevention, treatment, or amelioration of psychological
19 problems and emotional and mental disorders of individuals or groups or
20 for conducting research on human behavior, a psychological service
21 involving the application of psychological principles, methods, and
22 procedures of understanding, predicting, and influencing behavior,
23 including

24 (A) the principles pertaining to learning, perception,
25 motivation, emotions, and interpersonal relationships;

26 (B) the methods and procedures of interviewing, counsel-
27 ing, psychotherapy, biofeedback, behavior modification, and hypno-
28 sis;

29 (C) constructing, administering and interpreting tests

1 of mental abilities, aptitudes, interests, attitudes, personality
2 characteristics, emotions, and motivations;

3 * Sec. 19. AS 08.86.230(5) is repealed and re-enacted to read:

4 (5) "psychological associate" means a person licensed under
5 this chapter who renders specific psychological services in association
6 with a licensed psychologist and complies with AS 08.86.164;

7 * Sec. 20. AS 08.86.230(10) is amended to read:

8 (10) "private agency" means a clinic or private practice, or
9 custodial, rehabilitative or health care organization whose mental
10 health services are under the direction of a licensed psychologist [,]
11 or psychiatrist [. OR A CUSTODIAL, REHABILITATIVE OR HEALTH CARE ORGANI-
12 ZATION WHICH IS ACCEPTABLE TO THE BOARD);

13 * Sec. 21. AS 08.86.230(11) is amended to read:

14 (11) "supervised experience" as used in AS 08.86.162(3)
15 ["SUPERVISION"] means the equivalent of at least one hour a week of
16 personal interview with a supervisor whose educational qualifications
17 are consistent with the level of activity being supervised; (A SUPER-
18 VISOR IS RESPONSIBLE FOR INSURING THAT THE EXTENT, KIND AND QUALITY OF
19 THE PSYCHOLOGICAL AND COUNSELING SERVICES PERFORMED ARE CONSISTENT WITH
20 A PSYCHOLOGICAL ASSOCIATE'S TRAINING AND EXPERIENCE, AS WELL AS HIS
21 OBEDIENCE TO THE PROVISIONS OF THIS CHAPTER.)

22 * Sec. 22. AS 08.86.230 is amended by adding a new paragraph to read:

23 (12) "approved program" means a program which meets the
24 requirements established by the American Psychological Association
25 Education and Credentialing Committee in Psychology for an approved
26 program.

27 * Sec. 23. AS 44.62.330(a) is amended by adding a new paragraph to read:

28 (47) Board of Psychologist and Psychological Associate
29 Examiners (AS 08.86.010).

1 * Sec. 24. AS 08.86.070(a)(3), 08.86.185, and 08.86.230(6), (7), (8), and
2 (9) are repealed.

3 * Sec. 25. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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Alaska State Legislature



Senate

SENATOR
ARLISS STURGULEWSKI

COMMITTEES
CHAIRMAN
Community & Regional Affairs

VICE-CHAIRMAN
Commerce

Health & Social Services

2867 SHELDON JACKSON
ANCHORAGE, ALASKA 99504
DISTRICT 10-H

While in Juneau
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3712

TO: HUGH MALONE
ARLISS STURGULEWSKI

April 26, 1990

FROM: MARGO WARING *MW*
PAUL QUESNEL *PQ*

As you requested, we have developed a schedule of extension dates that insure that only two boards come for review each year. The placement of boards was based on both their relationship to other professions and on the past performance of particular boards as indicated in audit reports.

The Board of Nursing was extended last year for four years, til 1983.

SB 240	medical	3 years
SB 242	chiropractic	4 years
SB 243	optomotrists	4 years
SB 244	pharmacy	4 years
SB 245	opticians	5 years
SB 246	dental	2 years ✓
SB 247	veteranarians	5 years
SB 248	physical therapy	6 years
HB 446	psvchology	2 years ✓
SB 549	am Nur ing Home Administrators	6 years

RESUME

Charles C. Bovee, Ed.D.
Box 479
Sitka, Alaska 99835
Telephone (907) 747-8270

PERSONAL DATA

Born February 11, 1926 - Seattle, Washington
Attended elementary and high school in Seattle

Married - Wife, Edyth W. Sedgley Bovee

Children - Michelle K. Bovee, Nov. 4, 1956
Michael L. Bovee, Nov. 4, 1956
Kent T. Bovee, July 10, 1960
Mark T. Bovee, Oct. 30, 1961
G. Spence Bovee, Dec. 14, 1962

EDUCATION

1950 - B.A. Psychology, Whitworth College, Spokane, Washington
1951 - B.E. Secondary Educ., Whitworth College, Spokane, Washington
1956 - M.A. Guidance & Student Personnel, Columbia University
Teachers College, New York
1963 - B.D. Columbia Theological Seminary, Decatur, Georgia - cum laud
1967 - Ed.D. Counselor Education, University of Georgia, Athens, Georgia

1958-60 Completed course work and certification exams for Ed.D. in
Developmental Psychology at Columbia University Teachers College

PROFESSIONAL ORGANIZATIONS

1960 - American Psychological Association...member
1961-68 Georgia Association of School Counselors...professional
member
1962 - American Personnel & Guidance Association...member
1962 - National Vocational Guidance Association (Division of APGA)
professional
1964 - Christian Association for Psychological studies...member
1963 - Ordained by Athens Presbytery, Synod of Georgia...member
through 1970
1970 - Member Alaska Presbytery United Pres. Church U.S.A.
1970 - American Psychological Association Div. 17, Counseling
Psychology...member
1970 - Alaska Psychological Association, Charter Member, Executive
Committee

HONORARY ORGANIZATIONS

Phi Delta Kappa, Phi Kappa Phi

RESUME

Charles C. Bovee, Ed.D.

Page Two

WORK EXPERIENCE	1944-45	U.S. Army Air Force
	1951-52	U.S. Air Force. Assisted clinical psychologist in interviewing and testing patients at Air Force General Hospital, Dayton, Ohio
	1952-55	The Navigators, Colorado Springs, Colorado. Representative for this Christian organization. Major portion of this time spent in Chattanooga, Tennessee
	1956-58	Baylor Prep School, Chattanooga, Tennessee. Taught psychology and Bible
	1958-60	Mental Retardation Project. Col. Univ. Teachers College, N.Y. Research assistant for project, primarily psychological observer
	1960-63	Community Mental Health Service, Georgia Health Dept. Atlanta, Georgia. Psychologist - Part-time, 10 hrs/wk
	1961	Emory University Graduate School of Education. Instructed a graduate course on Fundamentals of Guidance
	1960-63	Presbyterian Guidance Center, Synod of Georgia in Atlanta. Director and counselor; part-time, 15 hrs/wk
	1963-68	Presbyterian Guidance Center, Synod of Georgia located at Agnes Scott College, Decatur, Ga. Director and counselor, full-time
	1968-70	Associate Professor of Psychology and Coordinator of Counseling Services, Gordon College, Wenham, Massachusetts
	1969	Summer - Staff of European Seminar sponsored by Gordon College - 8-week tour of Western Europe
	1970	Sheldon Jackson College, Sitka, Alaska Academic Dean - August 1970 to April 1971 Acting President - May 1971 to October 1971 Academic Dean - November 1971 to September 1972 Vice President for Academic Affairs and Dean - October 1972 to present

REFERENCES

Dr. John Deifell
First Presbyterian Church
Atlanta, Georgia

Dr. Richard Gross, President
Gordon College
Wenham, Massachusetts 01984

Dr. George Gazla
University of Georgia
Athens, Georgia

Dr. Merton D. Munn (Retired...President S.J.C 1974-1977)
10126 N. Andrew Street
Spokane, Wa. 99218

SB

240

MEDICAL BOARD

- (1) Synopsis
- (2) Position Paper - Ak. Medical Assoc.
- (3) Position Paper - Ak. Health Coalition
- (4) Position Paper - Commissioner Beirne (Discusses fiscal impact of HCS SB 240am H)
- (5) Fiscal Note - HCS SB240
- (6) Budget & Audit Committee Summary

State Medical Board
extends board - June 30, 1980.

HCSSB 240

Section 1 extends board until June 30, 1980.

Section 2 changes composition of the board: reduces licensed physicians from five to four and increased from two to three the number of public members on the board.

Sections 3 and 7 provides for staggered terms and allows that incumbent members do not lose membership, but appointments after effective date must be consistent with staggered terms.

Section 4 limits board members to two consecutive terms.

Section 5 creates executive officer of the board to be employed by the Department to perform administrative duties and carry out regulations and policy decisions made by the board.

Section 6 is "winding down" provision.

Section 8 repeals appropriate sections amended by this bill.

Section 9 is effective date clause.

HCSSB 240amH

Adds new Section 8 which amends AS 08.64.380(3) (Definitions) by adding new subsection (I) which proscribes discrimination against a resident seeking nonelective medical care based on denial of treatment because payment for services is to be provided through medicaid.

Adds new Section 9 which amends AS 47.07.070 (Reimbursement for cost settled providers) adding a new subsection (b) which allows providers to assess an interest charge on unpaid medical bills.

Adds new Section 10 which mandates the State Medical Board to (1) adopt regulations describing circumstances in which physicians may refuse service based on patient's ability to pay (2) submit report to Legislature examining alternatives to current system to providing delivery services for the payment of medicaid.

Adds new Section 11 defining essential medical treatment.

Adds new Section 13 revising effective date provision.

①

MEMORANDUM

TO: The Senate and House Chairman
FCC, SB 240 (Alaska State Medical Board)

FROM: Jeff Landry, Lobbyist
Alaska State Medical Association

The Alaska State Medical Association endorses the Senate version of SB 240, continuing the existence of the State Medical Board for an additional four years. The House Committee Substitute would terminate the Board on June 30, 1999.

Additionally, the State Medical Association opposes the House amendment to SB 240, which is in essence HB 228, "An Act relating to the provision of health care services", sponsored by Rep. Bill Parker.

Physicians in the State contend that HB 228 is inconsistent with the intent of the Federal Medicaid statute, the tone of which is one of provider voluntariness.

The Federal Medicaid statute sets out governing provisions that are mandatory upon the State. The State has already departed from the intent of the federal statute.

Furthermore, The State of Alaska provider agreements depart from the concept of an agreement and are not reasonably legal in form; the obligations of the state are not clearly expressed and any obligations implied are made illusory by reference to rules and regulations.

HB 228 violates Section 10 of Article I of the US Constitution which prohibits State impairment of contracts. This one-sided statutory modification imposes a penalty for breach of contract with the state that goes far beyond what was contemplated when the providers entered into the agreements.

HB 228 violates the 13th Amendment abolishing involuntary servitude.

HB 228 violates the 1st Amendment freedom of speech guarantees by effectively preventing a provider from registering his protest to government inefficiency by refusing to serve government subsidy patients.

The language of HB 228, such as on page 3, lines 21-22, "immediate pain and suffering", is so imprecise as to render it unenforceable.

Finally, despite these contractual inadequacies, physicians in the State of Alaska continue to treat government subsidy patients. There does not exist a Medicaid crisis in Anchorage, as alleged by Mr. Jamie Love and Rep. Parker.

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH H 01 - JUNEAU 99811

April 30, 1979

Honorable Glenn Hackney
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

Section 9 of SB 240 as amended by the House would require a one percent per month interest payment for all unpaid medical bills where payment is delayed more than 30 days after presentation of the bill. The Department is currently processing bills on an average of 50 days from the date of receipt of the invoice by the Department. Although improvement is expected, the Department does not expect a consistent processing time frame of less than 30 days to result unless new positions are established or a computerized schedule of maximum allowance payment is adopted by the Department. Thus, with the present workload and present staffing in the claims payment section of the Division of Public Assistance, almost all invoices would require at least a 1% interest payment. Implementation of this provision of SB 240 will require the Free Conference Committee to consider these alternatives:

- (1) Appropriation of State General Funds in the amount of 1% of the FY 80 Medicaid and General Relief Medical appropriations for Physicians' services from which the penalty payment may be made.
- (2) Appropriation of funds adequate to meet additional staffing needs to pay claims in a timely manner (the Governor's FY 80 Budget Request was for 3 new positions);
or

Senator Hackney

-2-

April 30, 1979

- (3) Legislative intent, if funds are not available for (1) or (2) above, that the Department implement a computerized schedule of maximum allowances which will allow for compliance with the timeliness requirements of Section 9 of SB 240.

Sincerely,



Helen D. Beirne
Commissioner

cc: Ron Lind

HCS
SB240

Analysis:

Page 2 of 2

Personnel Services

12 months, partially exempt, Range 10	
Benefits = \$4422, FICA = \$1588, Health = \$1716	\$32,710

12 months, Clerk Typist III, Range 8	
Benefits = \$1555, FICA = \$1588, Health = \$1716	10,355
	<u>\$50,865</u>

Travel

Field/Administrative Travel	
7 Board meetings (2 Fairbanks, 2 Anchorage,	
2 Juneau, 1 Ketchikan) Transportation	\$ 846
Per Diem	846
1 Out-of-State Travel Transportation	350
Per Diem	300
	<u>\$ 2,342</u>

Equipment (FY80 Only)

2 Side Chairs	\$152	
1 Desk	370	
1 Exec. Chair	178	
1 Credenza	295	
2 file cabinets	344	
1 book shelf	87	
1 desk - Clerk	370	
1 Typewriter table	62	
1 file cabinet	172	
1 Chair - Clerk	91	
1 Typewriter	206	\$ 2,377

Land and Structures

Space for Range 10 and Clerk Typist would	
require 400 square feet at \$1.25/foot/month	\$ 6,000

The above is based on a 4% inflation rate.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH W-STATE CAPITOL

JUNEAU, ALASKA 99811

November 5, 1978

SUMMARY OF: A Performance Review of the Alaska State Medical Board.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1), and 44.66.050 (sunset legislation), a review of the State Medical Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions.

REPORT CONCLUSION

In our opinion, the State Medical Board should be reestablished with consideration given to our recommendation that the Board be reorganized to provide a greater public awareness on the Board.

The practices of medicine, osteopathy, and acupuncture by physicians, osteopaths, paramedics, podiatrists, chiropractors, and physician assistants is regulated by the Alaska State Medical Board. In addition, the Medical Board jointly regulates the practice of medicine by advanced nurse practitioners with the Board of Nursing. Because these occupations affect the public health, safety and welfare, in our opinion they should be subject to regulations and controls. Establishing minimum educational and experience requirements provides the public a reasonable assurance persons licensed are qualified. In addition, an active investigation of complaints from the public and other practitioners assures the public that those licensed continue to practice in a competent manner.

In our opinion, these functions are needed for the protection of the public. However, we do not believe the Medical Board has effectively accomplished these functions. We are making recommendations which should be implemented in order for the State Medical Board to effectively serve the Alaska public.

We recommend a reorganization to prevent one occupational group from acting to the detriment of another and to provide a greater assurance that the public's interest is considered.

We have recommended the Board act in a timely manner to pass regulations needed to protect the public. The emergence of the mid-range medical profession has not been effectively handled. The Board has not passed regulations establishing the qualifications and scope of practice of the mid-range health care practitioner. It has been four years since the board was originally mandated to pass these regulations.

We have recommended that consumer complaints be examined on the basis of merit. Presently, consumer complaints are either not examined or are referred to the Alaska State Medical Association's grievance committees.

The Board has not effectively policed the profession. A substantial portion of this problem is because the Division of Occupational Licensing (OL) has not provided the required investigations for the Board. However, the Board has powers defined under the Administrative Procedures Act which could be used to investigate life threatening cases or when severe public harm could occur.

We have also recommended possible statutory amendments in areas where such changes increase the effectiveness of the Board.

SB

2 4 2

(2 FILES)

BOARD OF CHIROPRACTIC EXAMINERS

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 242
Board of Chiropractic
Examiners
Extends board -
June 30, 1983

HCSSB 242 - Secs 1, 2 & 6 extends board
January 1, 1981 and then jurisdiction
licensing of chiropractors and the
of chiropractic is transferred to Dept
Comm & Econ Dev.
Secs 3 & 4 includes within Dept's du
duty of providing investigative serv
to the boards for the purpose of ass
those boards in matters of professio
discipline.
Secs 5, 7 - 17 provides for necessar
statute changes to effect transfer
from board to Dept.
Sec 18 repeals appropriate sections
by this bill.
Sec 19 effective date clause.

POSITION OF ALASKA HEALTH COALITION RE SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years; in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines accessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL

JUNEAU, ALASKA 99811

October 27, 1978

SUMMARY OF: A Performance Review of the Board of
Chiropractic Examiners.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.020.271(1) and 44.66.050 (sunset legislation), a review of the Board of Chiropractic Examiners was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operation and its licensing, examination, administration, complaint and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Chiropractic Examiners should be reestablished as the body that regulates and licenses the chiropractic professionals. The regulation and licensing of these professionals is necessary to protect the public's health, safety and welfare.

However, certain changes need to be made in order for the Board to more effectively perform its duties. Current Board policies and actions, such as lack of an effective reciprocity policy and a required State examination redundant of National Board examinations are restricting the entry of qualified, experienced Doctors of Chiropractic from entering the State.

Also, Board - and individual Board member - actions adversely affect the services of chiropractic care to the public. Such actions as employing chiropractors using restrictive employment contracts with associates that have not-to-compete provisions, and unwritten examination grading procedures do not serve the public's best interest.

The Board needs to evaluate present statutes and regulations for relevancy, legality and protection of the public. The Board needs to better define license violations and review its advertising restrictions which may be unconstitutional. There are no statutes requiring continuing education to upgrade or maintain the quality of care.

In conclusion, the Board of Chiropractic Examiners should analyze and evaluate the purpose of the Board and take the necessary steps to perform and fulfill their responsibilities.

FCCS and so, FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE
SB BILL NO. 242 passed the Senate.
242

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

The Secretary was requested to notify the House.

2ND FREE CONFERENCE COMMITTEE REPORT

May 12, 1980

Mr. President:
Mr. Speaker:

SB

2 4 3

(2 FILES)

OPTOMETRY BOARD

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 243
Board of Examiners
in Optometry
Extends board -
June 30, 1983

HCSSB 242 - Secs 1, 2 & 6 extends board until
January 1, 1981 and then jurisdiction over
licensing of optometry and practice of
optometry is transferred to Dept Comm &
Econ Dev.

Secs 3 & 4 includes within duties of Dept
the duty of providing investigative service
to the boards for the purpose of assisting
those boards in matters of professional
discipline.

Secs 5 & 7-20 provide for necessary statutory
changes to effect transfer of authority from
the board to Dept.

Sec 21 repeals appropriate sections amended
by this bill.

Sec 22 effective date clause.

POSITION ALASKA HEALTH COALITION: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of his state.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

November 7 1978

SUMMARY OF: A Performance Review of the Board of Examiners
in Optometry.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Examiners in Optometry was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operation and its licensing, examination, administration, complaint, and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Examiners in Optometry should continue to regulate and license optometrists. The regulation and licensing of this profession is necessary to protect the public's health, safety and welfare.

However, we are making recommendations which should be implemented in order for the Board to more effectively serve the Alaska public.

We have recommended the Board repeal its unduly restrictive regulations on branch offices, working for a corporation and leasing of commercial property. The Attorney General and our legal counsel have found that these regulations may constitute a restraint of competition among optometrists and could violate antitrust laws.

In addition, we recommend the Board enforce existing laws for issuing and renewing licenses and develop policies and procedures for examinations and meetings.

11CS of Examiner, in Optometry on January 1, 1981, and re-
 23 assigning its responsibilities to the Department of
 243 Commerce and Economic Development) recommends that FREE
 CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243
 (relating to the continuation of regulatory boards and
 continuing the existence of the Board of Examiners in
 Optometry; eff. date) be adopted.

Senator members signing the report: Senator Sturgulewski,
 Chairman. Senators Bennett and Fahrenkamp. House members:
 Representative Malone Chairman, Representatives Osterback
 and Bettisworth.

Senator Colletta moved that the Senate adopt the Free
 Conference Committee report.

The question being: "Shall FREE CONFERENCE COMMITTEE
 SUBSTITUTE FOR SENATE BILL NO. 243 (relating to the
 continuation of regulatory boards and continuing the
 existence of the Board of Examiners in Optometry) pass
 the Senate?" The roll was taken with the following
 result:

PCCS SB 243

Yeas: 17 Bennett, Bradley, Colletta,
 Dankworth, Fahrenkamp, Ferguson,
 Hackney, Mohman, Kelly, Kerttula,
 Meland, Mulcahy, Ray, Sackett,
 Stinson, Sturgulewski, Tillion

Nays: 0

Excused: 3 Rodey, Sumner, Ziegler

PCCS and so, FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE
 SB BILL NO. 243 passed the Senate.
 243

Senator Collette moved and asked unanimous consent that
 the roll call on the passage of the above bill be con-
 sidered the roll call on the effective date clause.
 Without objection, it was so ordered.

The Secretary was requested to notify the House.

Introduced: 4/7/80
Referred: Health, Education
and Social Services

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 551

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to professional licensing and to the
7 regulation of the practice of optometry; and providing
8 for an effective date."

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

10 * Section 1. AS 08.01.100(a) is amended to read:

11 (a) Except as otherwise provided in this title, [ALL] licenses
12 shall be renewed biennially on the dates set by the department with the
13 approval of the respective board.

14 * Sec. 2. AS 08.72.010 is amended to read:

15 Sec. 08.72.010. CREATION AND PURPOSE OF BOARD OF EXAMINERS. There
16 is created the Board of Examiners in Optometry to regulate and control
17 the practice of optometry and to protect and promote the public health,
18 welfare, and safety/and the public interest/

19 * Sec. 3. AS 08.72.020 is amended to read:

20 Sec. 08.72.020. MEMBERSHIP OF BOARD AND TERMS OF OFFICE. The
21 board consists of five persons, appointed by the governor. Members
22 serve staggered terms of four [THREE] years. [THE TERMS OF THE PUBLIC
23 MEMBERS OF THE BOARD SHALL BE SET SO THAT THEY DO NOT EXPIRE AT THE SAME
24 TIME.]

25 * Sec. 4. AS 08.72 is amended by adding a new section to read:

26 Sec. 08.72.025. REMOVAL OF BOARD MEMBERS. A member of the board
27 may be removed from office by the governor for cause. The board may by
28 regulation provide that unexcused absences from meetings constitute
29 cause for removal.

1 * Sec. 5. AS 08.72.040 is amended to read:

2 Sec. 08.72.040. QUALIFICATIONS. Four [THREE] board members shall
3 be licensed, practicing optometrists who have been residents for at
4 least three years. One board member shall be a public member. A person
5 who has served two successive complete terms may not be reappointed until
6 four years from the expiration of the second term that he served [TWO
7 SHALL BE PERSONS WHO HAVE NO DIRECT FINANCIAL INTEREST IN THE HEALTH
8 CARE INDUSTRY].

9 * Sec. 6. AS 08.72.050 is amended by adding new paragraphs to read:

10 (5) establishing requirements for licensing in addition to
11 those established in this chapter;

12 (6) prescribing requirements which a person licensed under
13 this chapter must meet to demonstrate continued professional competency.

14 * Sec. 7. AS 08.72.060(b) is repealed and re-enacted to read:

15 (b) The board may

16 (1) adopt a seal;

17 (2) define professional conduct and adopt rules of profes-
18 sional conduct.

19 * Sec. 8. AS 08.72.060(c) is repealed and re-enacted to read:

20 (c) The board shall

21 (1) elect a president and secretary from among its members;

22 (2) order a licensee to submit to a reasonable physical or
23 (mental examination) if his physical or (mental capacity) to practice safely
24 is at issue.

25 * Sec. 9. AS 08.72.125(a) is amended to read:

26 (a) The board shall [MAY] issue a branch office certificate of
27 registration to an Alaskan licensee who maintains a full-time practice
28 in the state but who serves other communities in the state on a part-
29 time basis [A BRANCH OFFICE CERTIFICATE OF REGISTRATION].

1 * Sec. 10. AS 08.72.140(2) is amended to read:

2 (2) he has [NORMAL COLOR PERCEPTION AND] a visual acuity of a
3 standard of at least 20/40 in at least one eye as corrected;

4 * Sec. 11. AS 08.72.160(a) is amended to read:

5 (a) The examination shall be written, practical, and oral in
6 nature. The National Board of Examiners in Optometry Examination,
7 Parts I and 2, shall comprise the written portion of the Alaska examina-
8 tion. The oral portion of the examination shall be recorded and re-
9 tained for two years.

10 * Sec. 12. AS 08.72.170(a)(2) is amended to read:

11 (2) holds a current license by examination in another state
12 or a province of Canada [, TERRITORY OR FOREIGN COUNTRY] and has been
13 established in ethical optometric practice for at least three years
14 before the application, or shows satisfactory evidence of having passed
15 the written portion of the examination given by the National Board of
16 Examiners in Optometry; and

17 * Sec. 13. AS 08.72.181(a) is amended to read:

18 (a) To remain in force a license must be renewed every four years
19 [BIENNIALLY].

20 * Sec. 14. AS 08.72.181(d) is amended to read:

21 (d) Before a license may be renewed the licensee shall submit to
22 the board evidence of 48 [24] hours of post graduate continuing education
23 instruction as prescribed by regulations of the board. The board may
24 specify by regulation those circumstances under which the requirements
25 of this subsection may be waived.

26 * Sec. 15. AS 08.72.181 is amended by adding a new subsection to read:

27 (e) Before a license may be renewed, the licensee shall provide
28 evidence of continued professional competency in accordance with the
29 regulations adopted by the board under AS 08.72.050(6).

1 * Sec. 16. AS 08.72.191 is amended to read:

2 Sec. 08.72.191. FEES. The following fees shall be imposed under
3 this chapter when applicable:

- 4 (1) examination fee..... \$50 [\$35]
5 (2) re-examination fee for written portion..... \$50 [50]
6 (3) waiver of examination fee..... \$50 [25]
7 (4) certificate fee..... \$100 [50]
8 (5) [BIENNIAL] renewal fee
9 (due every four years)..... \$200 [50]
10 (6) branch office [BIENNIAL] registration fee
11 (due every four years)..... \$100 [25]

12 * Sec. 17. AS 08.72.240 is repealed and re-enacted to read:

13 Sec. 08.72.240. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS.
14 The board may impose disciplinary sanctions when the board finds after a
15 hearing that a licensee

- 16 (1) secured a license through deceit, fraud, or intentional
17 misrepresentation;
18 (2) engaged in deceit, fraud, or intentional misrepresenta-
19 tion in the course of providing professional services or engaging in
20 professional activities;
21 (3) advertised professional services in a false or misleading
22 manner;
23 (4) has been convicted of a felony or other crime which
24 affects his ability to continue to practice competently and safely;
25 (5) intentionally or negligently engaged in or permitted the
26 performance of patient care by persons under his supervision which does
27 not conform to minimum professional standards regardless of whether
28 actual injury to the patient occurred;
29 (6) failed to comply with this chapter, with a regulation

1 adopted under this chapter, or with an order of the board;

2 (7) continued to practice after becoming unfit due to

3 (A) professional incompetence;

4 (B) failure to keep informed of or use current profes-
5 sional theories or practices;

6 (C) addiction or severe dependency on alcohol or other
7 drugs which impairs his ability to practice safely;

8 (D) physical or mental disability;

9 (8) engaged in lewd or immoral conduct in connection with the
10 delivery of professional service to patients.

11 * Sec. 18. AS 08.72.250 is repealed and re-enacted to read:

12 Sec. 08.72.250. DISCIPLINARY SANCTIONS. (a) When it finds that a
13 licensee is guilty of an offense under AS 08.72.240, the board may
14 impose the following sanctions singly or in combination:

15 (1) permanently revoke a license to practice;

16 (2) suspend a license for a determinate period of time;

17 (3) censure a licensee;

18 (4) issue a letter of reprimand;

19 (5) place a licensee on probationary status and require him

20 to

21 (A) report regularly to the board upon matters involving
22 the basis of probation;

23 (B) limit practice to those areas prescribed;

24 (C) continue professional education until a satisfactory
25 degree of skill has been attained in those areas determined by the
26 board to need improvement;

27 (6) impose limitations or conditions on the practice of a
28 licensee.

29 (b) The board may withdraw probation status if it finds that the

1 deficiencies which required the sanction have been remedied.

2 (c) The board may summarily suspend a license before final hearing
3 or during the appeals process if the board finds that the licensee poses
4 a clear and immediate danger to the public health and safety if he
5 continues to practice. A person whose license is suspended under this
6 section shall be entitled to a hearing by the board no later than seven
7 days after the effective date of the order. He may appeal the sus-
8 pension after a hearing to a court of competent jurisdiction.

9 (d) The board may reinstate a license which has been suspended or
10 revoked if the board finds after a hearing that the applicant is able to
11 practice with skill and safety.

12 (e) The board shall seek consistency in the application of dis-
13 ciplinary sanctions, and significant departure from prior decisions
14 involving similar situations shall be explained in findings of fact or
15 orders.

16 * Sec. 19. AS 08.72.270(a) is amended to read:

17 (a) A registered optometrist, who temporarily practices optometry
18 away from his regular place of business, shall display his registration
19 certificate and deliver to each patient or person fitted or supplied
20 with glasses a receipt [WITH HIS SIGNATURE] showing his permanent place
21 of business or post office address [, CERTIFICATE NUMBER,] and the
22 amount charged. A licensee who fails to comply with any of the [FORE-
23 GOING] provisions of this section for six months after issuance of the
24 certificate shall forfeit his certificate.

25 * Sec. 20. AS 08.72.275 is amended by adding a new subsection to read:

26 (d) A licensee may sell, exchange or deliver eyeglasses or sun-
27 glasses which do not meet the requirements of (a) of this section if the
28 sale, exchange or delivery is authorized in a written request signed by
29 the patient.

1 * Sec. 21. AS 08.72.300(2) is amended to read:

2 (2) "optometry" is the examination of the human eyes and the
3 visual system for the purpose of ascertaining a departure from the nor-
4 mal, ascertaining the status of the human visual system, including re-
5 fractive and functional abilities, or ascertaining the presence of
6 ocular disease and any other departure from the normal which may require
7 referral to other health care practitioners; or is the employment of
8 means or methods, other than the use of drugs, for the diagnosis of
9 an optical deficiency or deformity, visual or muscular anomaly of the
10 human eye, or the prescription or application of lenses, prisms or
11 ocular exercises for the correction or relief of the human eye;

12 * Sec. 22. AS 08.72.300(3) is amended to read:

13 (3) "practicing optometry" is an examination of the human
14 eyes and visual system for the purpose of ascertaining a departure from
15 the normal, ascertaining the status of the human visual system, in-
16 cluding refractive and functional abilities, or ascertaining the pre-
17 sence of ocular disease and any other departure from the normal which
18 may require referral to other health care practitioners; or [MEANS] the
19 diagnosis, by means or methods other than the use of drugs, of an
20 optical deficiency or deformity, visual or muscular anomaly of the human
21 eye, or the prescription of lenses, prisms or ocular exercises for the
22 correction or relief of the human eye, or the holding of oneself out as
23 being able to do so;

24 * Sec. 23. AS 08.72.060(e), 08.72.070, 08.72.090, and 08.72.140(6) are
25 repealed.

26 * Sec. 24. This Act takes effect immediately in accordance w'th AS 01.10.-
27 070(c).
28
29

May 14, 1980

Representative Terry Gardiner
Speaker of the House

Senator Clem Tillion
President of the Senate

Mr. Speaker:
Mr. President:

The Free Conference Committee recommends that in SB 551, page 2, line 22-24 be deleted. Eliminating as a board duty:

"(2) order a licensee to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue."

Senator Arliss Sturgulewski
Chairman, Senate FCC

Representative Hugh Malone
Chairman, House FCC

Senator Don Bennett

Representative Bob Bettisworth

Senator Bettye Fahrenkamp

Representative Alvin Osterback

SB

2 4 4

(2 FILES)

PHARMACY BOARD

- (1) Synopsis
- (2) Position Paper - Alaska Pharmaceutical Assoc.
- (3) Position Paper - Alaska Health Coalition
- (4) Budget & Audit Committee Summary

SB 244 - Board of Pharmacy

Extends board - June 30, 1983

HCSSB 244

Section 1 extends board until June 30, 1983.

Section 2 changes composition of board (7 member board): reduces number of pharmacists from five to four and increases from two to three the public members on the board.

Section 3 provides for staggered terms.

Section 4 puts a limit on the term of service a board member may serve to no more than two consecutive terms.

Section 5 is "winding down" provision.

Section 6 provides for an incumbent member not to have his term shortened because of the reallocation of membership proposed in this bill.

Section 7 repeals appropriate section amended by this bill.

Section 8 is effective date clause.

HCSSB 244amH

Adds new Section 8 repealing AS 08.80.420(b) which states "A person may not advertise in any manner, prices, percentiles of prices or discounts for drugs requiring a prescription."

New Section 9 is effective date clause.

①

ALASKA PHARMACEUTICAL ASSOCIATION



Box 1185

Anchorage, Alaska 99517

Dear Senators & Representatives,

The pharmacists of the State of Alaska are unalterably opposed to the restructuring of the State Board of Pharmacy from its current status to a watered-down, weakened & ineffective board as proposed by State Representative Brown's Commerce Committee.

The current Board has displayed in the past its ability to perform adequately, efficiently & effectively for the protection of the public & the overseeing of the profession of pharmacy in the State of Alaska.

The State Board of Pharmacy is already operating on an unsatisfactory budget of \$4500 annually. The Department of Occupational Licensing, with a budget of nearly four times this amount, has failed in the past to complete its required tasks. From taxpayers' points of view, we feel that the State Board of Pharmacy, given the same amount could more efficiently & at less expense, license its own approximately 50 pharmacists, oversee the profession & protect the public.

Since the legislature has already approved retaining the State Board of Pharmacy under the "Sunset Review", why dilute the expertise of the members by limiting the term of office to 4 years?

Sincerely yours,

Chuck Decker R.Ph

Secretary

Alaska Pharmaceutical Association

Pharmacy Bd.

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

November 10, 1978

SUMMARY OF: A Performance Review of the Board of Pharmacy

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Pharmacy was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint, and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Pharmacy should continue to be the body that regulates and licenses its profession. The regulation and licensing of these professionals, pharmacies and drug rooms is necessary to protect the public's health, safety and welfare.

The practice of pharmacy is regulated by the Alaska Board of Pharmacy. Also, the Board is required to license shopkeepers dispensing non-prescription drugs. Because the practice of pharmacy affects the public's health, safety and welfare, we believe pharmacists should be subject to regulations and controls. The establishment of minimum educational and experience requirements provides the public with a reasonable assurance that persons licensed are qualified. In addition, an active investigation of complaints assures the public that those licensed continue to practice in a competent manner. In our opinion, these functions have been performed by the Board of Pharmacy.

However, we are making recommendations which, if implemented, will improve the effectiveness of the Board in serving the Alaskan public.

We recommend the Board fulfill all of its statutory responsibilities to adopt regulations, report to the Legislature and to issue shopkeeper permits while seeking changes in the Alaska Statutes.

We recommend that qualified pharmacist applicants who are licensed in another state, but who have not had 540 hours of postgraduate internship, be licensed. In addition, we recommend licensed pharmacists be required to demonstrate continued competency through continuing education or re-examination.

We recommend that the Board comply with statutory requirements for grading examinations and establish internal controls to assure that the administration of examinations is not open to accusations of bias.

We recommend legislation be considered to establish an annual inspection of pharmacies by the Board. Presently, some inspections are being performed by the Board. We recommend this program be formalized to provide additional public protection.

We recommend a limitation on the consecutive number of terms a Board member can serve. Although we found many examples of commendable public service on the part of Board members, several pharmacists have complained that the Board members do not represent all pharmacists.

In addition, we recommend the Board promulgate regulations which will define and list examples of acts by pharmacists which should be considered licensing violations.

HCS Senator members signing the report: Senator Sturgulewski,
 SB Chairman and Senators Bennett and Fahrenkamp. House
 244 members: Representative Malone, Chairman and Representa-
 am tives Osterback and Bettisworth.
 H

Senator Colletta moved that the Senate adopt the Free Conference Committee report.

The question being: "Shall FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 242 (relating to the continuation of regulatory boards and continuing the existence of the Board of Chiropractic Examiners) pass the Senate?" The roll was taken with the following result:

FCCS SB 242

Yeas:	16	Bennett, Bradley, Colletta, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Rodey, Sackett, Stinson, Sturgulewski, Tillion, Ziegler
Nays:	0	
Excused:	1	Dankworth
Absent:	3	Hohman, Ray, Sumner

The 2nd Free Conference Committee which has had SENATE BILL NO. 244 (continuing the existence of the Board of Pharmacy) and HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 244 amended House (continuing the existence of the Board of Pharmacy and amending the laws regulating the practice of pharmacy) recommends that FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 244 (relating to the continuation of regulatory boards and continuing the existence of the Board of Pharmacy; eff. date) be adopted.

HCS
SB
244
am
H

Senate members giving the report: Senator Sturgulewski, Chairman and Senators Bennett and Fahrenkamp. House members: Representative Malone, Chairman and Representatives Osterback and Bettisworth.

Senator Colletta moved that the Senate adopt the Free Conference Committee report.

The question being: "Shall FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 244 (relating to the continuation of regulatory boards and continuing the existence of the Board of Pharmacy) pass the Senate?" The roll was taken with the following result:

FCCS SB 24-

Yeas:	16	Bennett, Bradley, Colletta, Fahrenkamp, Ferguson, Mackney, Kelly, Kerttula, Meland, Mulcahy, Rodey, Sackett, Stimson, Sturgulewski, Tillion, Ziegler
Nays:	0	
Excused:	1	Dankworth
Absent:	1	Hohman, Ray, Sumner

and so FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 244 passed the Senate.

FCCS
SB
244

Senator Collette moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

The Secretary was requested to notify the House.

SB

245

(2 FILES)

BOARD OF DISPENSING OPTICIANS

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 245 - Board of Dispensing Opticians

Extends board - June 30, 1980

HCSSB 245

Sections 1 & 2 extends board until January 1, 1981 and then jurisdiction over licensing of dispensing opticians is transferred to the Department of Commerce and Economic Development.

Sections 3 & 4 includes within duties of Department the duty of providing investigative services to the boards for the purpose of assisting those boards in matters of professional discipline.

Sections 5 - 17 provides for necessary statute changes to effect transfer of authority from board to Department.

Section 18 repeals appropriate sections amended by this bill.

Section 19 is effective date clause.

HCSSB 245amH

Page 5, lines 7 through 12: deletes all material.

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH W - STATE CAPITOL

JUNEAU, ALASKA 99811

November 10, 1978

SUMMARY OF: A Performance Review of the Board of Dispensing Opticians.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271 (1) and 44.06.050 (sunset legislation), a review of the Board of Dispensing Opticians was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board has not operated in an effective manner and continuation of the Board and the licensing of the profession is not necessary to protect the public's health, safety and welfare.

However, if the Legislature deems that continuing the Board of Dispensing Opticians and the licensing of the profession is in the public's best interest, then several changes need to be implemented in order for the Board to effectively serve the public.

The Board has not enforced the Dispensing Opticians Law. It is the Board's responsibility to regulate the profession, thereby ensuring that the public is adequately protected. However, because of insufficient investigative support by the Division of Occupational Licensing, the Board has been somewhat hampered in enforcing the law.

Presently there is a shortage of opticians in several areas of Alaska. Board policies are not encouraging the entry of qualified opticians into Alaska. For example, the Board has no reciprocity or endorsement agreements with other states. Also, the Board's examination is given only once a year.

In addition, the Board has given almost no guidance concerning license violations. The public would be better protected as well as the profession, if regulations concerning license violations were better defined.

HCS The 2d FREE CONFERENCE COMMITTEE report on SENATE BILL
 SB NO. 245 (continuing the existence of the Board of
 245 Dispensing Opticians, effective date) and HOUSE COMMIT-
 amil TEE SUBSTITUTE FOR SENATE BILL NO. 245 amended House
 (terminating the existence of the Board of Dispensing
 Opticians on January 1, 1981 and reassigning its re-
 sponsibilities to the Department of Commerce and Econ-
 omic Development, effective date) (page 1319 of the
 journal) was before the House.

Mr. Anderson moved that the 2d Free Conference Committee report be adopted, thus adopting FCCSSB 245, and asked that the members vote yes.

The question being: "Shall the House adopt the Free Conference Committee report?" The roll was taken with the following result.

FCCSSB 245

Yes:	22	Anderson, Barnes, Beirne Buchholdt, Carney, Chatterton, Duncan, Eliason, Fuller, Guy, Malford, Mayes, Murlbert, Malone, Martin, Miller, Montgomery, Munson, Osterback, Parker, Smith, Zharoff
No:	12	Bettisworth, Brown, Cotten, Freeman, Gardiner, McKinnon, Metcalf, Moss, Farr, Phillips, Randolph, Rogers
Not Voting:	6	Branson, Naugen, Meekins, Miles, O'Connell, Schaeffer

Representative Cotten changed his vote from "yes" to "nay."

Representative Metcalf changed his vote from "yes" to "nay."

Representative Freeman changed his vote from "yes" to "nay."

FCCS And so the House adopted the 2d Free Conference Com-
 SB mittee report, thus adopting FCCSSB 245

"An Act relating to the continua-
 tion of regulatory boards and con-
 tinuing the existence of the Board
 of Dispensing Opticians, and pro-
 viding for an effective date."

SB

2 4 6

(2 Files)

DENTAL BOARD

- (1) Synopsis
- (2) Position Paper-Ak. Health Coalition
- (3) Memo - Josh Wright
- (4) Budget & Audit Committee Summary

Extends board - June 30, 1983

HCSSB 246

Section 1 extends board until June 30, 1981.

Section 2 changes composition of board (7 members), reduces dentists on board from five to three and increases public members from one to three.

Sections 3 & 6 provide for staggered terms and allows that incumbent members do not lose membership, but appointments after effective date must be consistent with staggered terms.

Section 4 limits board members to two consecutive terms and provides for licensure by endorsement.

Section 5 is "winding down" provision.

Section 7 repeals appropriate sections amended by this bill.

Section 8 is effective date clause.

HCSSB 246amH

Adds new Section 7 repealing AS 08.36.310(8), (13), (14), (17) and (24) - provisions making advertising grounds for license revocation.

Adds new Section 8 amending AS 08.36.130 (Examination) providing that the board can appoint three dentists who are qualified resident dentists having engaged in the practice of dentistry in the state for five years immediately preceding appointment to serve on the examination committee. Currently the examination committee consists of three board members.

Adds new Section 9 adding Section (8) to AS 08.36.070 granting the board power to appoint eligible dentists to serve as examining dentists.

sections renumbered accordingly.

(1)

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SD 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

MEMO

To: Senator Glenn Hackney

Fm: Josh Wright

As per your request to be brief, I will address only two sections of House CS for Senate Bill No. 246, namely Creation and Membership and Licensing by Endorsement.

The House Commerce Committee adopted a policy to re-constitute the membership of four health boards with four admitted professionals and three lay-persons.

The Alaska Dental Society, while not agreeing with the policy, strongly opposes counting the dental hygienist member of the board as a professional. A dental hygienist is a licensed dental auxiliary.

The committee has also found the Alaska Dental Board guilty of turf-protecting. This conclusion was reached despite the findings of both the legislative and occupational audits that no evidence was found that the board acted in a restrictive manner.

The House Committee failed to demonstrate that a shortage of dentists exist in the State. The committee at the very least should have stipulated that:

- (1) a finding be made that a dental manpower exist in Alaska;
- (2) the license used for endorsement is issued by the State in which the practitioner is currently practicing and have practiced for a minimum number of years before applying;
- (3) one establishing residence in Alaska.

Some restriction is needed to keep practitioners from collecting licenses so that if disciplinary proceedings were to arise the practitioner could not just set up shop in a different locale with a previously obtained license.

The Alaska Dental Society support genuine reciprocity, namely, allowing Alaskan dentists with appropriate credentials to migrate to another state and vice versa, but we do not support "endorsement," which we view as "one-way reciprocity."

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH W—STATE CAPITOL

JUNEAU 99601

October 25, 1978

SUMMARY OF: A Performance Review of the Board of
Dental Examiners.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Dental Examiners was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient, and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint, and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Dental Examiners should continue to be the body that regulates and licenses the dental professionals. The regulation and licensing of these professionals is necessary to protect the public's health, safety, and welfare.

However, certain changes need to be implemented in order for the Board to effectively perform its duties. Current Board policies, such as no reciprocity agreements with other states and the practice of giving a clinical examination only once a year, are restricting the entry of qualified dentists into the State.

Also, the Board's clinical examination has several deficiencies with its procedures and examination subjects; and the public as well as the dental profession would be better protected if regulations concerning license violations were better defined by the Board.

The Board needs to evaluate present Alaska Statutes for relevancy and protection of the public. For instance, temporary dental permit statutes establish a double standard of public protection in rural and urban areas.

(A)

Dental license violation statutes restrict advertising which is unconstitutional as determined by the United States Supreme Court. However, there are no statutes requiring continuing education for dentists, dental hygienists, and dental specialists.

In conclusion, the Board of Dental Examiners should analyze and evaluate the purpose of the Board and take the necessary actions needed to perform and fulfill its responsibilities.

2nd FREE CONFERENCE COMMITTEE REPORT

May 17, 1980

HCS
SB
246
AM
H

Mr. President:
Mr. Speaker:

The 2nd Free Conference Committee considered SENATE BILL NO. 246 (continuing the existence of the Board of Dental Examiners) and HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 246 amended House (continuing the existence of the Board of Dental Examiners and amending the laws regulating the practice of dentistry) recommends that FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 246 (relating to the continuation of regulatory boards and continuing the existence of the Board of Dental Examiners; eff. date) be adopted.

Senator members signing the report: Senator Sturgulevski, Chairman, Senators Bennett and Fahrenkamp. House members: Representative Malone, Chairman, Representatives Osterback and Bettlesworth.

Senator Colletta moved that the Senate adopt the Free Conference Committee report.

The question being: "Shall FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 246 (relating to the continuation of regulatory boards and continuing the existence of the Board of Dental Examiners) pass the Senate?" The roll was taken with the following result:

FCCS SB 246

Yeas:	16	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Mackney, Mohman, Kelly, Kerttula, Meland, Mulcahy, Ray, Sackett, Stimson, Sturgulevski, Tillion
Nays:	1	Ferguson
Excused:	3	Rodey, Sumner, Ziegler

and so, FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 246 passed the Senate.

FCCS
SB
246

SB

247

VETERINARY BOARD

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 247
Board of Veterinary
Examiners
Extends board -
June 30, 1983

HCSSB 247 - Secs 1 & 2 extends board until
January 1, 1981 and then jurisdiction over
licensing of veterinarians and the practice
veterinary medicine is transferred to the
Dept of Comm & Econ Dev.
Secs 3 - 11 provides for necessary statute
changes to effect transfer of authority fro
the board to the Dept.
Sec 12 repeals appropriate sections amended
by this bill
Sec 13 effective date clause.

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.110, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines accessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99611

November 13, 1978

SUMMARY OF: A Performance Review of the Board of
Veterinary Examiners.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271 (1) and 44.66.050 (sunset legislation), a review of the Board of Veterinary Examiners was conducted to review board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions.

REPORT CONCLUSION

In our opinion, the Board of Veterinary Examiners should continue to regulate and license veterinarians. The regulation and licensing of these professionals is necessary to protect the public's health, safety and welfare.

However, certain changes need to be implemented in order for the Board to efficiently perform its duties. The Board needs to develop standards, regulations and formal procedures for the examination given to license applicants.

Legislation should be introduced which will require continuing education for veterinarians. Continuing education will assist in avoiding professional obsolescence and keep practitioners aware of changes taking place in their profession.

Legislation should also be introduced which will require public members be appointed to the Board. Public representation on the Board will help ensure that the public's interest is represented and protected.

OL should provide adequate assistance and support necessary for the proper functioning of the Board. In 1975 and 1976 the Board requested, but did not receive, assistance from OL to propose legislative changes to the Veterinary Practice Act.

Representative Anderson moved that the House adopt the Free Conference Committee report, thus adopting FCCS SB 247.

HCS
SB
247

The question being: "Shall the House adopt the Free Conference Committee report?" The roll was taken with the following result:

FCCNSB 247

Yeas: 28 Anderson, Beirne, Bettisworth, Buchholdt, Corney, Chatterton, Cotten, Duncan, Eliason, Freeman, Gardiner, Guy, Halford, Hayes, McKinnon, Malone, Martin, Metcalfe, Miles, Miller, Montgomery, Moss, Munson, Osterback, Parker, Phillips, Schaeffer, Zharoff

Nays: 2 Huribert, Randolph, Rogers

Not Voting: 9 Barnes, Branson, Brown, Fuller, Haugen, Jenkins, O'Connell, Parr, Smith

And so, the House adopted the report, thus adopting FCCS SB 247.

FCCS
SB
247

Representative Anderson moved and asked unanimous consent that the roll call on the adoption of the report be considered the roll call on the effective date clause. There being no objection, it was so ordered.

The Chief Clerk was instructed to so notify the Senate.

UNFINISHED BUSINESS

The Speaker gave an additional referral to SCA 41am (establishing as a joint committee of the Eleventh Legislature a committee of the house of representatives and senate concerned with the organization and procedures of a state constitutional convention) to the Finance Committee. SCA 41am is now referred to the Judiciary and Finance Committees.

SCR
43
am

SB

2 4 8

PHYSICAL THERAPY BOARD

- (1) SYNOPSIS
- (2) POSITION PAPER - ALASKA HEALTH COALITION
- (3) BUDGET & AUDIT COMMITTEE'S SUMMARY

SB 248
State Physical Therapy
Board
Extends board -
June 30, 1980

HCSSB 248 - Secs 1 & 2 extends board until
January 1, 1981 and then jurisdiction over
licensing of physical therapists and the pra
tice of physical therapy is transferred to
the Dept of Comm & Econ Dev.
Secs 3 & 4 includes within duties of Dept
the duty of providing investigative services
to the boards for the purpose of assist'ng
those boards in matters of professional
discipline.
Secs 5 - 18 provides for necessa y statute
changes to effect transfer of authority from
board to Dept
Sec 19 repeals appropriate sections amended
by this bill.
Sec 20 effective date clause.

POSITION OF ALASKA HEALTH COALITION RE: SUNSET FREE CONFERENCE

1. 4 year continuance for major boards: June 30, 1983
medical, dental, pharmacy, nursing, veterinary medicine, optometry
2. 2 year continuance for other boards: June 30, 1981
physical therapy, psychology, dispensing opticians, chiropractic
3. No more than 2 lay persons on each board.
4. Delete Sec. 8 of HCS Sb 240 (medical board regarding discrimination and denial of services.)
5. Delete Sec. 205 from HCS SB 246 or

Amend to read:

The board may waive the examination requirements for an applicant who meets the requirements of AS.36.11, pays the required fee, (and has an) holds an active licence from and has been in active practice for at least 30 hours per week for a period of 5 years in a state with licensing requirements at least equal to this state's in scope, quality, and difficulty and who has no judgements or disciplines assessed against such licence either by another state, professional review board, or state dental board and who has not failed the clinical examination of this state.

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH W1 - STATE CAPITOL

JUNEAU, ALASKA 99811

October 20, 1978

SUMMARY OF: A Performance Review of the State Physical Therapy Board.

PURPOSE OF THE REVIEW

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the State Physical Therapy Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner. The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions.

REPORT CONCLUSION

In our opinion, the State Physical Therapy Board should continue to regulate and license the physical therapy (PT) profession in order to protect the public's health, safety and welfare.

However, the Physical Therapy Board needs to assure continued competence of licensed PTs. We are recommending that continuing education be required for license renewal.

The Board is doing a good job of licensing qualified PTs. However, we are recommending that they improve licensing procedures for the use of temporary permits, in order to prevent unqualified persons from obtaining temporary permits.

We found three statutory problems:

- 1) The Board does not have the authority to promulgate regulations.
- 2) Qualified foreign-trained PTs may not be licensed in this state.

- 3) The statutes which establish illegal acts relating to the practice of PT do not define terms such as "unprofessional conduct" and "moral turpitude".

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

FCCS
SB
248

The Secretary was requested to notify the House.

2ND FREE CONFERENCE COMMITTEE REPORT

May 12, 1980

Mr. President:
Mr. Speaker:

The 2nd Free Conference Committee which has had SENATE BILL NO. 248 (continuing the existence of the State Physical Therapy Board) and HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 248 (terminating the existence of the State Physical Therapy Board on January 1, 1981 and reassigning its responsibilities to the Department of Commerce and Economic Development) recommends that FREE CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 248 (relating to the continuation of regulatory boards and continuing the existence of the State Physical Therapy Board; eff. date) be adopted with the following letter of intent:

HCS
SB
248

LETTER OF INTENT
FCCS on SB NO. 248

May 13, 1980

Senator Elm Tilton, President
Alaska State Legislature

Terry Gardiner, Speaker
Alaska State Legislature

Mr. Speaker:
Mr. President:

It is the intent of this Free Conference Committee that the provisions of Sec 1B of CSSB 261 provide that members currently serving on the state Physical Therapy Board continue to serve until their current terms expire.

Senate Members:

House Members:

Gelis Sturquewski
Senator Sturquewski, Chairman

J. Malone
Representative Malone, Chairman

passed
&
signed

May 13, 1980

Senator Clem Tillion, President
Alaska State Legislature

Terry Gardiner, Speaker
Alaska State Legislature

Mr. Speaker:
Mr. President:

It is the intent of this Free Conference Committee that the provisions of Sec 18 of CSSB 261 provide that members currently serving on the state Physical Therapy Board continue to serve until their current terms expire.

Senate Members:

House Members:

Senator Sturgulewski, Chairman

Representative Malone, Chairman

Senator Bennett

Representative Osterback

Senator Fahrenkamp

Representative Bettisworth

HB

947

Committee Log Book - 1980

Tape Number I

Side Number 1

Dates 5-31-80 to 6- -80

FCC CS HB 947

Committee

PRESENT: Senator Sturgulowski co-chair - Rep. Parker Co-chair
 Sen. Stinson & Rep. Branson

ABSENT: Sen. Dantworth & Rep. Malone

Bill Numbers Discussed

HB									
947									

Date & Time	Tape Meter Number	Bill	Significant Information (Witness, Action)
5 PM 5-31-80	000	HB 947	Sen. Sturgulowski
	005		Rep. Branson states her objections
	160		Benny Chetwood, AK Municipal League Conversation between all 3
	270		Sen. Stinson Rep. Branson Sen. Sturgulowski
	321		C. Chetwood
	340		Rep. Branson
	350		Sen. Sturgulowski
	420		Rep. Parker Rep. Branson
			Sen. Sturgulowski
	426		Rep. Parker
			Conversation back & forth
	459		Rep. Elason Bill Sponsor ⁷¹⁰ in work
	486 - top		

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

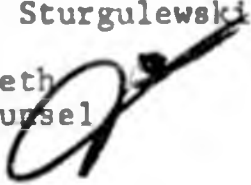
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-1800

MEMORANDUM

June 3, 1980

SUBJECT: FCCS HB 947

TO: Representative Bill Parker
Senator Arliss Sturgulewski

FROM: John B. Chenoweth
Legislative Counsel 

*Sec. 1 AS 29.13.100(3) - *Sec. 4 AS 29.23.021(d)

No changes in the text of the sections

AS 29.23.023:

FCCS *Sec. 5
SCS [Repealed in Senate CS]

The Senate CS repealed AS 29.23.023. The FCCS re-enacts the provision to maintain the requirement that, following each decennial census, borough officials permit the residents to vote on form of representative and assembly composition, and that any proposed change in form of representative and composition which involves use of districts requires the assembly to specify the proposed districts on the election ballot. As offered in the FCCS, the provisions of AS 29.23.023 describe the forms of representation which may be offered for voter consideration and the time period in which the election must be called. The section exempts home rule and unified municipalities from being subject to its provisions.

AS 29.23.025(a)

FCCS *Sec. 6
SCS *Sec. 5

Representative Bill Parker
Senator Arliss Sturgulewski
Page 2
June 3, 1980

Replaces Senate CS language with provisions which tie apportionment provisions to changes in composition and form of representation.

AS 29.23.0025(b)

FCCS *Sec. 7
SCS *Sec. 6

The FCCS version borrows from existing AS 29.-23.025(c) by specifically authorizing the borough assembly to change its apportionment when the existing standards of AS 29.23.021 (one-man/one-vote; no institutional representation; no weighted voting) no longer apply.

AS 29.23.025(c)

FCCS *Sec. 8
SCS *Sec. 7

The FCCS confines this section to voter-initiated petitions asking for change in apportionment.

AS 29.23.025(e)

FCCS *Sec. 9
SCS *Sec. 8

Substantially the same in both versions -- describes time limits for apportionment when required.

Apportionment Appeals

FCCS *Sec. 10 -- AS 29.23.027
SCS *Sec. 9

Authorizes appeals of apportionment ordinances which are alleged to be not in compliance with standards of AS 29.23.021 to the commissioner of community and regional affairs. The FCCS version describes the procedures to be followed under the appeal.

Representative Bill Parker
Senator Arliss Sturgulewski
Page 3
June 3, 1980

Judicial Review

FCCS *Sec. 10 -- AS 29.23.029
SCS *Sec. 12 (h) and (i)

Substantially the same

Effective Date of New Apportionments

FCCS *Sec. 10 -- AS 29.23.031
SCS *Sec. 11 and *Sec. 12 (j)

Substantially the same

Applicability of Apportionment

FCCS *Sec. 10 -- AS 29.23.033
SCS *Sec. 12 (k)

Substantially the same

No changes in remainder of bill --

Because material in existing AS 29.23.025(f) and (g) is
picked up in new AS 29.23.027 and AS 29.23.031, these
are repealed in the FCCS.

JBC:jdn

WO 8250
Chenoweth

Original sponsor: Community and Regional
Affairs Committee

1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE BILL NO. 947

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to borough assemblies and amending the
7 apportionment requirements of charters of unified
8 municipalities; and providing for an effective date."

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

10 * Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

11 (3) AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 - 29.23.050 (borough assembly members)

13 * Sec. 2. AS 29.18.050(4) is amended to read:

14 (4) composition and apportionment of the assembly or council
15 [, BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11];

16 * Sec. 3. AS 29.23.021(b) is amended to read:

17 (b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section [AS 29.23.023] and prescribed by charter or ordinance.

25 * Sec. 4. AS 29.23.021 is amended by adding a new subsection to read.

26 (d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough.

28 * Sec. 5. AS 29.23.023 is repealed and re-enacted to read:

29 Sec. 29.23.023. COMPOSITION AND FORM OF REPRESENTATION. (a) The

1 borough assembly shall provide for its composition and for the form of
2 its representation.

3 (b) Not later than the first regular election which occurs after
4 the report of a federal decennial census, the assembly shall propose and
5 submit to the voters of the borough, at that regular election or at a
6 special election called for the purpose, one or more forms of borough
7 assembly representation. The forms of representation which the assembly
8 may submit to the voters are:

9 (1) election of members of the borough assembly at large by
10 the qualified voters throughout the borough;

11 (2) election of members of the borough assembly by district,
12 including

13 (A) election at large by the qualified voters throughout
14 the borough, but with a requirement that a candidate live within an
15 election district established by the borough for election of
16 assembly members; or

17 (B) election from election districts established by the
18 borough for the election of assembly members by the qualified
19 voters of a district;

20 (3) election of members of the borough assembly both at large
21 and by district.

22 (c) A form of borough assembly representation which includes
23 election of borough assembly members under (b)(2) or (b)(3) of this
24 section shall be submitted to the voters of the borough with a plan of
25 apportionment as required by AS 29.23.025(a).

26 (d) The borough assembly shall, within 30 days of certification of
27 the results of the election held on a proposed form of representation
28 under this section, adopt an ordinance providing for its composition and
29 the form of assembly representation, and, if applicable, the apportion-

1 ment of assembly seats which corresponds to the proposed form of rep-
2 resentation which receives the most votes at the election.

3 (e) This section does not apply

4 (1) to a unified municipality incorporated under AS 29.68.-
5 240 - 29.68.440;

6 (2) to a home rule borough if the borough charter contains
7 procedures for changing assembly composition and form of representation.

8 * Sec. 6. AS 29.23.025(a) is repealed and re-enacted to read:

9 (a) Not later than two months after the official report of a
10 federal decennial census, the borough assembly shall determine and
11 declare by resolution whether the existing apportionment of the borough
12 assembly meets the standards of AS 29.23.021. If the borough assembly
13 submits to the voters a form of representation which includes election
14 of borough assembly members under AS 29.23.023(b)(2) or (b)(3), the
15 assembly shall submit with the proposition a proposed plan of apportion-
16 ment which corresponds to the form of representation proposed. The
17 assembly shall describe the plan of apportionment in the ballot proposi-
18 tion, and may present the plan in any manner which it believes accurate-
19 ly describes the apportionment which is proposed under the form of
20 representation. If the borough assembly determines that its existing
21 apportionment meets the standards of AS 29.23.021, the assembly may
22 include the existing apportionment as a proposed plan of apportionment
23 of assembly seats which corresponds to a form of representation which is
24 proposed.

25 * Sec. 7. AS 29.23.025(b) is repealed and re-enacted to read:

26 (b) The borough assembly shall provide, by ordinance, for a change
27 in an existing apportionment of the borough assembly whenever it
28 determines that the apportionment does not meet the standards of
29 AS 29.23.021. At the same time, the borough assembly may, by ordinance,

1 change the composition of the assembly.

2 * Sec. 8. AS 29.23.025(c) is repealed and re-enacted to read:

3 (c) If a petition signed by not less than 50 registered voters who
4 are residents of the borough requests the borough assembly to determine
5 whether the existing apportionment meets the standards for apportionment
6 in AS 29.23.021, and the petition contains evidence that the existing
7 apportionment does not meet those standards, the assembly may make the
8 determination requested. The borough assembly shall make a determina-
9 tion required by this subsection within two months of receipt of a
10 petition which meets the requirements of this subsection.

11 * Sec. 9. AS 29.23.025(e) is amended to read:

12 (e) Within six [FOUR] months of a determination by the borough
13 assembly under (b) or (c) of this section that the current apportionment
14 does not meet the standards of AS 29.23.021 [AS 29.23.021 - 29.23.025],
15 the borough assembly shall adopt an ordinance providing for reapportion-
16 ment, and submit the ordinance to the voters. If, at the end of the
17 six-month [FOUR-MONTH] time period, an ordinance providing for reap-
18 portionment has not been approved by the voters, the commissioner of the
19 Department of Community and Regional Affairs shall provide for the
20 reapportionment in accordance with the standards of AS 29.23.021
21 [AS 29.23.021 - 29.23.023] by preparing an order of reapportionment and
22 delivering the order to the borough mayor.

23 * Sec. 10. AS 29.23 is amended by adding new sections to read:

24 Sec. 29.23.027. APPORTIONMENT APPEALS. (a) A reapportionment
25 ordinance approved by the voters, or a decision of the borough assembly
26 that the standards of AS 29.23.021 do not require a change in apportion-
27 ment, may be appealed to the commissioner of the Department of Community
28 and Regional Affairs. Fifty registered voters who are residents of the
29 borough may submit a petition to the commissioner of community and
30

1 regional affairs requesting the commissioner to determine whether the
2 proposed reapportionment ordinance approved by the voters meets the
3 standards of AS 29.23.021, or whether a decision of the borough assembly
4 that the standards of AS 29.23.021 do not require a change of apportion-
5 ment is correct. If the petition asks the commissioner of community and
6 regional affairs to review an ordinance approved by the voters under
7 AS 29.23.025(e), the petition shall be delivered to the commissioner not
8 later than 20 days after certification of the election. If the petition
9 asks the commissioner of community and regional affairs to review a
10 decision of the borough assembly under AS 29.23.025(c), the petition
11 shall be delivered to the commissioner within 20 days of the decision of
12 the borough assembly.

13 (b) The commissioner of community and regional affairs shall
14 review the petition and may make the determination requested. The
15 commissioner shall provide copies of his determination to the persons
16 petitioning for appeal and to borough officials not later than 60 days
17 after he receives the petition.

18 (c) If the commissioner of community and regional affairs deter-
19 mines that the proposed reapportionment ordinance approved by the voters
20 does not meet the standards of AS 29.23.021, or if he determines that
21 the decision of the borough assembly that the standards of AS 29.23.021
22 do not require a change of apportionment is not correct, the commissioner
23 shall, by order, direct the borough assembly to prepare a reapportion-
24 ment ordinance which meets the standards of AS 29.23.021 and submit the
25 ordinance to the voters.

26 (d) When the borough assembly has been directed by the commis-
27 sioner of community and regional affairs to prepare a reapportionment
28 ordinance under (c) of this section, the borough assembly shall, within
29 two months of its receipt of the commissioner's order, adopt an ordi-

1 nance providing for reapportionment. The borough assembly shall submit
2 an ordinance adopted under this subsection to the voters at a regular
3 election or special election held within 60 days of the date of adoption
4 of the reapportionment ordinance.

5 (e) If at the end of the time period provided under (d) of this
6 section an ordinance providing for reapportionment has not been approved
7 by the voters, the commissioner of community and regional affairs shall
8 provide for the reapportionment of the borough assembly in accordance
9 with the standards of AS 29.23.021 by preparing an order of reapportion-
10 ment and delivering the order to the borough mayor.

11 Sec. 29.23.029. JUDICIAL REVIEW AND RELIEF. (a) The commissioner
12 of community and regional affairs may request the superior court to
13 enforce a reapportionment order issued under AS 29.23.027(e).

14 (b) Each of the following is subject to judicial review:

15 (1) a plan of reapportionment approved by the voters under
16 AS 29.23.025(a);

17 (2) a determination by the borough assembly under AS 29.23.-
18 025(c) that the standards of AS 29.23.021 do not require change in
19 apportionment;

20 (3) a reapportionment ordinance approved by the voters under
21 AS 29.23.025(d);

22 (4) a reapportionment order of the commissioner of community
23 and regional affairs made under AS 29.23.027(c);

24 (5) a reapportionment ordinance approved by the voters under
25 AS 29.23.027(d); and

26 (6) a reapportionment order of the commissioner of community
27 and regional affairs made under AS 29.23.027(e).

28 Sec. 29.23.031. EFFECTIVE DATE OF APPORTIONMENT. (a) A change in
29 assembly apportionment or composition under AS 29.23.025 or 29.23.027 is

1 effective beginning with the first regular election for members of the
2 assembly which is held more than 60 days after the later of:

3 (1) approval of a reapportionment ordinance by the voters
4 under AS 29.23.025(a), 29.23.025(e), or 29.23.027(d); or

5 (2) the delivery to the mayor of a reapportionment order of
6 the commissioner of community and regional affairs under AS 29.23.027(e).

7 (b) The provisions of (a) of this section do not apply to a
8 borough in which a change in assembly composition or apportionment is
9 subject to review and approval or determination of nonobjection by the
10 Attorney General of the United States under the Voting Rights Act of
11 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly com-
12 position or apportionment subject to review under the Voting Rights Act
13 of 1965, as amended, is effective beginning with the first regular
14 election for members of the assembly which is held more than 60 days
15 after

16 (1) receipt by the borough assembly of approval by the
17 Attorney General of the United States of the proposed change in the
18 composition or apportionment of the assembly;

19 (2) receipt by the borough assembly of a statement of non-
20 objection from the Attorney General of the United States to the proposed
21 change in the composition or apportionment of the assembly; or

22 (3) the last day on which the Attorney General of the United
23 States may review a proposed change in the composition or apportionment
24 of the assembly.

25 Sec. 29.23.033. APPLICABILITY OF APPORTIONMENT PROVISIONS. The
26 provisions of AS 29.23.025 - 29.23.031 do not apply

27 (1) to a unified municipality incorporated under AS 29.68.-
28 240 - 29.68.440;

29 (2) to a home rule borough if the borough, by charter,

1 provides for reapportionment of the borough assembly.

2 * Sec. 11. AS 29.23.040 is amended to read:

3 Sec. 29.23.040. REGULAR TERM OF OFFICE (a) Assemblymen are
4 selected for three-year terms and until their successors are selected
5 and have qualified, unless different terms not exceeding four years are
6 prescribed by borough charter or ordinance. Except when otherwise re-
7 quired by a change of composition or apportionment, if the term of an
8 assemblyman is changed by charter or ordinance, the term of an assembly
9 man holding office at the time the change takes effect is not affected
10 by that change.

11 (b) The regular term of office begins on the first Monday follow-
12 ing certification of the election, unless a different date is prescribed
13 by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT AS-
14 . EMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

15 (c) This section applies to home rule and general law boroughs.

16 * Sec. 12. AS 29.68.350(a)(2) is repealed and re-enacted to read:

17 (2) provisions for

18 (A) the establishment of service areas, and

19 (B) the establishment of districts or sections for the
20 election of members of the legislative body of the unified municipi-
21 pality, if election of members of the legislative body is not
22 areawide, and procedures by which to reapportion the election
23 districts or sections;

24 * Sec. 13. AS 29.23.025(f) and (g) are repealed.

25 * Sec. 14. Sections 1 - 10, 12, and 13 of this Act take effect January 1,
26 1981.

27 * Sec. 15. Sections 11, 14, and 15 of this Act take effect immediately in
28 accordance with AS 01.10.070(c).

There is some confusion as to whether this is to be "temporary" or "permanent" law, so

As "temporary" law, applicable only to exempt only pre-1980 census apportionments:

* Sec. 15. EXEMPTION FROM REQUIREMENTS. (a) If a borough assembly has been reapportioned after December 31, 1979, the borough assembly is not required to submit to the voters of the borough one or more proposed forms of representation as required by AS 28.23.023(b).

(b) The provisions of (a) of this section do not apply to a borough assembly which was reapportioned after December 31, 1979, from providing for another reapportionment under AS 29.23.025(b) or (c) if evidence is presented under AS 29.23.025(b) or (c) that the reapportionment, as completed, does not meet the standards of AS 29.23.021, as amended by secs. 3 and 4 of this Act

As "permanent" law applicable to provide exemptions for reapportionments which are done preceding any federal census:

Redraft AS 29.23.023(e), page 3, by adding a new paragraph to read:

(3) to the assembly of a general law borough which has been reapportioned under AS 29.23.025 during the 18 months preceding ~~report of~~ a federal census report.

contain the signatures of 25 percent of those voting in the last general election. Sup. Ct. Op. No. 1231 (File No. 2624), 544 P.2d 1024 (1976).
 Area Dispatch, Inc. v. City of Anchorage.

Article 2. Home Rule Limitations.

Section

100. Limitation of home rule powers

Sec. 29.13.100. Limitation of home rule powers. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

(3) [Effective until January 1, 1981] AS 29.23.020 — 29.23.050 (borough assembly representation)

[Effective January 1, 1981] AS 29.23.021; 29.23.025 — 29.23.050 (composition and apportionment of borough assembly; borough assembly recomposition and reapportionment; assembly representation)

(22) AS 29.53.010 — 29.53.400 (borough and city property taxes)

(34) AS 29.33.050, AS 29.41.010(a), AS 14.12.020(a) (responsibility for education on military reservations)

(35) AS 29.58.345 — 29.58.350 (bonded debt for school construction)

(36) AS 29.63.065 (exemption from special assessment)

(37) AS 29.33.090(d) (zoning of state land for homesite entry)

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements)

(39) AS 29.33.150(b) (applicability of local platting regulations to state land in a municipality)

(am § 2 ch 32 SLA 1973; am § 13 ch 53 SLA 1973; am § 2 ch 137 SLA 1975; am § 2 ch 114 SLA 1975; am § 3 ch 218 SLA 1976; am § 4 ch 142 SLA 1977; am § 1 ch 20 SLA 1978; am § 2 ch 81 SLA 1978; am § 2 ch 83 SLA 1979; am § 1 ch 85 SLA 1979)

Effect of amendments.

The first 1973 amendment added paragraph (3).

The second 1973 amendment deleted "city representation and vote on" preceding "borough assembly" and added "representation" to the end of paragraph (3).

The 1974 amendment added paragraph (22).

The 1975 amendment added paragraph (34).

The 1976 amendment substituted "AS 29.53.345" for "AS 29.53.340" at the beginning of paragraph (22).

The 1977 amendment added paragraph (37).

The first 1978 amendment rewrote paragraph (22), which formerly read "AS 29.53.010 — 29.53.350, 29.53.400 (borough and city property tax)."

The second 1978 amendment added paragraph (38).

The first 1979 amendment, effective January 1, 1981, rewrote paragraph (3).

The second 1979 amendment, effective July 1, 1979, added paragraph (39).

As the rest of the section was not affected by the amendments, it is not set out.

Legislative committee report. — For report on ch 83, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 791, 806.

Senate CS for HB 947

Section 1. AS 29.13.100(3) is repealed and re-enacted to read:

(3) AS 29.23.021 (borough assembly composition and apportionment), and AS 29.23.040 - 29.23.050 (borough assembly members)

Article 2. Procedures.

Section	Section
50. Petition	100. [Repealed]
70. Investigation	110. Incorporation election
80. Report and hearing	120. Election of initial officers
90. Decision on municipal incorporation	

* Sec. 2. AS 29.18.050(4) is amended to read:

(4) composition and apportionment of the assembly or council
1. BUT THE NUMBER OF MEMBERS OF A BOROUGH ASSEMBLY MAY NOT EXCEED 11;

Sec. 29.18.050. Petition. Municipal incorporation is proposed by filing a petition with the Department of Community and Regional Affairs. The petition shall include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) [Effective until January 1, 1981] composition and apportionment of the assembly or council;
[Effective January 1, 1981] composition and apportionment of the assembly or council, but the number of members of a borough assembly may not exceed 11;
- (5) for a first class borough, a designation of areawide powers to be exercised;
- (6) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (7) maps, documents, and other information required by the Department of Community and Regional Affairs;
- (8) for first class city incorporation, the signatures and residential address of 50 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (9) for second class city incorporation, the signature and residential address of 25 permanent resident voters or of 15 per cent of the permanent resident voters within the proposed municipality, whichever is greater, based on the number who voted in the area in the last general election;
- (10) for borough incorporation, the signature and residential address of 15 per cent of the permanent resident voters in each first class city and 15 per cent of voters in the area outside first class cities based on the number who voted in the respective areas in the last general election;
- (11) for a city, a designation of the powers proposed by the petitioner to be exercised;
- (12) a proposed operating budget for the municipality projecting source of income and items of expenditure through the first full fiscal year of operation. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972; am § 2 ch 212 SLA 1976; am § 7 ch 83 SLA 1979)

reapportionment of the borough assembly or is effected as required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Sec. 29.23.021. Assembly composition and apportionment [Effective January 1, 1981]. (a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with AS 29.23.023 and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting. (§ 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979, makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.010, amended by sec. 1 of ch. 83, SLA 1979, the terms of office of borough assemblymen elected or appointed to dual borough assembly-city council seats are not affected by the amendment made to AS 29.23.010 in sec. 4 of ch. 83, SLA 1979 until reapportionment

of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Statute superseded home-rule enactments. — See Roderick v. Sullivan, Sup. Ct. Op. No. 1099 (File No. 2243), 528 P.2d 440 (1974), decided under former AS 29.23.020.

Sec. 29.23.023. Composition and representation requirements for general law boroughs [Effective January 1, 1981]. (a) The borough assembly shall provide for its composition and for the form of its representation. Not later than July 31, 1981, and thereafter within four months after the report of a federal decennial census, the assembly shall propose and submit to the voters at a regular election or special election called for the purpose, alternative forms of representation by which members are

- (1) elected at large by all qualified voters of the borough;
- (2) elected at large by all qualified voters of the borough, but required to live within an election district or zone established by the borough for election of assembly members, with each district or zone being of substantially equal population; or
- (3) elected by and from election districts or zones established by the borough for the election of borough assembly members.

(b) The proposals set out in (a) of this section shall be submitted to the voters. The vote on the proposals submitted to the voters shall be tabulated in two separate classifications. One classification shall consist of all votes cast in the first class and home rule cities in the borough.

* Sec. 3. AS 29.23.021(b) is amended to read:

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section [AS 29.23.023] and prescribed by charter or ordinance.

* Sec. 4. AS 29.23.021 is amended by adding a new subsection to read:

(d) A member of the assembly of a borough may not be elected or appointed by and from the council of a city in the borough.

* Sec. 14. AS 29.23.023 is repealed.

* Sec. 5. AS 29.23.025(a) is amended to read:

(a) Within two [NOT LATER THAN JULY 31, 1981, AND THEREAFTER WITHIN FOUR] months after the official report of a federal decennial census, the borough assembly shall determine and declare by resolution if the existing apportionment of the assembly meets the applicable standards of AS 29.23.021 [AS 29.23.021 - 29.23.023].

* Sec. 6. AS 29.23.025(b) is amended to read:

(b) If the existing apportionment of the borough assembly does not meet the applicable standards of AS 29.23.021 [AS 29.23.021 - 29.23.023], the assembly shall provide by ordinance for its reapportionment. At the same time, the borough assembly may, by ordinance, change the composition of the assembly.

* Sec. 7. AS 29.23.025(c) is amended to read:

(c) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide by ordinance for its reapportionment and may provide, by ordinance, for a change in its composition whenever it determines, on the basis of federal census reports or other reliable population data, that the existing apportionment does not meet the standards for apportionment in AS 29.23.021. If a petition signed by not less than 50 registered [BOROUGH] voters who are residents of the borough requests the borough assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.23.021, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly may [SHALL] make the determination requested. The borough assembly shall make a determination when required by this subsection within two months of its receipt of a petition which meets the requirements of this subsection.

The other classification shall consist of all votes cast in the remaining area of the borough. The borough assembly shall, within three months of the certification of the results of the election adopt an ordinance providing for its composition and the form of representation which conforms to the form of representation receiving a plurality of the votes in each classification at that election.

(c) A member of the assembly of a general law borough may not be elected or appointed by and from council of a city in the borough. (S 1 ch 83 SLA 1979)

Effective date. — Section 27, ch. 83, SLA 1979 makes this section effective January 1, 1981.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides: "Notwithstanding AS 29.23.040, amended by sec. 4 of ch. 83, SLA 1979, the terms of office of borough assembly elected or appointed to dual borough assembly-city

council seats are not affected by the amendment made to AS 29.23.040 in sec. 4 of ch. 83, SLA 1979 until reapportionment of the borough assembly is required or proposed under AS 29.23.020, repealed by sec. 21 [24] of ch. 83, SLA 1979, or is effected as required or proposed under AS 29.23.021 — 29.23.025, added by sec. 1 of ch. 83, SLA 1979."

Sec. 29.23.025. Assembly recomposition and reapportionment [Effective January 1, 1981]. (a) Not later than July 31, 1981, and thereafter within four months after the official report of a federal decennial census, the assembly shall determine and declare by resolution if the existing apportionment of the assembly meets the applicable standards of AS 29.23.021 — 29.23.023.

(b) If the existing apportionment of the assembly does not meet the applicable standards of AS 29.23.021 — 29.23.023, the assembly shall provide by ordinance for its reapportionment. At the same time, the assembly may change the composition of the assembly.

(c) In addition to providing for apportionment at the times required under (b) of this section, the borough assembly shall provide by ordinance for its reapportionment and may provide for a change in its composition whenever it determines, on the basis of federal census reports or other reliable population data, that the existing apportionment does not meet the standards for apportionment in AS 29.23.021. If a petition signed by not less than 50 borough voters requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.23.021, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly shall make the determination requested.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within four months of a determination by the assembly that the current apportionment does not meet the standards of AS 29.23.021 — 29.23.025, the assembly shall adopt an ordinance providing for

see next page

reapportionment, and submit the ordinance to the voters. If, at the end of the four month time period, an ordinance providing for reapportionment has not been approved, the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.021 — 29.23.023.

(f) A reapportionment ordinance, or a determination of the borough assembly that applicable standards do not require adoption of a change in apportionment, is subject to judicial review.

(g) A change in assembly apportionment or composition under this section is effective beginning with the first regular election for members of the assembly which follows approval of a reapportionment ordinance.

(S. 1 ch 83 SLA 1979)

Sec. 8. AS 29.23.025(e) is amended to read:

(e) Within six [FOUR] months of a determination by the borough assembly that the current apportionment does not meet the standards of AS 29.23.021 [AS 29.23.021 - 29.23.025], the borough assembly shall adopt an ordinance providing for reapportionment, and submit the ordinance to the voters. If, at the end of the six-month [FOUR-MONTH] time period, an ordinance providing for reapportionment has not been approved by the voters, the commissioner of the Department of Community and Regional Affairs shall provide for the reapportionment in accordance with the standards of AS 29.23.021 [AS 29.23.021 - 29.23.023] by preparing an order of reapportionment and delivering the order to the borough mayor.

Sec. 9. AS 29.23.025(f) is repealed and re-enacted to read:

(f) A reapportionment ordinance approved by the voters, or a determination of the borough assembly that the standards of AS 29.23.021 do not require a change in apportionment, may be appealed to the commissioner of the Department of Community and Regional Affairs. Fifty registered voters who are residents of the borough may submit a petition to the commissioner of community and regional affairs requesting the commissioner to determine whether the proposed reapportionment ordinance

approved by the voters meets the standards of AS 29.23.021, or whether a determination of the borough assembly that the standards of AS 29.23.021 do not require a change of apportionment is correct. If the petition asks the commissioner of community and regional affairs to review an ordinance approved by the voters under (e) of this section, the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner of community and regional affairs to review a determination of the borough assembly under (c) of this section, the petition shall be delivered to the commissioner within 20 days of the determination of the borough assembly. The commissioner of community and regional affairs shall review the petition and may make the determination requested. The commissioner of community and regional affairs shall provide copies of his decision to the persons petitioning for appeal and to borough officials not later than 60 days after he receives the petition.

Sec. 10. AS 29.23.025(g) is amended to read:

(g) A change in assembly apportionment or composition under this section is effective beginning with the first regular election for members of the assembly which is held more than 60 days after the latest of the following:

(1) approval of the reapportionment ordinance by the voters under (e) of this section;

(2) the delivery to the mayor of the reapportionment order of the commissioner of community and regional affairs under (e) of this section; or

(3) a final determination of the commissioner of community and regional affairs of an appeal under (f) of this section approving a revised [FOLLOWS APPROVAL OF A] reapportionment ordinance.

* Sec. 11. AS 29.23.025 is amended by adding new subsections to read:

(h) Each of the following is subject to judicial review:

(1) a reapportionment order of the commissioner of community and regional affairs made under (e) of this section; and

(2) a decision of the commissioner of community and regional affairs on an appeal made under (f) of this section.

(i) The provisions of this section apply to

(1) a home rule and a general law borough;

(2) a unified municipality incorporated under AS 29.68.240 - 29.68.440 before the effective date of this section, unless

(A) election of members of the assembly of a unified municipality occurs at large; or

(B) the commissioner of community and regional affairs

determines, not later than February 1, 1981, that the charter of the unified municipality contains procedures by which to apportion election districts or sections.

Sec. 29.23.040. Regular term of office. Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. The regular term of office begins on the first Monday following certification of the election. The current term of incumbent assemblymen may not be altered under this section. This section applies to home rule and general law boroughs. (§ 2 ch 118 SLA 1972; am § 13 ch 118 SLA 1972; am § 4 ch 83 SLA 1979)

Effect of amendment.

The 1979 amendment, effective June 2, 1979, rewrote the second sentence.

Editor's note. — Section 26, ch. 83, SLA 1979, effective June 2, 1979, provides that the terms of borough assemblymen elected or appointed to dual borough assembly city

council seats are not effected by the amendment made to AS 29.23.040 by sec. 4, ch. 83, SLA 1979 until reapportionment of the assembly is required or proposed under AS 29.23.020 or under AS 29.23.021 — 29.23.025.

~~Sec. 12.~~ AS 29.23.040 is amended to read:

Sec. 29.23.040. REGULAR TERM OF OFFICE. (a) Assemblymen are selected for three-year terms and until their successors are selected and have qualified, unless different terms not exceeding four years are prescribed by borough charter or ordinance. Except when otherwise required by a change of apportionment under AS 29.23.025, if the term of an assemblyman is changed by charter or ordinance, the term of an assemblyman holding office at the time the change takes effect is not affected by that change.

(b) The regular term of office begins on the first Monday following certification of the election, unless a different date is prescribed by borough charter or ordinance. [THE CURRENT TERM OF INCUMBENT ASSEMBLYMEN MAY NOT BE ALTERED UNDER THIS SECTION.]

(c) This section applies to home rule and general law boroughs.

... fees, and other expenses incurred by the charter commission are a debt of the borough and shall be paid upon proper certification. (§ 2 ch 118 SLA 1972)

Sec. 29.68.350. Charter preparation. (a) A charter commission established under this chapter shall prepare, adopt and submit a proposed home rule charter for the area to be unified to the voters for approval or rejection at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in § 380 of this chapter. The charter shall include among its provisions:

(1) provisions for adjustment of existing bonded indebtedness and other obligations in a manner which will reserve a fair and equitable burden of taxation for debt service, subject to § 410 of this chapter;

(2) provision for the establishment of

(A) service areas;

(B) sections, if desired; and

(C) reapportionment of the sections, if established;

(3) provision for nonpartisan government; and provision for the selection, organization, authority and responsibilities of the governing body and its executive and administrator;

(4) the transfer or other disposition of property and other rights, claims, assets and franchises of the local government to be unified under the charter;

(5) provision for exercise of the rights of initiative and referendum as required by AS 29.13.050;

(6) a method of amending the charter;

(7) the date on which the charter, if approved at the charter election required by § 390 of this chapter, is effective;

(8) designation of the new municipality's official name, subject to the provisions of (b) of this section;

(9) other charter provisions which the charter commission elects to include and which may be included in a home rule charter under this chapter and the state constitution.

(b) The area to be unified shall be known as a borough or a city or by some other designation consistent with existing law. (§ 2 ch 118 SLA 1972; am § 6 ch 147 SLA 1972)

Effect of amendment. — The 1972 1972, deleted the language following amendment, effective September 10, "existing law" in subsection (b).

Sec. 29.68.360. Public hearings. Both before and after drafting the proposed charter, the charter commission shall hold a public hearing in each area of the borough represented on the borough assembly. Other public hearings may be held by the charter com-

* Sec. 13. AS 29.68.350(a)(2) is repealed and re-enacted to read:

(2) provisions for

(A) the establishment of service areas; and

(B) the establishment of districts or sections for the election of members of the borough assembly, if election of borough assembly members is not areawide, and procedures by which to reapportion the election districts or sections;

* Sec. 15. Sections 1 - 11, 13, and 14 of this Act take effect January 1, 1981.

* Sec. 16. Sections 12, 15 and 16 of this Act take effect immediately in accordance with AS 01.10.010(c).

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY


POUCH - STATE CAPITOL
JUNEAU, ALASKA 99801
907-465-0800

MEMORANDUM

May 9, 1980

SUBJECT: SCS CSHB 947, sectional analysis
(Work Order Number 8564)

TO: Senator Arliss Sturgulewski
Chairman, Senate Community and Regional
Affairs Committee

FROM: John B. Chenoweth
Legislative Counsel 

This bill

- (1) changes substantially requirements of law applicable to the composition and apportionment of the assemblies of boroughs; and
- (2) alters requirements relating to the term of office of a member of a borough assembly.

Note: In sections 1 - 3 of Ch. 83, SLA 1970, the first session of the Eleventh Legislature made substantial changes in the law relating to the composition and apportionment of borough assemblies. These changes are due to become effective on January 1, 1981. The changes, generally include

- (1) general provisions and standards applicable to the composition and apportionment of all boroughs, set out at AS 29.23.021;
- (2) composition and representation requirements for general law boroughs (that is, exclusive of home rule boroughs and unified municipalities), set out at AS 29.23.023; and

(3) recomposition and reapportionment procedures applicable to all boroughs, set out at AS 29.23.025.

SCS CSHB 947 alters many of the provisions adopted last year.

*

A principal change in this bill is the repeal of AS 29.-23.023 [* Sec. 14] and the retention of some of the key provisions of that repealed section elsewhere.

* Sec. 3 of this bill deletes a reference to AS 29.23.023, appearing in AS 29.23.021. If adopted, the assembly of a borough or unified municipality would be required to conform to standards of composition and apportionment applicable under the Constitution of the United States (popularly referred to as "equal protection"). Additionally, if adopted, the assembly of a borough could not provide for weighted voting, and, by the inclusion of the material in * Sec. 4 of the bill, could not include members appointed from city councils of cities in the borough (i.e. no "institutional representation").

* Sec. 4 "saves" a provision, now AS 29.23.023(c), and imposes it as a standard applicable to all boroughs and unified municipalities.

* Sec. 5 shortens, from four to two months, the period in which, after the report of census information, a borough is obliged to determine whether it meets existing apportionment standards under AS 29.23.021. (Last year, when AS 29.23.023 was enacted, it was understood that an official report of the 1980 census would be issued about April 1, 1981, and four months were allowed to boroughs to make the determination required.) Elsewhere in the section, the term "borough" is added to assembly, as clarification, and the reference to AS 29.23.023, repealed in sec. 14 of the bill, is corrected.

* Sec. 6: The operative provision is the inclusion of the words "by ordinance" to clarify how the borough shall provide for changes in composition as well as apportionment. Other changes in the section are for consistency.

* Sec. 7: The changes in AS 29.23.025(c) make more specific the requirements which are imposed on persons who wish to challenge a determination of the borough assembly concerning apportionment. "50 registered voters who are residents of the borough" is substituted for "50 borough voters" so that local elections officials may be able to determine with certainty whether a petition request is presented by bona fide residents of the borough. Additionally, when a determination is requested, the assembly is given two months to make that determination.

* Sec. 8 increases to six months (from four) the period of time in which the assembly, having ruled that it is malapportioned under the applicable standards, must (1) adopt a reapportionment ordinance and (2) submit it to the voters for approval. If no ordinance has been approved by the voters at the end of six months after a determination of the assembly that it is malapportioned, the commissioner of the Department of Community and Regional Affairs is given responsibility to impose a reapportionment plan. The plan is to be presented as an order of the commissioner delivered to the assembly for implementation.

* Sec. 9 establishes a plan for an advisory determination by the commissioner of community and regional affairs that an assembly is malapportioned or that an ordinance presenting a new apportionment plan, even after ratification by the voters, does not meet constitutional or statutory requirements. The provision has no legal effect as to any other procedures bearing upon changes of composition or apportionment, and appears to be available only for its local political effect.

By * Sec. 10, your committee clarifies which municipal election it is in which an apportionment or composition change becomes applicable.

New subsections of AS 29.23.025, added in * Section 11, indicate when voters may seek judicial review of a reapportionment ordinance or order, or an apportionment determination (whether of the borough assembly or of the commissioner of community and regional affairs), and delay implementation of an apportionment change or composition change if the change is subject to review and approval (or determination of nonobjection) by the United States Department of Justice under the 1965 Voting Rights Act, as

amended. Your committee inserted language in subsection (j), added by section 11, to indicate that the provisions of AS 29.23.025 applied to boroughs - home rule and general law -- eliminating, by implication (but not specifically), applicability of AS 29.23.025 to unified municipalities.

Related changes involving composition and apportionment of borough assemblies appear in * sections 1, 2, and 13: In section 1, the provisions of AS 29.23.021 (relating to standards of composition and apportionment and manner of voting) are made binding on home rule governments, including home rule boroughs and unified municipalities. By section 2, a requirement that the assembly of a newly-incorporated borough not exceed 11 members is removed. Section 13 rewrites a requirement imposed on unified municipalities to require that their charter contain, when applicable, procedures for reapportionment (necessary because unified municipalities are impliedly exempted from the reapportionment procedures of AS 29.23.025).

Because, generally, the statutory sections which * Sections 1 - 11 and * Sections 13 and 14 replace are not due to take effect until January 1, 1981, the effective date of these changes is delayed to that date. [* Sec. 15]

Sec. 12, the remnant of the original House bill, makes further changes (in addition to those enacted last year at section 4, Ch. 83, SLA 1979) relative to the term of office of a borough assembly member. The principal operative amendment is the underscored language at page 5, lines 24 and 25, by which an exception to the date mandated for the start of the term of office of a borough assembly member may be made by a borough by charter or ordinance. The additional change -- the inclusion of new language in subsection (a) and the deletion of the second sentence of subsection (b) -- represents an attempt to make it clear that, except when required by a change in apportionment, the term of office of a member of a borough assembly may not be altered by action of the assembly, thus precluding foreshortening or extension of terms. AS 29.23.040 is binding on home rule governments by AS 29.13.100(1), re-enacted in sec. 1 of this bill. This change is given immediate effect in order to avoid problems which may arise in certain home rule municipalities having charter provisions contrary to the law as it currently reads immediately following the October, 1980, regular municipal elections. [Sec. 16]

Senator Arliss Sturgulewski

Page 4

May 9, 1980

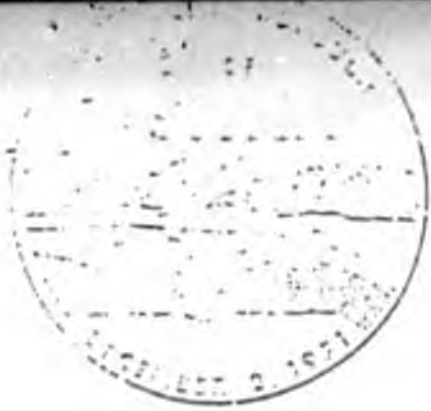
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JBC:ljb



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

February 25, 1980

Representative Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Representative Eliason:

It has recently been brought to our attention by Assembly member, Roberley Potter, that A.S. 29.23.023 was enacted last year. Unless amended, this statute will have many unintended effects on Sitka. Chief among these effects would be to cost the municipality money and to hold both the Assembly and the State Legislature up to ridicule.

29.23.023 (which applies to Home Rule Municipalities) provides that by July 31, 1981, all municipalities must hold an election and present to the voters various local apportionment schemes for Assembly representation.

In Sitka, since unification in 1971, all Assembly members have been elected at large; however, this law would require the City to spend a fair amount of time and money coming up with proposed election districts (containing equal populations) and to have a vote on the whole mess.

It seems obvious to me, at least, that the real purpose of the statute is to force various municipalities around the State which do have election districts to review them and to also give the citizens the right to vote for area-wide representation.

I don't believe that places already having area-wide representation were really intended to be covered by this Statute.

The Statute should be amended to allow for such an exemption or we're all going to have fun explaining why we are going through such an expensive waste of time in Sitka.

Could you please investigate this situation and consider sponsoring legislation to exempt municipalities like Sitka which already provide area-wide Assembly representation?

February 25, 1980

I wish to also point out a further minor problem. A.S. 29.23.080 (c) as amended last year (and applicable to Home Rule Municipalities) has the term of office of new Assembly men begin "... on the first Monday following Certification of the Election."

There are two problems with this in Sitka, First: The former practice in Sitka has been for the election to be certified at the next regular Assembly meeting following the election. Following certification, the new members are sworn in and take their seats. Under this new procedure, we would have to call a Special meeting the Monday following certification merely to swear in new members.

Second: The Mayor (while having no special powers in Sitka) may continue to be sworn into office at the meeting where the election is certified since the Legislative enactments covering the beginning of Mayors' terms are not made applicable to Home Rule Municipalities. That's also going to look real funny to the voters if we swear in a new Mayor at one meeting but have to wait until the next Monday to swear in the rest of the new Assembly members.

I wish that your colleagues would someday quit poking the Legislative stick in the eye of the Home Rule Municipality and stop creating problems where none existed before.

I realize that my comments would have been more helpful if they had been made prior to passage of these Statutes, however, I am sure none of us realized the potential problems at that time.

If I can be of any aid to you, please let me know.

Sincerely,


Peter S. Hallgren
Municipal Attorney

cc: Senator Pete Meland

New Section 5 (re-number remaining sections accordingly)

Sec. 5. AS 29.23.023 (b) is repealed and reenacted to read:

(b) one or more of the proposals set out in ~~section~~ (a) of this section shall be submitted to the voters at the next regular election.

SCSCSHB 947 - ASSEMBLY APPORTIONMENT & REAPPORTIONMENT

BACKGROUND & SUMMARY

Last session the House attached a complicated assembly apportionment and re-apportionment bill to a Senate passed municipal code cleanup bill and adopted a floor amendment that made the prescribed process virtually impossible to implement. Because it was very late in the session with no time for a free conference committee and because the effective date of the bill wasn't until January 1, 1981, the Senate decided to accept the House version and amend it this session to make the reapportionment procedures workable. Senate CS for CSHB 947 sets out assembly apportionment standards in AS 29.23.021, revises and simplifies the reapportionment procedures in AS 29.23.025, and repeals AS 29.23.03 which contains the most onerous provisions of the bill (SB 137) that passed last year.

* * * * *

PROBLEMS WITH AS 29.23.023, ENACTED LAST YEAR

SCSCSHB 947 repeals AS 29.23.023 which provided:

Special Election on Form of Representation. Required special election following decennial census asking borough residents if they want their assembly members elected at large, elected at large but required to live in a district, or elected by and from districts. Boroughs must go to the expense of a special election whether or not there is any dissatisfaction with the current form of representation, and whether or not the assembly is malapportioned. This provision is not necessary because there already exists in law the initiative procedures which may be used by borough residents to change their form of representation.

Dual Plurality Tabulation. Results of above election must be tabulated both inside and outside cities; the assembly must devise a reapportionment plan which "conforms to the form of representation receiving a plurality of the votes in each classification at that election." Nowhere in the law does it say what happens if the people inside the cities vote one way and the people outside vote another.

Short Time Limit. AS 29.23.023 allows only four months for the assembly to devise a reapportionment plan, adopt an ordinance, and get that ordinance ratified by borough voters. Because of the amount of time needed for legal notices for adoption of ordinances and elections, assemblies would have very little time to come up with a reapportionment plan.

* * * * *

HIGHLIGHTS OF SENATE CS for CSHB 947

Apportionment Standards. AS 29.23.021, as revised by SCSCSHB 947, sets out standards for assembly apportionment:

- 1.-consistent with equal representation standards of US Constitution;
- 2.-apportionment set out in incorporation petition approved by voters;
- 3.-no weighted voting;
- 4.-no institutional representation (city council may not appoint one or more of its members to serve on borough assembly).

Reapportionment Procedure. AS 29.23.025, as revised by SCSCSHB 947, sets out procedures for assembly reapportionment:

- 1.-assembly determine if malapportioned within 2 months of census report;
- 2.-if malapportioned, assembly has 6 months to adopt by ordinance a reapportionment plan that must be ratified by voters;
- 3.-if no plan approved within 6 months, C&RA Commissioner provides reapportionment (similar provision in current law);
- 4.-allows reapportionment at times other than following a census;
- 5.-provides for advisory review by C&RA Commissioner and for judicial review;
- 6.-specifies election at which reapportionment plan goes into effect.

AS 29.23.025 is applicable to boroughs but not to unified municipalities. Another part of SCSCSHB 947 clarifies that unified municipalities must provide for reapportionment in their charters.

Alaska MUNICIPAL League

TELEPHONES
907 586-1325
586-6526

204 N FRANKLIN ST
JUNEAU ALASKA 99801

5/6/80

Sectional Analysis - Senate CS for HB 947

- Sec. 1. Makes AS 29.23.021 applicable to home rule municipalities.
- Sec. 2. Deletes requirement that the number of members of a borough assembly may not exceed 11.
- Sec. 3. Deletes reference to AS 29.23.023, which is repealed by Sec. 14 of this bill.
- Sec. 4. Prohibits institutional representation.
- Sec. 5. Requires assembly to determine if malapportioned; changes time limit from 4 months to 2 months; deletes reference to AS 29.23.023.
- Sec. 6. Deletes reference to AS 29.23.023; requires changes in apportionment or composition to be made by ordinance - AS 29.23.025(d) requires voter approval of apportionment and composition ordinances.
- Sec. 7. Clarifies wording and requires borough assembly to make a determination if malapportioned if petitioned by 50 registered voters who are residents of the borough.
- Sec. 8. Lengthens time limit from 4 months to 6 months to adopt a reapportionment ordinance and clarifies wording about Dept. of C&RA providing for reapportionment.
- Sec. 9. New section which provides review by the C&RA Commissioner if petitioned by 50 registered voters who are residents of the borough.
- Sec. 10. Technical change in effective date of reapportionment plans.
- Sec. 11. Provides for judicial review; makes section applicable to home rule and general law boroughs and to unified municipalities whose assemblies are not elected at large or whose charter does not contain reapportionment provisions.
- Sec. 12. Permits reapportionment to change the regular term of office of an assemblyman; permits charter or ordinance to change when the regular term of office begins.
- Sec. 13. Clarifies that charters for unified municipalities must contain provisions for reapportionment procedures.
- Sec. 14. Repeals AS 29.23.023, which would require special elections on forms of representation, dual-plurality to implement, and extremely tight time limits.
- Sec. 15 & 16. Effective date sections.

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SCS CSHB 947 - Assembly Apportionment and Reapportionment

The borough assembly apportionment and reapportionment provisions of SCS CSHB 947 basically go back to what was in Title 29 prior to the complicated amendments that were adopted last session. In addition, this bill contains three improvements to the prior law:

1. -deletes the dual majority provision, which required assembly adopted reapportionment ordinances to be ratified by the voters inside and outside cities;

2. -clarifies that weighted voting is not permissible; and;

3. -clarifies that institutional representation is prohibited, per an attorney general's opinion.

SCSCSHB 947 - ASSEMBLY APPORTIONMENT & REAPPORTIONMENT

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