

BAR  
STATUTES  
FINAL VERS.

# 10

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No way does  
legislative council  
that in part  
is subject to  
some review

205

Down  
killer of  
intent  
with bill



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary  
Committee

FROM: Margaret W. Berck, Counsel to the Committee

DATE: March 12, 1980

RE: Recodification of the Alaska Integrated Bar Act.

-----  
\*Section 1.

Chapter 08. Alaska Bar Act.

Sec. 08.08.010. CREATION OF THE ALASKA BAR ASSOCIATION. There is created an agency of the state known as the Alaska Bar Association, referred to in this chapter as the Alaska Bar. The Alaska

Bar shall have a common seal, may sue and be sued, and may, for the purpose of carrying into effect and promoting the objects of the Alaska Bar, enter into contracts and acquire, hold, encumber and dispose of real and personal property. (§ 2 ch 196 SLA 1955)

Sec. 08.08.020. MEMBERS. A person licensed to practice law in the state may become a member of the Alaska Bar.

Sec. 08.08.030. GOVERNANCE OF THE ALASKA BAR. The Alaska Bar is governed by the Board of Governors of the Alaska Bar. The board has the powers and duties conferred by this chapter and by the Alaska Bar Rules. Members of the board shall receive no salary. (§ 6 ch 196 SLA 1955; am § 3 ch 181 SLA 1976)

Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR; ELECTION AND APPOINTMENT. The Board of Governors of the Alaska Bar shall consist of nine members, six of whom shall be elected by and from among the members of the association and three non-attorney members who shall be appointed by the governor.

*Chaired appointed  
by Gov + confirmed  
by legislature*

(b) Of the elected members, one shall be elected by and from among the members of the association resident in the first judicial district; two shall be elected by and from among the members of the association resident in the third judicial district; one shall be elected by and from among the members of the association resident in the combined area of the second and fourth judicial districts; and two shall be at large from the entire state.

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

(d) Two members of the Board of Governors shall be elected annually and one member of the Board of Governors shall be appointed annually on the following triennial rotation:

(1) in the first year, one member shall be appointed, one member shall be elected at large, and one member shall be elected from the third judicial district;

(2) in the second year, one member shall be appointed, one member shall be elected from the combined area of the second and fourth judicial district, and one member shall be elected from the first judicial district;

(3) in the third year, one member shall be appointed, one member shall be elected at large and one member shall be elected from the third judicial district.

Sec. 08.08.050. ELECTION OF BOARD OFFICERS. The active members of the Alaska Bar Association shall elect annually by a majority vote the association's officers from among the members of the Board of Governors.

Sec. 08.08.060. VACANCIES ON THE BOARD. A vacancy affecting an elected membership position on the board shall be filled by appointment by the remaining board members until the next annual election. A vacancy

affecting an appointed membership position on the board shall be filled by appointment by the governor. Vacancies affecting appointed membership positions shall be filled for the unexpired term.

Sec. 08.08.070. MEETINGS OF THE BOARD. All meetings of the Board of Governors of the Alaska Bar shall be in compliance with AS 44.62.310, et. seq. Reasonable notice to the general public shall be provided.

Furthermore all meetings shall take place within the geographical boundaries of this state.

Sec. 08.08.080. POWERS OF THE BOARD. (a) Except as may be otherwise provided in the statutes or the Alaska Bar Rules, the board may adopt reasonable provisions:

- (1) concerning membership and classification of membership in the Alaska Bar;
- (2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers, duties, terms of office, and compensation;
- (3) concerning annual and special meetings;
- (4) concerning the collection, deposit, investment, and disbursement of membership, admission or licensing fees, penalties, and all other funds;
- (5) providing for the maintenance of the register of each attorney admitted to practice as an attorney at law in the courts of this state;
- (6) providing for continuing legal education and certification of continuing legal education programs;
- (7) providing for the specialization of attorneys admitted to practice as an attorney at law in the courts of this state;
- (8) providing for the organization and government of local

*1.100 x 100 - used  
 these 1000 - problem  
 deal with money - dedicated fund*

*next meeting*

*put in sec 44.62.310*

*style*

*insert to AS.44.62.310\**

*Consider  
 writing*

subdivisions of the Alaska Bar;

(9) providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may:

*statutory changes too!*

(1) approve and recommend to the state supreme court additional rules for promulgation by the court including rules concerning admission, discipline, licensing and continuing legal education;

(2) adopt reasonable bylaws and regulations consistent with statutes and Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active, inactive, judicial, and honorary members.

Sec. 08.08.090. ANNUAL REPORT TO LEGISLATURE. The Board of Governors shall report annually to the Chairmen of the Senate and House Judiciary Committees of the Alaska State Legislature on all matters concerning admissions, discipline, and disbarment proceedings, except for those matters defined as confidential by court rule. Furthermore this report shall address any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal, or addition to the rules of court.

Sec. 08.08.100. POWER OF THE ALASKA BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*

Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.110. ADMINSTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are not subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

*Committee should consider changes like this.*

*extent to which required to Administrative due process.*

*also change previous sec*

Sec. 08.08.120. LICENSE FEES. The fee for the initial issuance and the annual renewal of a license shall be \$25.00. License fees are due and payable to the Alaska Bar.

*to practice law in the state*

Sec. 08.08.130. SUSPENSION FOR NONPAYMENT OF LICENSE FEES. (a) Any attorney-at-law failing to pay the license fee within 30 days after it becomes due shall be notified in writing by certified or registered mail that the Executive Director of the Alaska Bar shall petition a Justice of the Supreme Court of Alaska for an order suspending such person for nonpayment of license fees.

*Requires Bar to take fees.*

(b) The Executive Director of the Alaska Bar shall annually notify the clerks of court of the names and date of suspension of all persons who have been then or previously suspended and not reinstated.

(1) Any person who has been suspended for less than one year, upon payment of the license fee, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the clerks of court that the license fees and penalties have been paid.

(2) Any person who has been suspended for a year or more, upon determination of good character by the Board, and upon payment of all accrued license fees, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the

clerks of court that the person is of good character and that the license fees and penalties have been paid.

Sec. 08.08.140. DEFINITION OF THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
- (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
- (3) Giving counsel as to any person's legal rights or obligations;  
or
- (4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or
- (5) Engaging in any act or other practice determined by the courts of law to constitute the practice of law.

(b) Any person not included in subsection (a) of this section who, for compensation, performs any of the acts set forth in (1) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of this section. The practice of law shall not include actions by government employees in the course of their employment within the agency by which they are employed.

*> licensing by temporary practice from ILL to get atty exam*

(c) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as a natural person.

Sec. 08.08.150. WHO MAY PRACTICE LAW.

**Who may practice law.** (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska, ~~and is an active member of the Alaska Bar.~~ A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

*11 months required about multistate attorney*

~~(b) The practice of law shall be defined in the Alaska Bar Rules.~~  
 (b) ~~(c)~~ This section and § 200 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~, until the results are released of the third Alaska Bar examination following that person's employment.

(c) ~~(d)~~ Employees of the Department of Law whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~ are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976)

Sec. 08.08.160. EMPLOYMENT OF PROFESSIONAL TEST ADMINISTRATORS  
IN THE CONSTRUCTION AND GRADING OF THE ALASKA PORTION OF THE  
ALASKA BAR EXAMINATION; TRAINING REQUIREMENTS FOR MEMBERS RESPON-  
SIBLE FOR THE PREPARATION AND GRADING OF THE ALASKA BAR EXAMINATION.

(a) The Board of Governors of the Alaska Bar shall contract with professional test administrators to assist the Alaska Bar in the preparation of questions and graders' analyses regarding the Alaska portion of the Alaska Bar Examination.

(b) Those members of the Alaska Bar who are designated by the board to prepare questions for the Alaska Bar Examination or to grade the Alaska Bar Examination shall ~~receive training~~ <sup>HAVE BEEN TRAINED</sup> in the preparation and grading of bar examinations.

Sec. 08.08.170. ELIGIBILITY TO TAKE BAR EXAMINATION.

**Eligibility to take bar examination.** Applicants who have not graduated from an ~~accredited~~ law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by § ~~807~~ of this chapter. (§ 12 ch 181 SLA 1976)  
§ 180

Sec. 08.08.180. LAW CLERKS.

(a) Every person who desires subsequently to qualify as a general applicant for admission to the ~~Alaska Bar~~ without having been graduated from an ~~accredited~~ law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school. → practice of law in this state.

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or, if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the university an application to register as a law clerk. The application shall be made on a form to be provided by the university and shall require answers to interrogatories the university may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the university. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the university, in a manner satisfactory to the university, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the courts of study adopted by the university. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the university may determine.

(d) A law clerk whose registration has been approved by the university must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the

work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended ~~either as approved or a~~ law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section

*whether or NOT*

(1) "law school" means a law school <sup>↑</sup> accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

(am §5 1 — 8 ch 119 SLA 1978)

Sec. 08.08.190. DISCIPLINARY PROCEEDINGS AND REVIEW.

*a person licensed to practice law in the state*

Upon finally determining any cause involving the discipline, disbarment, suspension, or reinstatement of ~~a member of the Alaska Bar~~, the board shall certify its findings and recommendations on the cause to the supreme court. Within 30 days after receiving the findings and recommendations, the court shall issue, in full accordance with the recommendations, an order of disbarment, suspension, reinstatement, dismissal, or otherwise, unless the accused ~~member~~ sooner petitions the court for review of the proceedings, findings, and recommendations of the board. If such a petition is made, the court shall promptly review the cause in the manner prescribed in the Administrative Procedure Act (AS 44.62). (§ 14 ch 196 SLA 1955; am § 6 ch 178 SLA 1960)

person ←

Sec. 08.08.200. CRIMINAL PENALTY FOR THE UNLAWFUL PRACTICE OF LAW.

*Who engages in the practice of law*

(a) Any person not licensed to practice law in the state <sup>↑</sup>as that term is defined in AS 08.08.140, or a person who is licensed to practice law in the state who wilfully employs ~~such~~ a person <sup>↑</sup>knowing that such person is engaging in the practice of law is guilty of a Class A misdemeanor.

*not licensed to practice law*

(b) Nothing in this section prohibits the use of paralegal personnel as defined by the rules of the Alaska supreme court.

<sup>2.10</sup>  
Sec. 08.08.150. CONDITIONS FOR THE RECEIPT OF STATE FUNDS. No state funds shall be provided to the Alaska Bar unless all records of the Alaska Bar are made available to either the legislative auditor or the state ombudsman as his official duties or responsibilities may require. *amends confidentiality*

<sup>2.20</sup>  
Sec. 08.08.160. SHORT TITLE. This chapter may be cited as the Alaska Bar Act.

\*Section 2. AS 45.50.495 is amended by adding a new subsection to read:

(c) The attorney general may investigate complaints of unlawful acts and practices of attorneys which constitute violations of AS 45.50.471 and bring actions under AS 45.50.501 to restrain the unlawful acts and practices notwithstanding AS 45.50.481(1).

*Consider striking subsection (c)*

\*Section 3. ALASKA BAR RULE 7, SECTION 1 IS AMENDED TO READ:

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

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

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegations [ALLEGATION] in the verified statement are found to be sufficient by the Board, a hearing shall be granted. A hearing shall be granted in all cases where the applicant requests it and the score of the applicant on the bar examination is within five points of the passing grade of the  
bar examination.

\*Section 4. ALASKA BAR RULE 2, SECTIONS 1,2, and 3, ARE AMENDED TO  
READ:

Section 1. Every applicant for examination shall

(a) File an application in a form prescribed by the board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for examination;

(b) Be a graduate of a law school [which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated] or submit proof that the law course required for graduation from [such] a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English common law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of the examination.

Section 2. An applicant who meets the requirements (a) through (e) of Section 1 of this rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall

*Committee  
wants  
schools  
to be  
accredited  
by  
someone.*

be required to pass the attorney bar examination prescribed by the Board

[Section 3. An applicant who meets the requirements of (a) and (c) through (e) of Section 1 of this rule may qualify for admission if an application is filed on or before June 8, 1977 and the applicant:

(a) Is admitted to practice and is an attorney in good standing in the bar of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this rule. (Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974; by Supreme Court Order 220 effective December 15, 1975; and by Supreme Court Order 347 effective April 1, 1979)

LAW OFFICES

JENSEN, HARRIS & ROTH

A PROFESSIONAL CORPORATION

1029 WEST THIRD AVENUE

ANCHORAGE, ALASKA 99501

KENNETH D. JENSEN  
R. EVERETT HARRIS  
JEFFREY H. ROTH

TELEPHONE  
277-3533  
AREA 907

April 8, 1980

Dear Colleague:

I am a candidate for election to the Board of Governors of the Alaska Bar Association and ask your support.

The sunset review law will automatically abolish the Board of Governors of the Association unless a new bar act is adopted by the current legislature. There exists little or no hope that a sensible bar act will be produced this session, owing to the determination of House members that the association become both a voluntary membership club and a regulatory agency of the state.

In short we face a "Catch 22" situation: if the life of the association is legislatively extended, we will have neither the fiscal ability nor the constitutional capacity to discharge governmental responsibilities for admission or discipline of lawyers. Without legislation, the result is the same.

Given these circumstances it seems inevitable that the Supreme Court will intervene, exercising its "inherent Power" to regulate the practice of law. And that prospect, in my view, is at best a mixed blessing.

I am running for the at-large seat on the Board of Governors because I believe that the bar must, by whatever means possible, re-establish itself as a strong force in matters affecting its membership and the public. I believe the present dilemma is, in large measure, the product of our own failure to intelligently exercise the influence we once had in this state.

I would appreciate your support.

Regards,

  
KENNETH D. JENSEN

KDJ:mc

# The Alaska BAR RAG

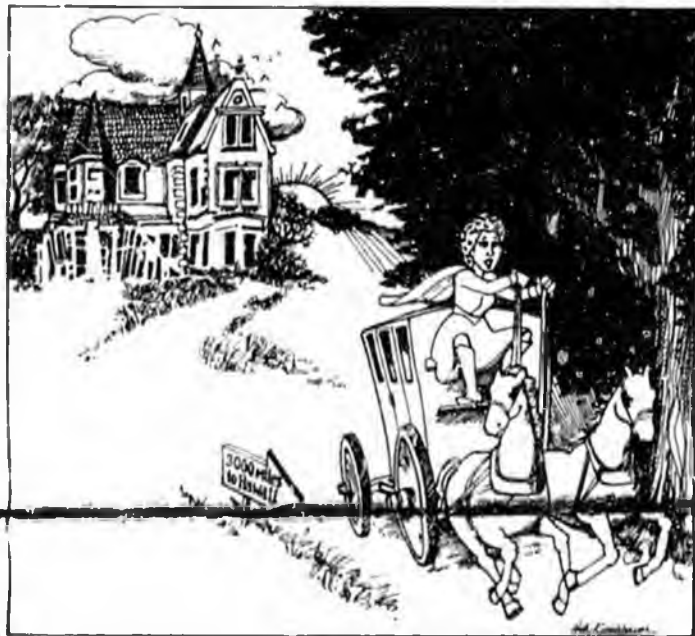
Volume 1, Number 3

Dignitas. Sempiternitas

March Fool Edition 1980

\$1.00

## BAR FACES DOOM!



### Supreme Court OKs Hawaii Meet

The Alaska Supreme Court has held that the Bar Association's 1978 mid-winter Board of Governors meeting in Hawaii was valid and lawful. (*Horowitz v. Alaska Bar Association*, No. 2059, April 4, 1980) Writing for a 3-2 majority, Justice Roger Connor said that AS 08.08.100 specifically exempts the Bar Association from the open meeting and other provisions of the Administrative Procedures Act and that the language of the statute is clear. "The Hawaii meeting was convened in accordance with the bylaws adopted by the ABA. Thus, if these provisions are applied in accordance with the plain meaning of [the statute] the Hawaii meeting was lawful."

The opinion noted that the legislature had also exempted the Alaska Housing Finance Corporation from the APA, but expressly did not exempt it from the open meeting statute, concluding that the Bar Association's exemption must therefore be broader.

The Court dismissed as meritless appellants' alternate contention that they were denied due process in not being allowed to attend the meeting by virtue of its being out of state.

Dimond, Rabinowitz Dissent

Justices John Dimond and Jay Rabinowitz filed separate dissents. The exemption of the Bar Association is to the procedural aspects of the APA only, in that the bylaws and rules are to be adopted in accordance with the

Alaska Integrated Bar Act. The Open Meeting statute is a substantive provision which requires meetings of a broad range of governmental agencies of the state and its political subdivisions to be open to the public." The Bar Association was created as an instrumentality of the state and derives part of its revenues from the state, and is therefore subject to the open meeting law.

Rabinowitz agreed with Dimond and went on to note that even if the Hawaii meeting was exempt from the APA, it still violated Art. IX, Sec. 6 of the Alaska Constitution, prohibiting use of public monies except for a public purpose. Mandatory dues constitute public monies, and there was little if any legitimate public purpose in locating the meeting in Hawaii. He also wrote that substantive due process is denied when the actions of a public agency are arbitrary and bear no reasonable relationship to a legitimate governmental purpose.

On Monday, March 31, 1980, the Alaska House Judiciary Committee unveiled a bill which, if enacted as written, would spell the end of the Alaska Bar Association as an independent, integrated, statewide professional organization. Ironically entitled "An act continuing the existence of the Alaska Bar Association..." House Bill 984 eliminates the financial base of the Bar Association by making membership optional. The only fees involved would be an annual license fee of \$25.00 for practicing attorneys. Inactive members would be required to pay \$10.00. Judges would pay \$20.00. These monies would be paid to the Supreme Court and deposited in the General Fund.

Bar Association is to be both a private organization and a state agency, subject to statutory requirements for agencies and invested with police powers over members as well as non-members.

#### Lay Members on Board

The bill provides that the Board of Governors is to be changed from a nine attorney-member board to a body composed of six attorneys and three lay members. The latter would be appointed by the Governor and confirmed by the Legislature. All meetings of the new board would be required to be announced by public notice at least 30 days beforehand—a requirement absent from the statutes regulating the professions of Medicine, Nursing, Accounting, Dentistry, Architecture, Engineering and Land Surveying. All meetings of the board must take place in the State of Alaska.

The board is given certain specified powers. They include: adopting provisions regarding membership; providing for employees, their duties and wages; establishing and collecting voluntary membership fees; providing for CLE programs and recommending certification of a CLE program; providing for the recommendation to the Supreme Court of a program for the certification of attorneys as specialists; and approving and recommending rules to the Supreme Court regarding admissions and discipline. In addition, there is a catch-all provision permitting the board to provide for all other matters affecting in any way the organization and functioning of the Alaska Bar.

The bill requires the board to report annually to the Judiciary Committees of the Legislature on all matters concerning admissions, discipline of members and disbarment proceedings, except for those matters defined as confidential by court rule. The board is permitted to recommend changes to the act, the Rules of Practice and Procedure, and the provisions of state law generally, in its annual report.

#### Practice of Law Defined

Section 95 of the proposed act provides a five-point definition of the practice of law as follows:

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

(2) appearance in or conduct of litigation or performance of an act in connection with pending or prospective proceedings before an administrative or other nonjudicial agency established by law for the resolution of controversies;

(3) providing advice relating to the legal rights or responsibilities of a person;

(4) preparation of instruments or documents affecting legal rights; or,

### Committee Lineup

#### HOUSE JUDICIARY

Charles Parr (Chairman)  
Nels Anderson (Vice-Chairman)  
Fred Brown  
Thelma Buchholdt  
Hugh Malone  
Ramona Barnes  
Terry Martin  
Patrick O'Connell  
Randy Phillips

(5) engaging in an act or practice determined by the courts of the state to constitute the practice of law.

Section 95(b) permits non-lawyers to perform any or all of these acts for compensation, provided they are performed as part of the regular conduct of a business the primary purpose of which is not the practice of law.

#### Eligibility Standards Lowered

It is no longer necessary under House Bill 984 for applicants for admission to the practice of law to attend American Bar Association accredited or approved law schools. Now, attendance at any institution calling itself a law school will satisfy the educational requirement for the Bar examination.

The Board of Governors will be responsible for administering Bar examinations. It must grant a hearing to any applicant denied certification if his score on the Bar examination is within five points of the passing grade.

The new bill makes no specific provision for the administration of discipline or funding.

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## Appeals Judgeship

Dear Member of the Alaska Bar Association:

Applications are now being accepted for the three judgeships comprising the newly-created Alaska Court of Appeals. The judges filling these positions will be expected to reside in Anchorage.

A court of appeals judge must be a citizen of the United States and of the state; a resident of the state for five years immediately preceding appointment; have been engaged for not less than eight years immediately preceding appointment in the active practice of law; and at the same time of appointment be licensed to practice law in Alaska. For these purposes, the active practice of law is defined in AS 22.05.070.

Court of appeals judges will be paid an annual salary of \$85,352.00. The judges will be entitled to personal leave as established by the Administrative Rules of Court, state paid health and dental benefits, and retirement benefits under the judicial retirement system. District and superior court judges who presently participate in the non-contributory retirement program may continue in that program if appointed as a judge of the court of appeals. Others who may be appointed to these judgeships will be required to contribute seven per cent (7%) of their annual salaries to the retirement system as provided by AS 22.05.011.

The court of appeals is expected to commence operation on or about July 1, 1980. To help insure that a competent law clerk will be available at that time to serve each court of appeals judge, the Supreme Court will hire the law clerks for their positions for the first year. Interested persons should write or call the Alaska Judicial Council and request an application form. Such forms may also be obtained in person at the above address. All applications should include a statement from a physician assessing the physical capability of the applicant to perform the duties of a court of appeals judge.

Completed applications must be received by the Alaska Judicial Council no later than 4:30 p.m. on Monday, April 21, 1980.

Sincerely,  
Jay A. Rabinowitz  
Chairman, Ex Officio  
Alaska Judicial Council

## Family Law Conference Headlines Stars

The 18th Annual Conference of the Association of Family Conciliation Courts to be held at the Westward-Hilton in Anchorage, May 21-24, 1980, will feature a number of national experts in the field of domestic relations. Joseph Goldstein is the Walton Hale Hamilton professor of law, science and social policy at Yale University Law School. He is a political scientist, lawyer, and psycho-analyst, and the author of a number of books. Dr. Goldstein will make two presentations, one in a public forum, 7:30 p.m. May 21, and the opening address to the conference, 9:30 a.m., May 22. He will be joined by Richard Crouch, Managing Editor of the Family Law Reporter; Hugh McLissac, Director of the Conciliation Courts, Los Angeles,

California; and Lawrence Stotter, attorney from San Francisco, California, as reactors to his presentation which will discuss some of the considerations of the best interest of the child.

Mr. Jim Guy Tucker, the chairperson of the White House Conference on Families, will make an appearance at the conference and this will probably be the only appearance Mr. Tucker will make in the State of Alaska. With the concerns that have been expressed concerning the White Conference on Families, Mr. Tucker's appearance in Anchorage should be a significant one and will provide opportunity for additional input directly to the chairman.

In addition to the Honorable Judge Jean Graham Hall, discussing domestic violence, it has been learned that Jeanne Santos, Director, LEAA Office of Domestic Violence, Washington, D.C. and June Zeitlin of the Office of Domestic Violence will be participants.

Four workshops have been developed covering the topics of Cultural Aspects of Family Problems; Mediation-Theory, Practice and Court Application; Counsel for Children; and Implication of Mobility on Divorcing Families. Early registration is essential for anyone having a preference in workshop participation as registration for workshops will be tied in to the date of registration as made.

Saturday morning's session has been completed with the speakers to be Robert Kaufman, attorney from Los Angeles, California, who handled the McKay case in Anchorage and the expert witness to be Dr. Donald Rife, Child Psychiatrist of the Champlain Family and Court Consultants, Burlington, Vermont. Dr. Rife is not new to Alaska, having worked in the Anchorage area some 10 years ago, having been a child psychiatrist in private practice, and also a consultant to the Alaska Psychiatric Institute in his prior tour of Alaska.

Steve Adams, the Editor and Publisher of the AFLTR, California Law Review will handle the review and critique of the conference.

Registration for the conference is being handled through World Wide Travel and registration paid prior to April 20, is \$90 for members in good standing of the Association of Family Conciliation Courts. Registration for non-members prior to April 20, is \$120. After April 20, registration fees will increase \$10 to \$130 for paid up members and \$130 for non-members. Additional information concerning this conference can be obtained by contacting Don Williams, World Wide Travel, (907) 277-9571 or Francis M. Stevens, Custody Investigator of the Alaska Court System, (907) 284-0428.

### IN THE TRIAL COURTS FOR THE STATE OF ALASKA THIRD JUDICIAL DISTRICT

In the Matter of:  
**THE ASSIGNMENT OF ALL PENDING  
SUPERIOR COURT CIVIL CASES FOR  
ALL PURPOSES INCLUDING TRIAL.**

#### ORDER

The Superior Court, having recently adopted, in principle, an individual calendar proposal as the method of assignment and processing of civil cases.

IT IS HEREBY ORDERED that all Superior Court civil cases previously assigned for motion purposes only be and the same hereby are assigned to the motion's judge for all purposes including trial.

Counsel who believe they are eligible and desire to exercise a peremptory disqualification under Rule 42, Rules of Civil Procedure, are instructed to file the appropriate notice within five (5) days of receipt of this Order.

Memoranda to Set Civil Case for Trial filed up to and including March 7, 1980 will be acted upon by the individual judge to whom the case is assigned. Counsel will be notified of conferences which may be scheduled to establish a specific trial date. Memoranda to Set Civil Case for Trial filed after March 7, 1980 will be placed in the Court's file with further instructions to counsel to be published prior to April 30, 1980.

DATED at Anchorage, Alaska this 4th day of April, 1980.

RALPH E. MOODY, Presiding Judge  
Third Judicial District



## ALASKA STATUTES

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and  
1979 Cumulative Supplement

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# BOG Candidates



Bruce Botelho



Brian J. Brundin



William P. Bryson



Robert Bundy



Ron Drathman



Ken Jensen



David Burdett Loutrel



Robert A. Rehbock



Vincent Vitale



Hugh G. Wad

## Interview Questions

1. Most present members of the Board of Governors agree that membership on the Board is a very time consuming activity. Why do you want to run for this job?

2. In light of the ombudsman's recent criticism and the possibility that the integrated bar may soon become a victim of Sunset Legislation, how do you assess the job that the present Board of Governors has been doing and what new directions, programs or policies would you recommend?

3. Should the integrated bar be sunsetted?

4. In the event the integrated bar does not survive Sunset what do you think of a statewide voluntary bar both in terms of effectiveness and ability to generate revenue to support existing programs?

### Bruce Botelho

Bruce Botelho was born in Juneau in 1948. Raised in Juneau and Anchorage. Graduated from Willamette University in Salem, Ore., with BA in German literature. Studied two years, Heidelberg, West Germany.

JD degree, Willamette University College of Law. Employed by the Alaska Department of Law 1976 to present.

Activities have included Juneau Human Rights Commission (president 78-79), Juneau International Folk Dancers, Alaska Council, American Youth Hostels, Inc., administrative law committee, Alaska Bar Association.

1. Serving on the board will permit me to exercise some influence on the direction the association will take during the next years. I believe in a more activist association whose board of governors speaks on public issues. I also believe that the board must reassess its program and budget priorities. I have administra-

tive and organizational skills in assisting the association in that regard.

2. The board of governors has been subjected to extensive criticism in past years and is regarded with suspicion. The criticism is in part undeserved. The present board has had to wear two hats for much of its term: that of policy-maker and administrator.

However, the board also needs to more systematically review admissions, the Bar disciplinary process and the role of substantive law committees (perhaps through the use of advisory committees of the membership). The board needs to take a more active advocacy role on public issues and examine office management and budget practices.

The current board has, in fact, initiated some steps in this direction. Unfortunately, its communication to the membership has been inadequate. It should undertake greater coverage of its meetings in the Bar Rag and wider distribution of the bylaws of the association. It should restrict its meetings to Alaska. It should develop a budgetary process that involves more attorneys in setting budget limits and priorities.

3. The Bar Association should be subject to sunset review, though I doubt that repeal of AS Chapter 08.08 would have any effect on the continued existence of the association.

Some members, not entirely without reason, have regarded "sunset" with a great deal of suspicion—an opportunity for critics to take potshots (some extremely accurate) at attorneys.

I regard the process as extremely healthy for the association because it has required the board to independently assess the role and effectiveness of the association and has fostered greater public awareness of the association. Quite frankly, the association has had serious management problems—some of which could stand outside criticism and independent recommendations.

4. The question presupposes that repeal of AS Chapter 08.08 would necessarily lead to a voluntary association. I disagree with that

assumption. Regardless of any action to disband the integrated Bar by the legislature, it is my view that the Alaska Supreme Court would continue to make membership in the association a prerequisite to practice

and to delegate the responsibilities currently exercised by the association in aid of the court's jurisdiction over the practice of law in Alaska.

### Brian J. Brundin

Brian J. Brundin is a principal and managing partner in the firm of Hughes, Thorsness, Gantz, Powell & Brundin. An Alaskan since 1951, Brian graduated from Fairbanks High School in 1957, the University of Alaska with a BBA (cum laude) with major in accounting in 1961 and received his JD from Harvard Law School in 1964.

After a two-year tour as accounting officer for the United States Army, Alaska, Brian joined his present firm, which has since grown to have 37 lawyers and offices both in Anchorage and Fairbanks.

He is a member of the Anchorage, Alaska and American Bar Associations; the American Trial Lawyers Association and the Alaska Society and American Institute of Certified Public Accountants. After teaching for three years at the Anchorage Community College of the University of Alaska and serving as President of the Anchorage Chapter, University of Alaska Alumni Association, Brian joined the Board of Regents in 1969. He was president of the Board from 1975-77, was a member of the Alaska Postsecondary Commission in 1974-75, is a member of the Board of Directors of the University of Alaska Foundation 1974 to present, was its president from 1974-77 and was Alaska Chairman of the Harvard Law School Fund from 1975-78.

1. My experience may be useful to the Bar.

2. Flavin's criticism's are overstated. The Board has done reason-

ably well and should increase emphasis on continuing legal education.

3. No.

4. I believe it would be less effective and activities would have to be curtailed.

### William P. Bryson

Name: William P. Bryson. Age: 33 years old.

Admitted to practice: California Bar—1972; Alaska Bar—1973.

A.B. Degree—Stanford University—1969. J.D. Degree—U.C. Berkeley, Boalt Hall—1972.

Experience: 1972-1973: Law Clerk to Justice Boochever, Alaska Supreme Court, Juneau. 1973-1976: Alaska Public Defender Agency in Anchorage; felony trial lawyer. 1977-1980: Drathman, Weidner & Bryson, Anchorage; private practice with emphasis on criminal defense. 1980: Birch, Horon, Bittner, Monroe, Pestinger & Anderson, Anchorage; private practice with emphasis on civil litigation.

Bar Activities: Vice Chairman, Criminal Law Committee. Testified before Alaska Senate and House Judiciary Committees on Criminal Code 1978 and 1979 sessions. CLE lecturer. Revised Criminal Code, Fairbanks, Anchorage, Sitka Bar Convention, Judges' Training Sessions.

1. I have become increasingly concerned with the breakdown of communication between those who are seated on the board and those who are critical of it. I believe unless we place lawyers on the board who can and will solicit and respond to criticism of the Bar Association and its policies, the board will become a more isolated entity unable to make decisions accepted by large portions of the association, and thus, less able to benefit the Bar membership. I believe I have contact with and can listen to a widely disparate group of Bar Association members statewide, and that I can represent viewpoints of many who have not previously had input to the board.

(continued on page 8)

(Editor's Note: No photographs of Karen Hunt and George Liskow were available at deadline.)

# “Random Potshots”

## Is There Life After Death?

by John Havelock

Will the Bar survive? Perhaps not in its present form. If malevolent legislators were the problem, the Bar would coalesce in its own defense. But the weakness of the Bar is more a matter of internal contradiction and discontinuity with the times.

It seems unlikely at this point that much will happen in Bar legislation this year. The sunset sword will swing ever closer but the end is a year away. We may yet be rescued by legislation next year if the major points of view involved reach a rough consensus. No doubt some will view the legislatively mandated outcome as a fate worse than death.

If the Bar is not rescued at that time, then the Supreme Court will provide the mechanical devices to keep the blood circulating until lawyers themselves decide what to do with the old girl.

For at the bottom of the dispute about what to do with the Bar Association is a dispute among lawyers more than a dispute between the Bar and the public. If the Bar was a cohesive force, it could shake off legislative assaults. The judiciary committees would settle for a couple of laymen on the board and the association and its members would go on with their program.

### Institutional Fatigue

But the Bar suffers from the malaise of middle age: a faltering sense of purpose. The senior members pine for the days when the association could run as a club. Many younger members see themselves as burdened by an extravagant, club-like superstructure out of proportion in cost and power to the requirements and mechanics of admission and discipline. For them, the Bar is heading for a well deserved demise. If so, look for a Medusa-like resurrection.

### End of the Union Suit

Whatever may be occurring in formal legislation, the Bar is quietly disintegrating as an informal structure. Specialization in fact is sliding towards specialization *de jure*. The plunge towards advertising, from discrete yellow page boxes to cross television commercials, further illustrates the milieu of the lawyer as a dog eat dog world. Temporarily, at least, the competitive aspects of the lawyer's trade have displaced the commonality of interest. One might predict that lawyers will eventually recongeal around newly defined interests based on specialization and specialized continuing educational needs. The juice will no longer be with the centralized organized bar but in organizations of locality or specialized practice.

The process of admissions has been standardized and proceduralized to the point where it can best be run by an executive officer operating within the context of standard governmental licensing operations. Discipline has been largely displaced by the legal malpractice action. Clumsy, secretive and drawn out procedures have nullified public

confidence in the Bar's ability to police its own. Nor do lawyers feel, as they once did, a special responsibility for misconduct by a fellow attorney. The Bar and the public might be better served by a statutory governing criminal misconduct by a fiduciary and use of the state prosecutorial system.

### New Life in Specialization

Just as lawyers originally banded together to advance joint interests, so the specialty groups such as superior court trial attorneys, public lawyers and corporate practitioners will each develop its own organization and objectives. Incredibly, the Board of Governors has resisted this movement by treating appointment to membership in Bar committees as a prerogative of the president rather than realizing that most committees should be modeled after sections of the American Bar Association to which all interested lawyers should belong. A movement in this direction, inadvertently, would provide a source of revenue, through section fees, to support specialized activities.

In time these activities would include criteria by which a person could be allowed to hold himself out as qualified to practice in a given area of the law.

### Separation of Powers in Bar Governance

There is another model for devolution that could take hold: separation of powers. The board could stop trying to be executive, legislative and judicial all at the same time. Assuming the administration of discipline remains a Bar function, the board, or preferably the Supreme Court, should appoint a standing committee of perhaps five senior lawyers to sit (in panels of three) as the court of bar discipline with appeal from it directly to the Supreme Court. The board should have no role in discipline except as a legislative body defining rules of proper and improper conduct. The Bar executive should serve for a fixed term and the power of the board to involve itself in administration, beyond setting the annual budget, should be curbed.

### Evolution Not Extinction

Random Potshots will not predict which way the Bar will evolve, only that the status quo will not survive. But evolution does not mean extinction. Licensing, policing and educational functions will continue in some form and probably at new, higher levels of effort.

# INSIDE/ OUTSIDE

## Information & Observations

by Karen L. Hunt

The competency of trial court advocacy is viewed most often by two entities: the judge and the jury. Thus, two recent surveys are of interest to trial lawyers: (1) the American Bar Foundation Research Journal article by Dorothy Linder Maddi (Vol. 1979, Summer, No. 3) and (2) the Alaska Court System statewide jury questionnaire collected in 1979.

### American Bar Foundation Survey

More than 700 comments were made by state and federal judges in response to a question asking their views on the general state of the trial bar including suggestions for causes and cures for trial advocacy incompetence. Of the various themes culled from the responses, comments relating to lack of adequate law school preparation for trial advocacy were most frequent. The responses ranged from observations about improved courtroom skills observed in young lawyers to criticisms of young lawyers' lack of decorum, respect and general poor manners.

A second theme stressed lack of lawyer preparation as a major problem of trial advocacy. The cause was often placed on the economics of the case. ~~As \$1,000 cannot be spent on a \$100 case.~~ Other judges commented that experienced trial lawyers appeared to take on more cases than they can handle adequately.

Yet a third theme was the suggestion that young lawyers be exposed to internships, apprenticeships or sitting second chair to experienced trial lawyers. Trial experience without criticism was viewed as less effective, or possibly detrimental, to the development of good advocacy skills.

Many judges commenting that more admission to the bar should not be sufficient for qualifying for trial work, recommended that specialization and/or specialist certification in trial advocacy be required. These

suggestions were accompanied by concern that such specialization might adversely affect availability of counsel particularly in non-metropolitan areas. One judge recommended that if apprenticeship is required, it should be the absolute duty of all trial lawyers to take into their offices lawyers who want to learn trial practice.

Many comments stressed the need for self-discipline within the profession and in some instances, Bar Associations were criticized for not providing strong leadership in this area. Finally, other causes of trial incompetency were mentioned such as incipient senility, drinking problems, mental health problems, laziness and lack of dedication to excellence in trial work.

### Alaska Court System Ju. Questionnaires

1979 Jury Questionnaires returned from people who served on juries in Anchorage, Fairbanks, Juneau, Kenai and Kodiak revealed that many jurors had complaints about the logistics of the jury system: lack of good food; lack of notice when cases settled; lack of prompt payment; lack of convenient parking; and frequency or infrequency of being called for jury duty. While no statistical tabulation was compiled by this writer, the comments seemed nearly equally divided between stating that it was a citizen's duty to serve and complaint that the system did not deliver justice.

As relates to trial advocacy observations, the most frequent comment was that lawyers waste too much time in trial. These observations ranged from voir dire being too long to presentation of evidence taking too long. Many comments were also made that the attorneys were ill-prepared and presented the cases poorly. Few specifics were included in the comments to identify the particulars of poor presentation of cases. Finally, frequent criticism of both the court and lawyers was that the trial days did not begin on time which resulted in wasted time and wasted money.

### What Does it All Mean?

The purpose of discussing these two surveys is not to argue with their validity or with the accuracy of their observations. The purpose is simply to point out that such surveys do exist and do reveal the reactions of judges and jurors to lawyers in the courtroom. Few, if any, trial lawyers can be confident that he or she was not the lawyer that the judge or juror had in mind when making negative observations about trial advocacy skills. Thus, it might well be worth each trial lawyer's time to be aware of such surveys and to re-examine his or her trial preparation work and trial court presentations to determine if he or she is a part of the problems of trial advocacy observed by the judges and the jurors. And if not a part of the problem, is he or she a part of any solutions?

### Legitimacy and Paternity

The Denver Post reports (1/12/80) that a paternity suit was recently filed by an unwed mother of eight in Castle Rock District Court against one Snowy Blanco described as a "four-year-old unemployed white shepherd." The complaint alleges that the mother, Wendy Tolbert, a Doberman pinscher, was impregnated by Snowy after he jumped over a fence despite efforts by Wendy's owner to ward him off with a broom. The complaint, which was filed on behalf of the mother by Deputy District Attorney Mike Miller, asked that Snowy be ordered to pay child support although, according to Miller, Snowy is an unemployed "vagabond" with no visible means of support. Deputy District Attorney Anne Mansfield was appointed guardian of the eight puppies by District Judge Charles Friedman.

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# A BURNT OUT CASE

by Russ Arnett

The energy crisis, the environmental movement, and high technology have combined to produce what court watchers consider the most exciting new development in court administration. Under a joint grant from DOE, EPA and LEAA, a small steam turbine was procured and fired by detritus from the court system. The Forensic Biomass Conversion Unit was born. Though not itself cost efficient it led to the discovery that the quantity of court detritus available far exceeded projections provided by the Administrative Office. Consultants determined the supply grew exponentially and far exceeded the capacity of the original unit. A larger and more efficient unit, dubbed "Big Mother" by the bar, was put on-line.

## Bio Law

Biological means employing huge vats produce energy and valuable by-products from the court waste. A specialized yeast or bacteria (*Papirus obscurantum alaskanus*) is added. Methane gas is produced which fuels state vehicles and has noticeably reduced winter smog in Fairbanks. Potable ethyl alcohol is also produced and marketed by the court system under the "Mother's Milk" label. The residue or slag is burned in a turbine. Sufficient electricity is generated to supply not only the court buildings but also the Alaska Railroad terminal.

The ash was found to be a fine organic fertilizer. Chemists have yet to isolate a component which the ash apparently contains which makes crops particularly green and healthy. We call it the B.S. factor. Residents of Matanuska and Tanana Valleys claim that crops are noticeably

greener after the ash is applied. Some speculate that it might even save the Delta Barley Project.

## Public Acclaim

The court system obtained national recognition for its biomass project, and the public at last found something to admire in the court system. The court system received the Warren E. Burger award for excellence in judicial administration. The Washington Post and New York Times both reported forensic biomass conversion as being Alaska's one voluntary contribution to cause of the environment. Scientists saw this technology as having all the advantages of a nuclear breeder reactor with none of the hazards.

The Court System savored the praise and saw how it improved the political climate for other needed reforms. After supplies of detritus had been exhausted, first closed files and then, cautiously, tentatively, open files were thrown into the maw of Big Mother. Suddenly struck with the enormity of what they had done, a moratorium was lamped upon conversion of more open files, except

pursuant to stipulation. Surprisingly, after several months no complaint had been received, nor even voiced, to the conversion of open files. A study of the effects of open file conversion determined that 89% of all civil litigants were better off economically by biomass conversion of their active files. The order was given to resume conversion of open files, but with discretion.

## More Jobs

It was anticipated that as an incidental benefit a reduction of court administrative and support staff would be possible. The administrators, however, stated that problem of reduction of personnel was multifaceted; that final adjudication of a case or the absence of it has little effect upon what they do anyway; and that they expect in the next court budget to request the usual increase in personnel.

True, the lawyers complained of a nagging sense of *litigious interruptus*. In their frustration they turned to both drugs and real estate.

It was once again demonstrated that necessity is the mother - the Big Mother - of invention.

## Minutes of the March 14, 1980 Meeting of the Tanana Valley Bar Association

Jon Link called for order. He was doing his best.

Tom Jabake from Juneau was the only guest.

The minutes were read and the critics did howl, but the secretary fended them off with a scowl.

The Judicial Council sent the Pres. a letter saying: Why your Bar poll? Ours is much better.

The C.L.E. report, bankruptcy and such stuff.

If you owe for a course, pay or we'll get rough.

The next video show will be Tuesday eve with donuts and goodies for those who see and believe.

Bob Grosseck reported that Senator Ted will hire a lawyer for D-2 and stuff. At least, that's what he said.

Dick Savell also spoke, but his words were quite fuzzy. There was airfare and problems. He wasn't sure, or was he?

The legislative report by Schendel - that's Will concerned one bad and one good legislative bill.

The room was near cleaned when the President spoke of a new halfway house to cure your booze and your toke.

A hundred and fifty bucks was frittered away buying a roll around cart on which our video will play.

Dick Madson pointed out that the "Bar Rag" today contains new trust rules requiring a C.P.A.

Judge Connelly was not in Juneau - surprise! He was here at our meeting; we saw him with our eyes.

And so the meeting adjourned with nothing much done, but the Palace has two shows; this weekend will be fun!

By royal decree,

King Arthur

## Minutes of the March 21, 1980 Meeting of the Tanana Valley Bar Association

The meeting was called to order at 12:20 p.m. by proxy Jim DeWitt. The only guest was Alice Merry of Rice, Hoppner. Prior to reading the minutes, the secretary announced

the results of the Bar poll of the Second and Fourth Districts, cast dispersals on the competency of the attorneys replying to the poll, and made CLE announcements.

The minutes were read in rhyme, and for a change no one picked on the secretary. Correspondence consisted of a letter about "wheel judges."

The Library Committee reported that their three-day policy for leaving books around in the library has been extended to work product. After three days of leaving work product in one area, it will now be stored or auctioned off, depending on its value.

The Law Day Committee reported the dinner was May 2nd, Friday, and that it was probable we would do something in connection with the court or to the court. The president announced that we had a program of substance, so any good business was to be saved until the next meeting.

The Legislative Committee passed out about five pounds of paper in the form of various crucial bills. The program was Mandy Clapp, a member of the Judicial Council. He discussed the Bar poll, the selection procedures for judges, the minority sentencing report, and general gossip.

Since there was nothing to do, everyone left.

By royal decree

King Arthur

## Minutes of the March 28, 1980 Meeting of the Tanana Valley Bar Association

Vice President Bob Grosseck called the meeting to order at 12:20. There were no guests.

The minutes were boring and committee reports were limited to a single one - the Legislative Committee:

Judge Connelly reported that our president was holed up in a hotel room in Juneau and had called him as his only contact with the outside world. The message was: Watch out! Donna Willard will be at next Friday's meeting. The House Judiciary Committee is going to report the sunrise and/or sunset of the Bar Association out on Monday. There will be a hearing Wednesday evening. The House version of the bill will maintain an integrated Bar but provide: 1. One will no longer have to leave graduated from an ABA-approved law school to take the Bar exam. 2. That the board must give all confidential Bar files to the Legislature who will try to use their discretion in gossiping. 3. Three lay members will be put on the Bar Board of Governors, one appointed by the Governor, two by God. 4.

There will be no out-of-State meetings of the Bar Board of Governors, but Continuing Legal Education can go on in Hawaii or wherever. 5. A professional education specialist will prepare the Bar exam. 6. Bar exam graders will go to some sort of school. 7. Everybody who scores 85 or better on the Bar exam will have a guaranteed hearing before the Board of Governors to see whether they should be admitted.

The mob became surly since no one had had enough to drink to see the humor in all of this. Judge Blair moved, Barry Jackson seconded that we advise our president that sunset was preferable to the various changes which we were told are in the new House bill. Then Bill Jackson moved and Judge Clayton seconded to support sunset of the Bar Association, and if we weren't to be sunset, then to at least improve the bill.

Parliamentary procedure went down the tubes like lava down Mt. St. Helens as Andy Kleinfeld moved, and some strange voice shouted "second" to a motion to table either and/or both of the above motions until the bill had arrived in the Senate and we could see whether the House version was really as messed up as it appears. This motion was carried, as was a motion made by two other surly voices in the crowd to the effect that we should ask the court system what their position on all this nonsense happened to be.

Dick Madson moved, Barry Jackson seconded, that we send Judge Connelly to Juneau to explain our position (whatever it is) to the Legislature and that we oppose the House bill completely. Following threats of lynching, Bob Grosseck decided to divide the question, thereby splitting the above motion in half. Michelle Minor moved, and Dick Madson seconded, that we put the two halves back together and provide instead that Judge Connelly be given a ticket or whatever to Juneau to meet with the legislature and explain our position and that, in the meantime, the Legislative Committee meet and take a position. This motion was the subject of unanimous consent with the exception of Judge Connelly, muttering something about who was going to buy his ticket back from Juneau. The Legislative Committee will meet Monday at 12:00 noon in Judge Connelly's jury room, and they should bring a sack lunch. As the sun set slowly in the west, the room became barren, except for Judge Connelly, who, when the secretary left, was still muttering.

By executive fiat,

King Arthur

## Jim Arnold

Dear Editor:

As my departure date draws near, I remember more and more what has happened to me during the past six years. It's been a good six years, even though I haven't been able to do all the things that I would have liked to do, but all things considered, I'm satisfied.

One of the main reasons that I have enjoyed my life in Alaska is that the judges and lawyers have treated me as a professional, and I have enjoyed the rapport and camaraderie with most that could not have been equalled anywhere else.

I would appreciate it very much if you would publish in the Bar Rag that I have enjoyed working with the Alaska legal community and similarly appreciate the lawyers' efforts that went into my retirement dinner on March 14. I will also remember the Anchorage Bar each time I use their gift (the 20-gauge shotgun) when filling my freezer with dove, chicken, etc.

I have loved Alaska with the continuing hope that the Alaska Court System remains the best in the world.

Sincerely,

James E. Arnold

Area Court Administrator

## Estate Planning Seminar Announced

An estate planning seminar will be cosponsored by the Anchorage Estate Planning Council and the Standing Committee on Taxation of the Alaska Bar Association on May 20, 1980, at the Captain Cook Hotel. The seminar will commence at 8:00 a.m. and will end at 12 noon. A luncheon will be held following the close of the presentation.

The seminar will feature Conrad Teitell, a nationally recognized authority on estate planning. Mr. Teitell's presentation will involve analysis of recent legislative developments in the area of estate and gift tax and the latest estate planning techniques. Mr. Teitell will devote approximately one hour of the presentation to charitable giving.

Cost of the seminar is \$50.00 per person, with the price of lunch included. Information in regard to registration will be available in the near future. Inquiries should be directed to either Peter C. Gloder (277-1804) or Ronald Grelsen, CPA, (272-1571), 510 "L" Street, Anchorage, Alaska.

# Advertising Committee

by Frank Smith

According to the March 24 issue of the National Law Journal, lawyers spent \$4.52 million in 1979 on television advertising. "Attorneys were far outspent by investment brokers, medical and dental services, tax services, and travel agents," the NLJ says, "but law was the fastest growing professional services category...."

### Willard Appoints Committee

On December 10, 1979, ABA president Donna Willard appointed an Advertising Committee (a special committee of the Alaska Bar): Frank Smith, John Ulyatt, Doane Dell'Ollo, Pat Owen (of Anchorage), and John Corso of Juneau.

The committee was generally given the following two assignments. First, we were to propose "regulations" for the purpose of supplementing DR 2-101(A) of the Code of Professional Responsibility (see below), in defining "false, fraudulent, misleading, deceptive, self-laudatory or unfair" public communications.

Second, we were to suggest "designations and definitions" which might be adopted by the Board of Governors as regulations to implement DR 2-105(2) which deals with the question of public disclosure of "fields of law in which the lawyer or the law firm practices."

### The Present Rules

Volume II(A) of the Rules of Court contains the Code of Professional Responsibility. DR 2-101 (Publicity), addresses the question of advertising in a general way. Paragraph A prohibits "any form of public communication containing a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim." Paragraph B allows distribution by print media and radio and television broadcast of certain specific information. (Al-

though the Code provision as printed does not refer to television advertising, I understand that the Rule as promulgated by the Supreme Court does allow television advertising.) Paragraph C provides generally that persons wishing to "expand the information authorized for disclosure" by paragraph B must first obtain permission to do so from the Alaska Bar Association.

As indicated above, DR 2-105 (Limitation of Practice), addresses, generally, the question of specialization: "A lawyer shall not hold himself out publicly as a specialist" except that:

(2) A lawyer who publicly discloses fields of law in which the lawyer or the law firm practices or states that his practice is limited to one or more fields of law shall do so by using designations and definitions authorized and approved by the Board of Governors.

The Board of Governors has, on a temporary basis, adopted for purposes of Rule DR 2-105 the 22 "enrollment categories" used by the Alaska Bar's "Lawyer Referral Service" in its program. [Admiralty; Administrative Law (Government Agencies); Bankruptcy; Commercial Law (Real Estate Transactions); Consumer (Credit/Collection); Criminal; Discrimination; Eminent Domain; Environmental Law; Family Law (Divorce, Child Custody, Adoption, Name Change, etc.); Immigration; Labor Relations; Landlord-Tenant; Mining; Negligence (P.I., P. D., Professional Malpractice, Products Liability, Libel/Slander, Workmen's Compensation); Patent-Copyright; Public Interest; Tax; Traffic; Trusts, Estates, Wills; Arts Law; Community Legal Assistance.]

### The Kutak Commission Rules

For two and one-half years, according to the Preface to the Discussion Draft, the American Bar Association's Commission on Evaluation of Professional Standards has been "rethinking the fundamental tenets of ethics and self-regulation in the legal profession." The Commission (commonly referred to as the Kutak Commission after its chairman, Robert J. Kutak), published on January 30, 1980, Model Rules of Professional Conduct. These proposed rules also address the three areas discussed above and addressed by the existing Code of Professional Responsibility: Advertising and specialization. The applicable Model Rules, because not widely disseminated, are reprinted here in full. (The full text of all of the Model Rules will be available to interested members of the Alaska Bar at the annual meeting in June.)

### 9.1 Truthfulness

A lawyer shall not make any false, fraudulent, or misleading statement about the lawyer or the lawyer's services to a client or prospective client. A statement is false, fraudulent, or misleading if it

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not misleading;

(b) is likely to create an unjustified expectation, or states or implies that the lawyer can achieve results by legally improper means; or

(c) compares the quality of the lawyer's services with that of other lawyers' services, unless the comparison can be factually substantiated.

### 9.2 Advertising

(a) A lawyer may advertise services through public communications media such as a professional announcement, telephone directory, legal directory, newspaper or other periodical, radio, television, or general direct mailing, subject to the requirements of Rules 9.1 and 9.3.

(b) A copy or record of an advertisement in its entirety shall be

kept for one year after its dissemination.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by this rule.

### 9.4 Indication of Areas of Practice

A lawyer may communicate the fact that the lawyer will accept employment in specified areas of practice. A lawyer whose practice is limited to specified areas of practice may communicate that fact. Certification or designation as a specialist may be indicated by a lawyer only as follows:

(a) a lawyer admitted to practice before the United States Patent and Trademark Office may use the designation of "patent attorney" or a substantially similar designation.

(b) [provisions on designation of specialization of the particular state.]

### The Questionnaire

It is evident that members of the Alaska Bar are now doing very little advertising. That may be good or it may be bad. It may be explained by simple disinclination—or it may be explained by the restrictive nature of the Rules as they now exist. The problem, if there is a problem, may be ameliorated by the promulgation of regulations in the nature of guidelines.

With this in mind the Committee will, within the next few weeks, mail to each member of the Alaska Bar a questionnaire which will give each of you an opportunity to express your views. Your responses will assist the Committee in its work.

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Signature of authorized person \_\_\_\_\_

Title or Position \_\_\_\_\_

Send to \_\_\_\_\_

# 88th Annual NCCUSL Meeting

Arthur H. Peterson

Arthur H. Peterson is an Assistant Attorney General and Uniform Law Commissioner for Alaska.

The 88th annual meeting of the National Conference of Commissioners on Uniform State Laws (NCCUSL) was held in San Diego from July 27 through August 3, 1979, with all of Alaska's commissioners—Jay Rabinowitz, Paul Robison, and me—in attendance. Four new Acts were promulgated: Uniform Real Estate Time Share Act, Uniform Metric System Procedures Act, Uniform Trade Secrets Act, and Uniform Durable Power of Attorney Act.

### The Uniform Real Estate Time-Share Act

The Uniform Real Estate Time-Share Act derives from the 1977 Uniform Condominium Act. A time-share is a right of occupation of given premises for identifiable, separated periods of time over at least five years. If it is based on an estate in land, it is called a time-share "estate." Otherwise, it is a "license." The uniform Act provides for the creation, management, and termination of time-share developments. Management may be by the developer, a manager under contract to the developer, or an owners' association. Time-share owners have the power of initiative, referendum, and recall to redress management error. Buyer protection provisions include disclosure of all terms of sale in a public offering statement, and both express and implied warranties of sale. The Act contains an optional article creating an administrative agency for the regulation of time-share developments. With the developments in this and related property concepts over the past dozen years or so, Alaska's 1963 Horizontal Property Regimes Act (AS 34.07) would seem to be getting more and more out of date.

### Uniform Metric System Procedures

As its name indicates, the Uniform Metric System Procedures Act emphasizes procedures. It does not force use of the metric system, but rather deals with the orderly, long-term conversion to the metric system.

In 1866 Congress provided for the metric system as a "lawful" parallel to the "customary" Anglo-American system. Since that time, officially the U.S. has had a dual system of weights and measures. The "customary" system is dominant in commerce and industry. In science and technology, the metric system prevails. This Act establishes an agency to implement the conversion and establishes a citizens advisory council. It thus provides the means to convert when the state government finds it convenient and good policy to do so.

### Uniform Trade Secrets Act

The Uniform Trade Secrets Act codifies and clarifies common law rights and remedies in connection with misappropriation of trade secrets. A trade secret is information, no matter how designated, not generally known and of economic value. It is information which a person would especially try to keep secret. This Act provides injunctive relief and damages for economic loss if a "misappropriation" of a trade secret occurs. Misappropriation takes place when a trade secret is acquired or disclosed by "improper means."

### Uniform Durable Power of Attorney Act

The Uniform Durable Power of Attorney Act amends the Uniform Probate Code provisions on the subject of durable powers of attorney, but this Act may also be enacted as a separate uniform Act (not appropriate in Alaska since we have the Uniform Probate Code [AS 13.06 — 13.36]). Durable power of attorney has been a feature of the UPC from its promulgation in 1969. A durable power of attorney is one executed by a principal which, by specific language, survives the principal's incompetency. The original durable power of attorney is improved by the language in this Act for transfer of assets to a later-appointed fiduciary and by language for survival of the power after a principal's death, if there is a good faith exercise of the power without knowledge of the death. For the current Alaska law, see AS 13.26.325 and 13.26.330.

The Drafting Committee to Revise the Model State Administrative Procedure Act, mentioned in my report on the 1978 meeting (Bar Rag, Vol. No. 1), has already met three times and has another meeting scheduled for 1980 before the annual NCCUSL meeting in mid-summer. So far, the committee has dealt with provisions

## University of Alaska, Juneau

### POSITION ANNOUNCEMENT

Juneau-Douglas Community College      Southeastern Senior College

**DATE:** March 31, 1980

**TITLE:** Assistant Professor of Law Science

**QUALIFICATIONS:** Required: 1. Juris Doctorate degree.  
2. Teaching experience at the college level.  
3. Ability to work with a diverse student population.

Preferred: 1. College teaching experience of paralegal level courses.  
2. Additional years of practicing law in public or private agencies is desirable.  
3. Experience in curriculum development in paralegal studies.

**JOB SUMMARY:** 1. Develop a specialized curriculum in paralegal studies to meet the needs for paralegal technicians for rural native corporations in Southeast Alaska.  
2. Teach the courses in the paralegal curriculum.  
3. Coordinate grant program with contracting agency.

**RESPONSIBLE TO:** Acting Director, Division of Business

**SALARY:** Commensurate with qualifications and experience; \$2,575.00 minimum per month. This will be a temporary, full-time position, contingent on funding.

**CLOSING DATE:** Closing date for all applications, transcripts, references and credentials to be received is April 8, 1980, but may be extended until filled.

**BEGINNING DATE:** On or about April 15 or as soon as possible after closing date, or when funding is received.

**INQUIRIES TO:** Mrs. Roberta Stell, Acting Director  
Division of Business  
University of Alaska, Juneau  
1108 F Street  
Juneau, Alaska 99801  
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on judicial review, rule making, and adjudication. I have been appointed to membership on that committee and would welcome any comments concerning the Model APA from members of the Alaska Bar Association.

Copies of Uniform Acts and material pertaining to them may be obtained by writing to John McCabe, Legislative Director, National Conference of Commissioners on Uniform State Laws, 645 North Michigan Avenue, Chicago, Illinois 60611.



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Reservations must be made directly with the hotel prior to May 2, 1980.

Enrollment is limited. Registration fee: \$50.00 (including materials). Refund upon receipt of cancellation 48 hours in advance of program.

Seminar Leader: Stephen Adams, San Francisco, Editor & Publisher of American Family Law Tax Report and

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# Bryson

(continued from page 3)

2. The board, in concentrating on its current workload, may have failed to have the regular input necessary to the legislature to forestall the legislature's current questioning of the necessity of the board's existence. I believe that regular and effective input to the legislature on issues that affect the membership is necessary and should be increased; I also believe that a greater effort needs to be made to trim administrative costs and divert the money to Continuing Legal Education programs and similar areas which the membership would view as a more beneficial use of dues revenue.

3. No, unless a viable alternative method is proposed which would not threaten our current ability to effectively deal with grievances and fee arbitration questions. I fear outside regulation of these areas by people who do not have a familiarity with the realities of the practice of law.

4. If the association is sunsetted, a voluntary bar will be necessary, at least as an interim body. The concept might be beneficial in that the organization would have to concentrate on responsiveness to

member concerns in order to remain financially afloat. I fear, however, that many valuable services of the integrated bar would fall prey to a severely restricted budget.

## Robert Bundy

Robert C. Bundy: After receiving a Bachelor of Arts degree from the University of Southern California, I attended law school at Boalt Hall, University of California, Berkeley, receiving a JD degree in 1971. While at Boalt, I clerked for Laub & Mackay, a small general practice firm in Oakland, California. In my third year I was also associated with the Public Defender Agency at Alameda County as an intern. Following graduation from Law School, I received a Reginald Heber Smith community law fellowship with Alaska Legal Services. I was employed as a Reginald Heber Smith Community Law Fellow, Alaska Legal Services in Anchorage from September, 1971 until November, 1971. Thereafter I transferred to the Nome office of Alaska Legal Services. I became supervising attorney of the Alaska Legal Services office in Nome, with responsibilities for the Nome and Kotzebue areas, in 1973 and remained in that position until July, 1974. At that time I moved to the Kotzebue

area where I was engaged in the private practice of law as well as performing contractual services for Alaska Legal Services. At present, I am Chief Assistant District Attorney.

1. I acknowledge that service on the Board of Governors will require a great deal of time and involve a substantial amount of hard work. However, I feel that any amount of time and work are well expended in an attempt to achieve the goal of ensuring a high quality of the practice of law in this state and a better image of lawyers in the eyes of the public.

2. I feel that the present Board of Governors is making substantial effort in the correct direction. In light of the apparent low image of lawyers in the eyes of the public I think the Board's emphasis on public legal education is a good one. Also it seems to me that the Board is making substantial effort to improve the disciplinary and ethics functions. I feel that an emphasis on public legal education and a clear indication to the public that the Bar Association intends to maintain a high quality of practice in this state are essential programs and should be emphasized in the future.

3. I strongly feel that integrated Bar should not be sunsetted by the legislature. I feel that the most economical and effective regulation of a profession is self-regulation, so long as it is conducted in good faith and with a realistic appraisal of the needs of the public. Relinquishing the day to day regulation of the practice of law to a state agency or the court system would only needlessly spend state tax revenue. Moreover, such regulation would likely fail to understand the day to day practi-

cities of the practice of law. Therefore it would likely be inefficient and produce results inimitable to the public interest due to a lack of understanding of the problems addressed. The Board of Governors of an integrated Bar has a greater ability to respond appropriately to the problems of the practice of law since the members are engaged in that practice themselves on a day-to-day basis.

4. I do not think that a voluntary Bar Association would be able to produce a paying membership sufficient to support the programs needed to ensure that the level of competence among lawyers is high.

(continued on page 9)

### Coming Events

- May 1 — Law Day, U.S.A.
- May 15 — Annual Convention Resolutions Due.
- May 20 — Estate Planning Seminar.
- May 21-24 — Conference of Association of Family Conciliation Courts.
- May 22-24 — Board of Governors Meeting, Ketchikan.
- May 24 — Basic Family Law Tax Seminar.
- June 9-11 — Judicial Conference, Juneau.
- June 12-14 — Alaska Bar Association Annual Meeting, Anchorage, Alaska.
- June 14 — Annual Business Meeting, Alaska Bar Association.

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## Drathman

(continued from page 8)

### Ron Drathman

**Ron Drathman:** Arizona State University, B.S., Economics; Stetson University, J.D.; Admitted: Alaska, U.S. District Court for Alaska, Ninth Circuit Court of Appeals, U.S. Supreme Court; Assistant Public Defender 1974-76. Private practice with Drathman & Weidner in Anchorage and Homer.

1. I have serious doubts as to whether the association is presently providing a service to its members or merely a service to the court, to the press, to the public, etc. The purpose of the association should be to advance the quality of the profession, provide a forum for its members and, where possible, such things as group insurance and other services generally obtainable only through an association. For example, wouldn't it be nice to have access to a LEXIS computer through the association to which we each pay \$180.00 per year?

2. More effective contact with the State Legislature. More independence from the court system. Much, much more in the area of CLE programming. And, although I favor conducting all business meetings of the association within the state, I find no fault in occasionally holding CLE functions 'outside.'

3. I'm not sure at this point, as the alternatives, vis-a-vis the court, are not clear.

4. My experience is that voluntary organizations are much more effective than compulsory organizations. As to the "ability to generate revenue to support existing programs"—the existing programs should be re-examined; worthwhile programs will always have support.

### Karen Hunt

**Karen Hunt** graduated from USC Law School; admitted to practice in Alaska—1973; member, BOG, since June 1977.

Member—ABA Special Committee on Lawyer's Liability. Prime mover behind organization and structure of the statewide Referral Service.

Chairperson: 1. 1978-79 Malpractice Coverage Study; 2. Conflict Appointments Committee; 3. Supreme Court Committee on Appointment of Counsel.

1. The Board of Governors does take a lot of time and that is a serious consideration in deciding to rerun for the board. However, with a relatively new Executive Director, new Bar counsel in July, sunset, and financial concerns, Anchorage needs experienced board representatives at this time. Pat Kennedy does an excellent job, but it is asking too much of her to be the only Anchorage-based BOG member with experience at this time.

2. The present BOG has initiated several worthwhile programs that should be continued—a stronger committee structure, and Bar exam review being just two such programs. I want to see those programs continued and strengthened. I also believe additional efforts must be made in discipline, CLE, and membership accountability of B.A. funds and services.

3. No.

4. A voluntary Bar will lack both the cohesiveness and the funds to serve either the profession or the citizens of Alaska. Mandatory membership in a B.A. is, in my opinion, not an outrageous cost to pay for the benefits gained from practicing law. The solution for problems in the profession or the B.A. is not to deintegrate the Bar; the solution is to utilize this statewide organization for change. A voluntary Bar has the

chilling potential of representing too narrow a view of the interests of the profession.

### Ken Jensen

**Kenneth D. Jensen,** born Chicago, Illinois, October 8, 1935; admitted to bar, 1963, Alaska. Preparatory education, University of Alaska (A.B., 1957); legal education, Catholic University of America (LL.B., 1962). Legislative Assistant to Honorable E.L. Bardett, U.S. Senate, 1959-1962. Vice Chairman, Alaska Police Standards Council, 1973. Chairman, Alaska State Local Boundary Commission, 1973-1975. Member: Anchorage (Vice President, 1974-1975); President, 1976). Alaska (Special Counsel, 1973-1978) and American Bar Associations; American Judicature Society; The Association of Trial Lawyers of America.

1. In the past I have been critical of some of the actions of the Board of Governors. I believe it would be cynical to criticize without a willingness to contribute.

2. The principal task facing the Board of Governors is the adjustment of association affairs to accommodate changes which are very likely to be mandated by external forces. The primary problem the Board will face in the immediate future is to preserve for the membership of the association a meaningful role in the regulation of the profession.

3. No. We would be unrealistic not to recognize that substantial changes are likely to be imposed upon the Alaska Bar Association in the manner in which it performs governmental activities. What seems to be generally overlooked is that the governmental functions of the Alaska Bar Association are going to have to be done by someone. The focus of "Sunset" debate has been misplaced upon whether or not the association should continue to exist. Of far greater importance to the bar and to the public is whether an alternative system to the one we now have would do a better job.

I believe that it would be a mistake to dismantle the existing organization with some vague hope that something better might be contrived by the legislature or court to handle the work load.

4. A voluntary bar association simply could not provide the services now undertaken with varying degrees of success by the Alaska Bar Association. Obviously it could not perform any of the governmental functions now provided. If one accepts the premise that the governmental functions now performed by the Alaska Bar Association would be better done by administrative or judicial bureaucracies than a voluntary association would probably make sense. I do not subscribe to that theory.

### George W. Liskow

**George W. Liskow** served four years in the Army Air Corps during World War II. Thereafter, he graduated from Tulane University Law School in 1947, and was engaged in private practice in Louisiana from 1947 until 1965. In 1965 he entered corporate practice as a result of which he has been admitted to practice before the highest court of five states, including Alaska. He has been a resident of Alaska since 1977 and at the present time is General Counsel for Alyeska Pipeline Service Company.

1. Devoting some of one's time and talent to service to the community is one of the lawyer's obligations. Working with the Bar Association is a potentially fruitful and satisfying opportunity in that regard. In times

past, I have served on the Bar examining committee in Louisiana and the Board of Governors of the corporate Bar section of the Los Angeles Bar Association. As to the time required, of General Counsel, is committed to its responsibility as a good corporate citizen and is willing to allow me the time necessary on this service.

2. My personal opinion of what the board has done up to now is unimportant and not really relevant. What is important is what kind of job the board can do henceforward to provide the public (particularly the ombudsman and the legislature) with a better understanding of what the Bar Association stands for, the services it performs in the public interest and its activities on the interests of the membership. I refer to such things as establishing standards of skill, integrity and ability required for membership; development of means for the maintenance and improvement of those skills; and insuring that those standards are complied with. All these protect the interests of the public who are the users of those services.

3. Absolutely not. Among its responsibilities, the Bar Association has an important obligation to serve the public and to improve community understanding of the lawyers' role. "Sunsetting" the association would severely restrict the ability of the association to do those and its other job.

4. The Board of Governors and, indeed, the entire membership should first bend every effort to prevent "sunsetting" the association. We should see that the legislature gets a better understanding of the Association's function and the need for continuance of its present official standing. Should such efforts fail, then a campaign should be mounted to inform both the general public and the legislature of the need for the Bar Association's existence as an organization that can and does operate in the public interest. I do not believe that a formal attack (as, for example through litigation) would be productive or appropriate at this time.

### David Burdett Loutrel

**David Burdett Loutrel:** Texas Tech University, Lubbock, Texas, B.A. Mathematics/English, 1972; Texas Tech University, J.D. 1975. Employment: 1975-76, Associate, Croft and Thurlow; 1976-1978; Partner, Croft, Thurlow, and Loutrel; 1978-1979, Partner, Croft, Thurlow, Loutrel and Duggan; 1979-present, The Law Office of David B. Loutrel. General practice of law, with special emphasis on labor law, criminal law, and personal injury litigation. Admitted to practice in Alaska in October of 1975.

1. In a recent issue of the Bar Rag, John Havelock observed: "[W]hile membership of the association has grown several fold, attendance at the convention has held steady, at best, for a decade or more. Further, those who were around at the beginning of that decade or earlier seem to represent a disproportionate share of the attendance roster." In my opinion this absence of involvement in Bar activities by the newer members of the Bar is in large part the reason that sunset looms as closely as it now does.

2. While it would be unfair as well as inaccurate to say that the present board has done either extremely well or poorly, I do feel that a fundamental change of attitude is necessary. The failures of our present board seem to me to be a direct result of an entrenched bureaucratic attitude which in large part is a symptom of the problem I have addressed above. Change has in large part become something to be avoided rather than addressed. Bar admissions procedures which are general-

ly thought to be hopelessly inefficient not to mention poor predictors of performance remain unchanged. Despite the recent case of Brown v. Supreme Court of Nevada our state still denies admission to the Bar to all but those who have graduated from accredited law schools certified by the ABA. These situations require case by case review—not blind adherence to the ABA list.

3. While I find myself in substantial disagreement with the Bar as it is now constituted, I do not believe that sunset is the only solution and it is not the solution now. The mere possibility of sunset has done much to cause attorneys to reassess current Bar practices and hopefully the needed changes will follow.

4. First, I do not view the possibility of sunset as one that will ever materialize. I feel that it simply will not occur. Further, to be able to adequately respond to the question one would need to know how the sunset or deintegration would occur. If for example the admissions and discipline processes were to be handled by another branch of state government an immediate reduction of approximately \$140,000 in costs (using the 1979 budget) would result. The need for generating revenue is largely dependent upon the revenue required which in turn, is largely dependent upon the specifics of sunset. This likewise is true as to the effectiveness of existing programs—one must know what programs would remain for a statewide voluntary bar to provide.

### Robert A. Rehbock

**Personal Data:** Born, August 12, 1952, Anchorage, Alaska. Married: June 4, 1974. Wife, Dawn, is accountant for Alaska Legal Services. No children.

**Education:** Primary and secondary education in public schools in Anchorage; B.A. 1974, Magna Cum Laude, Alaska Methodist University. Majors in Chemistry and Political Science.

**Law School:** University of Oregon, J.D. 1977, graduated in top one percent of class and Order of the Coif. Associate Editor Oregon Law Review 1976-77.

**Legal Experience:** Admitted to Alaska Bar, October 1977, partner of Ernest Rehbock since that time. Engaged in general practice with emphasis on domestic relations, real property and other civil litigation.

**Memberships:** Board of Directors, Anchorage Community Theatre; Member Elks Lodge 1351; Member MENSA; Board of Directors, Alaska MENSA; Member American Chemical Society; Contributing Editor Bar Rag; Member Phi Alpha Delta Law fraternity; Member Association of Family and Conciliation Courts; Member American Trial Lawyers Association; Member Family Law Committee, Alaska Bar Association.

1. I believe I can represent the views of a broad base of the membership. It is important for a board member to be willing to stand by those positions he believes beneficial. I am not afraid to do this.

2. The Board of Governors could probably try to change these public conceptions by greater openness and publicity concerning their actions. In large part, however, the board can do little to change the deeply rooted distrust of some members of our society for lawyers. The program which the bar already offers is exactly what should help to persuade the opponents of the integrated bar association of its utility.

Among the most important of these activities are: CLE, Lawyers Referral, Fee Arbitration and publicity describing the availability of service. The Board of Governors has done an excellent job in bringing about CLE as a reality.

(continued on page 10)

# Rehbock

(continued from page 9)

3. & 4. A voluntary bar association could not possibly provide the services presently offered. Presumably a voluntary Bar Association would see the admissions and discipline program of the present bar association taken over by other agencies. The Bar Association seems to have been doing a reasonable job of both these. Thus, such a displacement of these services would accomplish little.

The voluntary Bar Association could not hope to keep all its members at the present level of dues. Obviously the present dues are money out of all of our pockets. Most Bar members would probably prefer to keep that money. Realistically, however, the level of dues is minimal in light of services such as CLE, lawyers referral, fee arbitration and even publicity which the Bar Association provides for our profession. The Bar Association means more than licensing. This candidate is afraid at both an intellectual and emotional level that the disintegration of the Bar Association would, when coupled with the proliferation of attorney advertising and the general trend to look at lawyering as a business and not a "calling," reduce the legal profession's professional image. This attorney is proud to be a member of the Bar Association. Theoretically attorneys could still organize, but inertia, greed, other financial exigencies, and the psychological feeling of impotence, could make a voluntary Bar Association a poor substitute.

## Vincent Vitale

Vince Vitale arrived in Anchorage after graduating from the University of California at Davis in 1972. During the next three years he worked as a VISTA lawyer with legal services in Anchorage, the City Attorney's office in Anchorage and a private firm in Anchorage that had a wide-ranging practice. He has had his own office since 1975, concentrating on trial work. He has one attorney working with him now and expects to have another lawyer join him this summer.

1. The board will be faced with some delicate political problems during the next two years. If these issues are mishandled the day-to-day practice of law will change drastically. I like the professional independence I enjoy.

2. The board has taken a level-headed, reasonable approach concerning the current effort to Sunset the Bar Association. Further, there has been a noticeable effort to con-

tinues providing practical, useful CLE with the one glaring exception of the recently approved CLE cruise.

If the board continues to expand CLE and more promptly resolves discipline matters, much of the legitimate public concern about the association will be lessened. In turn, this will affect our position vis-a-vis most of the members of the legislature. Unfortunately, there has been very little the current board could do about the fact that a small number of legislators do not understand the problems they are attempting to solve. Hence, there's very little that can be done to avoid some of the proposed irrational solutions.

3. I do not agree with the proposed Sunset Legislation. The current proposals do not promote any legitimate public interest while they also harm the public's right to have discipline matters handled fairly and expeditiously.

I was in Juneau recently and I discussed these problems with some members of the Judiciary Committee. There is no doubt that the antagonism of some committee members is very strong. Their belief that lawyers are too elitist and their extreme frustration with the court system have led to the harmful legislative efforts which do not promote the public interest.

The committee has proposed legislation which would make the Bar Association a wholly voluntary organization, while also mandating that the association remain solely responsible for discipline.

In addition, the board would continue to administer the Bar exams with the assistance of professional graders. It is not clear what public interest is promoted by making the association a voluntary organization while requiring it to perform important discipline and admission functions.

It was interesting to note that no legislator complained that members were not being effectively disciplined when necessary, or that legal costs were too high (although there was some comment that lawyers make too much money). In fact, it never was clear exactly what problem the legislation was designed to solve. Unfortunately, the failure to identify problems did not lessen some legislators' enthusiasm for proposing solutions.

4. If the association is made voluntary, revenues will drop sharply. CLE will decline somewhat, discipline matters will not be expedited and admissions will be the primary task. Eventually, the deintegration issue will be brought before the court for resolution. I would wager that the court will fashion a ruling which will give it wider involvement

in Bar matters, perhaps even including funding of some previous Bar functions such as admission. This could precipitate a constitutional confrontation between the legislature, which doesn't like either the court or lawyers, and the court, which doesn't want to anger the legislature. Some legislators will be angered by the court's action to the point of considering punitive action against the court...and we will be stuck squarely in the middle of the two battling branches of government.

To avoid this problem, the board must continue stressing the promotion of the public interest in discipline and admissions. We will have to suggest some improvements in the administration of the Bar exam as well as some changes in the speed with which discipline and fee arbitration matters are handled.

## Hugh G. Wade

Hugh G. Wade, born in Juneau, May 12, 1934; admitted to Bar, 1959, District of Columbia; 1950, Alaska. Preparatory education, University of Notre Dame (J.A., 1950) legal education, Catholic University of America (LL.B., 1959). Member of staff, 1957-1958; editor, 1950-1959, Catholic University of America Law Review. District Magistrate, State of Alaska, 1960. Private practice 1961 to present. Past President of Anchorage Bar Association. Currently a partner in Wade & DuBrock. Practice emphasizes construction contract litigation.

1. I often say that people who are not willing to shoulder responsibility have no right to complain about those who do. Lately, I have been doing a lot of complaining about the Bar. I concluded that I was going to have to stop complaining or run for the board. It was not an easy choice.

2. As an aside, let me say that fighting with the ombudsman is a "no win" situation for the Bar. In answer to your question: While there are some bright spots—The Bar Rag; the work of the Committee on Malpractice Insurance; the seminar on the new Rules of Evidence; and that relative lack of recent controversy over admissions—the overall performance of the present board has been poor.

The Bar has not been well administered. The disciplinary program is not functioning well. Relations between Bar and Bench are sour. There is, essentially, no CLE program. The Bar's self-image and its public image are both terrible.

That is not to say that the Board of Governors has not worked hard and struggled with all of these problems. I am sure that they have. As an

outsider, it has appeared to me that they have concentrated their efforts to an unfortunate extent upon what I would characterize as perimeter issues. There is simply no consensus within the Bar concerning prepaid legal plans, specialization, lawyer advertising, and the emergency of multi-state law firms. Whatever action the board takes on these issues is almost necessarily both parochial and ephemeral. The courts are going to have the final say about these matters. It is not my position that those matters are unimportant but, rather, that in concentrating on them we have neglected our primary functions which are to maintain the integrity and competence of the Bar through our admissions, disciplinary, and educational programs, and to contribute in some positive way to a system by which the public can avoid, or promptly and efficiently resolve, its disputes.

3. No. Not because it is good, but because no better mechanism for performing its function has been devised.

4. I don't think that statewide voluntary Bar is viable. I would expect perhaps the emergence of several specialty associations. Except for the problems of admissions and discipline, there is really more to divide than to unite the Bar.

## NOTICE

### RE: Resolutions at the Annual Meeting

Resolutions, in order to be considered by the membership in attendance at the annual meeting, must be received (not postmarked) in the office of the Alaska Bar Association no later than May 15, 1980.

Article VIII, Section 5 of the Association's bylaws, entitled "Resolutions," states:

"No resolution may be introduced for consideration at the annual business meeting unless it is signed by at least ten (10) active members of the Association. Such resolutions must be received in the office of the Association at least thirty (30) days prior to the opening date of the annual business meeting and shall immediately be submitted to each local Bar Association for consideration. Any resolution not so processed shall be considered at the annual business meeting only if thirty-five (35) members in attendance at such meeting sign a petition urging consideration of the resolution."

PLEASE PLAN AHEAD. RESOLUTIONS RECEIVED ON OR BEFORE MAY 1st WILL BE PRINTED IN THE BAR RAG.

## BIRTH

### ANNOUNCEMENT

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# JOE RUDD SCHOLARSHIP



## Rocky Mountain Mineral Law Foundation

At the time of his death in an airplane accident in December of 1978, Joe Rudd was acknowledged as the preeminent natural resources attorney in the State of Alaska and was well-known nationally for his expertise. In recognition thereof, his family and friends and the Rocky Mountain Mineral Law Foundation have established the Joe Rudd Scholarship. The first scholarship grant will be awarded for the academic year commencing in the fall of 1980.

(1) **Purpose.** The purpose of the scholarship is to encourage the study of natural resources law by well qualified law school students who have the potential to make a significant contribution to the field of natural resources law.

(2) **Eligibility.** Second year, third year and graduate law school students are eligible to receive the scholarship; provided, however, that first year law school students who can demonstrate a commitment to study natural resources law are also eligible to receive the scholarship.

(3) **Field of Study.** In order to be eligible, a law school student must be undertaking the study of natural resources law.

(4) **Law Schools.** The scholarship can only be used in connection with a program sponsored by one of the law schools which is a Governing Member of the Rocky Mountain Mineral Law Foundation:

- University of Alberta
- Arizona State University
- Arizona State University
- University of Arizona
- University of California—Hastings
- University of Colorado
- Creighton University
- University of Denver
- University of Idaho
- University of Kansas
- Levy and Clark College—Northwestern

All applications must be filed with the Rocky Mountain Mineral Law Foundation no later than May 15, 1980.

- University of Montana
- University of Nebraska
- University of New Mexico
- University of North Dakota
- University of Oklahoma
- University of the Pacific—McGeorge
- University of South Dakota
- Stanford University
- University of Utah
- University of Wyoming

(5) **Amount of Grant—\$2,500-\$3,000.** The scholarship is to be awarded on an annual basis. It is estimated that the amount of the grant will be between \$2,500 and \$3,000 per year.

(6) **Criteria for Selection.** The following criteria will be used to determine the recipient of the scholarship:

- (a) potential to make a significant contribution to the field of natural resources law;
- (b) academic ability;
- (c) leadership ability; and
- (d) financial need.

(7) **Alaska Preference.** The scholarship is open to all law school students; but preference is given to Alaska residents and students.

For further details and Application Forms, contact:

**HARRIS BAXON**  
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 510 "L" Street, Suite 700  
 Anchorage, Alaska 99501  
 (907) 276-5121

or:  
 Rocky Mountain Mineral Law Foundation  
 Flaming Law Building, B 405  
 University of Colorado  
 Boulder, Colorado 80309

# BOG Meeting

The Board of Governors of the Alaska Bar Association met in Juneau, Alaska on March 27th, 28th, 29th and 30th. The meeting began with a report from Executive Director **Randall Burns** on the present status of the Bar Office. **Norman Gorsuch**, the Bar Association lobbyist, met with the Board on March 27th to discuss sunset and alternative legislation anticipated from the House Judiciary Committee.

### Bar Finances

Anchorage member **Pat Kennedy** reported on the present condition of Bar finances. She indicated that due to increased costs of discipline and less income than originally projected for 1980, the Bar Association is facing a significant deficit for the year unless it can come up with more money or radically trim costs. The board discussed various means of solving the income problem this year, including limiting national and regional bar conference attendance by the president and president-elect as well as board travel. A decision was made to try and cut out at least one meeting this year and to attempt to eliminate as many telephone conferences as possible. With the exception of the Ketchikan meeting already scheduled, all other meetings this year will be held in Anchorage. The board decided to discontinue the UCLA Alaska Bar Review—a savings of approx-

imately \$9,500.00 per year. The members discussed reducing an operational survey team from the American Bar Association from three members to one. In addition, there was discussion of ways to reduce costs and/or increase the price of continuing legal education programs. The board considered asking the court system for full discipline budget monies rather than approximately half which it presently receives. The board decided to delay action on major budget items until it could determine the form and effect of the expected House Judiciary Committee Bill, limiting but not sunsetting the Alaska Bar Association.

The board approved membership status changes from active to inactive membership for 11 attorneys. Ethics opinion 79-4 was tentatively approved. Continuing Legal Education Regulations submitted by the CLE Committee were approved.

Bar Rule 13 with amendments, Bar Rule 15 and Bar Rule 44, regarding ABA approved schools were approved for submission to the Supreme Court. In addition, the board discussed amendments to the bylaws of the Bar Foundation, comparison of model rules of discipline and Alaska discipline rules, Bar Rule 23, attorney solicitation and Bar Counsel's authority.

The Bar met with the Juneau Bar Association at its luncheon on Friday, March 28, 1980. After the meal a joint meeting was held with the Alaska Legal Services Board.

### Special Committees

The board heard and/or discussed reports from a special committee on advertising, the Unauthorized Practice of Law Committee, the Specialization Committee, the Administrative Law Committee, the Alternate Disputer Resolution Committee, and the Law Committee. **Clay Young**, of the Committee of Law Examiners and **Mike Thomas** of the Examinations Review Committee, spoke to the board on the subject of law examinations.



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# Doom

[continued from page 1]

## Back to the Old Drawing Board

In a March 29th memorandum to Charles Parr, Chairman of the House Judiciary Committee, Richard Bradley, Legislative Counsel took issue with certain provisions of the proposed legislation in particular: (1) the conferring of police powers on a private, voluntary organization; and, (2) the definition of the practice of law. With respect to the former, Bradley commented:

"The request of the committee directs that a bill be prepared abolishing the integration or unification of the Alaska Bar Association. The request then confers extensive police powers on the governing board of the resulting voluntary association."

"I am concerned with the allocation of substantial police powers to a voluntary association. In my view, the mixed character of the resulting Alaska Bar Association offers the substantial possibility that what results will be found by the court to be unconstitutional."

"The bill imposes the responsibility of a public agency on a voluntary association. It is required to act in the same manner that a public agency would act. These safeguards cloud, in my judgment, the otherwise clear prohibition of the grant of police powers to a private voluntary organization."

Commenting on the committee's definition of the practice of law, Bradley remarked:

"I offer no endorsement of its content; I consider it altogether inadequate as a definition of the practice of law..."

"Sec. 95(b) is a somewhat cynical statement suggesting that bankers, realtors, and others may practice law so long as they do not do it on a full-time basis. From a public policy perspective, the provision seems to suggest that incompetence will be implicitly permitted so long as it is not a full-time activity..."

"...I suggest it would be better to delete this provision [Sec. 95] than it would be to believe that it is comprehensive and effective."

On Wednesday, April 2, 1980, the committee heard testimony from Hugh Connolly, representing the Tanana Valley Bar Association, Donna Willard and Bart Rozell, representing the Alaska Bar Association, and Kathy Kolkhurst, a member of the Alaska and Juneau Bar Associations. They addressed in particular the issues of voluntary versus mandatory membership, lowering the standards for admission to the Bar by giving up ABA accreditation or approval, confidentiality of Bar records and the composition of the Board of Governors.

After hearing testimony on these issues, the committee members present indicated that the bill as drafted did not set forth what they intended in several respects—particularly with regard to the definition of the practice of law—and returned the bill to staff for redrafting. Committee members indicated that they might hear more testimony or hold another mark-up session before releasing a final bill.

# Amendments

## Proposed Amendments to Alaska Bar Rule 16

Section (b) of Alaska Bar Rule 16, entitled "Conciliation Panels," is amended to read:

(b) E. Panel shall consist of three active members of the Alaska Bar Association, each of whom maintains an office for the practice of law in the [DISCIPLINARY] area for which he is appointed. At least one panel shall be appointed for each [DISCIPLINARY] area as defined in Rule 10. The members of each Panel shall be appointed by the President of the Association, subject to ratification [REJECTION] by the Board. Initially, the appointment of one member of each panel shall be for a one year term, the appointment of one member shall be for a two-year term, and the appointment of one member shall be for a three-year term. Thereafter, each member shall be appointed for a three-year term. The terms of the members first appointed hereunder shall be deemed to have commenced on July 1, 1979. Each member is referred to herein as a Conciliator. Only one Conciliator need act on any single matter referred for conciliation.

## Proposed Amendment to Alaska Bar Rule 23(b)

Subsection (b) of Alaska Bar Rule 23, entitled "Attorneys Convicted of Serious Crimes," is amended to read:

(b) The term "serious crime" shall include any crime which is or would be a felony in the State of Alaska, [EXCEPT VIOLATIONS OF ALASKA STATUTES TITLE 28 AND VIOLATIONS OF MOTOR VEHICLE LAWS OF OTHER STATES OR LOCAL GOVERNMENT], and shall also include any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves misconduct [CONDUCT] as an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, corruption, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit "serious crime."

## Canon DR 2-102(D) Is Amended to Read:

A partnership or professional corporation shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all listings of the members and associates of the firm make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all jurisdictions; provided, however, a partnership or professional corporation may not practice law in Alaska unless at least one of the local lawyers admitted to practice in Alaska is included in the firm name used in Alaska and is a true partner or shareholder and director with a significant share in the overall profits, liabilities and professional responsibilities of the partnership or professional corporation.

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Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 984

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar  
7 Association and amending the statutes relating to the  
8 practice of law in the state; amending Alaska Bar Rules  
9 2 and 7; and providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
12 read:

13 (2) Board of Governors of the Alaska Bar Association  
14 (AS 08.08.040) - June 30, 1981.

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

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
18 Association, referred to in this chapter as the Alaska Bar. The Alaska  
19 Bar shall have a common seal, may sue and be sued, and may, for the  
20 purpose of carrying into effect and promoting the objects of the Alaska  
21 Bar, enter into contracts and acquire, hold, encumber and dispose of  
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar  
24 is subject to statutory requirements imposed on state agencies including  
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.310,  
26 44.62.312 and AS 44.66. *State auditor*  
*embodiment*

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

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the  
29 state may become a member of the Alaska Bar.

1 \* Sec. 4. AS 08.08.040 is amended to read:

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

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

9 \* Sec. 5. AS 08.08.050 is amended to read:

10 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) One  
11 member [TWO MEMBERS] of the board shall be elected by and from among the  
12 members of the association resident in the first judicial district; two  
13 [FOUR] members of the board shall be elected by and from among the  
14 members of the association resident in the third judicial district;  
15 one member [TWO MEMBERS] by and from among the members of the associa-  
16 tion resident in the combined area of the second and fourth judicial  
17 districts; and two members [ONE MEMBER] at large from the entire state.  
18 Three members who are not attorneys shall be appointed by the governor  
19 and are subject to confirmation by the legislature in joint session.

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

22 (c) Three board members shall be selected [ELECTED] annually, on  
23 the following triennial rotation: [.]

24 (1) In the first year, one member shall be appointed, one  
25 member shall be elected at large and one member shall be elected [TWO  
26 MEMBERS] from the third judicial district;

27 (2) In the second year, one member shall be appointed, one  
28 member shall be elected from the combined area of the second and fourth  
29 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,] and  
one member shall be elected from the first judicial district; and

1 (3) in the third year, one member shall be appointed, one  
2 member shall be elected at large [FROM THE FIRST JUDICIAL DISTRICT, ONE  
3 MEMBER FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS], and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) The board shall call  
12 a special election to fill a vacancy in the elected membership of the  
13 board.

14 (b) The governor shall appoint a member to fill a vacancy in the  
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312  
19 apply to the meetings of the board. Members of the Alaska Bar and the  
20 public shall be given 30 days notice of meetings of the board. Meetings  
21 of the board shall take place in the state. *(repealed by title 44.62.310)*

22 \* Sec. 9. AS 08.08.080 is amended to read: *for open meetings in the state*

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

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

28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

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

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

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

10 (7) providing for continuing legal education and for recom-  
11 mendations to the supreme court on certification of a continuing legal  
12 education program;

13 (8) providing for the recommendation to the supreme court of  
14 a program for the certification of attorneys as specialists.

15 (b) The board may

16 (1) approve and recommend to the state supreme court  
17 [ADDITIONAL] rules for promulgation by the court including rules  
18 concerning admission and discipline [AND DEFINING THE PRACTICE OF LAW];

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

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

24 (4) fix the annual membership fee for [ACTIVE AND INACTIVE]  
25 members.

26 \* Sec. 10. AS 08.08.085 is amended to read:

27 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
28 Governors shall report annually to the judiciary committees of the  
29 legislature on all matters concerning admissions, discipline of members,

5) Why not  
make bylaws  
under RPA

462  
Regulation

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and disbarment proceedings, except for those matters defined as confidential by court rule. *include proposed rule changes*

*different*

(b) The Board of Governors may recommend changes to this chapter, to the rules of practice and procedure, and to the provisions of state law generally in the annual report.

\* Sec. 11. AS 08.08 is amended by adding new sections to read:

Sec. 08.08.095. THE PRACTICE OF LAW. (a) A person who performs any of the following acts on behalf of another person with or without compensation is engaged in the practice of law:

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

(2) appearance in or conduct of litigation or performance of an act in connection with pending or prospective proceedings before an administrative or other nonjudicial agency established by law for the resolution of controversies;

(3) providing advice relating to the legal rights and responsibilities of a person;

(4) preparation of instruments or documents affecting legal rights; or

(5) engaging in an act or practice determined by the courts of the state to constitute the practice of law.

(b) The provisions of (a) of this section do not apply to a person who performs acts described in (a)(1) - (5) of this section for compensation if the acts are performed as part of the regular conduct of a business, the primary purpose of which is not the practice of law.

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment. The practice of law includes the activities described in AS 22.05.070(1) -

1 (4).

2 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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

8 (c) The Board of Governors may contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12 (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read:

16 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants  
17 who have not graduated from a [AN ACCREDITED] law school but are other-  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21 (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the practice of law [ALASKA BAR] without  
23 having been graduated from a [AN APPROVED] law school shall register as  
24 a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course of  
28 study and has successfully completed his first year of studies at a law  
29 school.

1 \* Sec. 14. AS 08.08.207(h) is amended to read:

2 (h) A registered law clerk who has attended [EITHER AN APPROVED OR  
3 A NONAPPROVED] law school may, in the discretion of the university,  
4 receive credit for work done and obtain advanced standing. In no event  
5 will credit be given for fractional parts of semesters or terms, or for  
6 correspondence school work.

7 \* Sec. 15. AS 08.08.207(i) is amended to read:

8 (i) As used in this section

9 (1) "law school" means a law school, whether or not  
10 accredited, approved or meeting the standards of the Council of Legal  
11 Education of the American Bar Association or the Association of American  
12 Law Schools; or a school in Alaska offering a course of study which the  
13 university approves as the equivalent to a year's study in a law school  
14 under this section;

15 (2) "university" means the University of Alaska.

16 \* Sec. 16. AS 08.08.210 is amended to read:

17 Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage  
18 in the practice of law in the state unless he is licensed to practice  
19 law in Alaska [AND IS AN ACTIVE MEMBER OF THE ALASKA BAR]. A member of  
20 the bar in good standing in another jurisdiction may appear in the  
21 courts of the state under the rules the supreme court may prescribe.

22 [(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

23 (c) This section and AS 08.08.230 do not apply to the practice of  
24 law for the legislature by a person employed by or under contract with  
25 the legislature who

26 (1) has been employed as a member of its legal staff on or  
27 before September 14, 1976;

28 (2) has engaged in the practice of law on behalf of the  
29 legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

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

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

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

20 \* Sec. 18. AS 22.05 is amended by adding new sections to read:

21 ARTICLE 2. ATTORNEYS.

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

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

1           Sec. 22.05.190. REGISTER OF LICENSED ATTORNEYS. (a) The clerk of  
2 the supreme court shall maintain a register of each attorney licensed to  
3 practice law in the state.

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

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

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12           (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR  
15 GRADUATED] or submit proof that the law course required for graduation  
16 from [SUCH] a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.

18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25           Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1       appeal rights. In his statement an applicant shall state all grounds  
2       upon which he intends to rely and may:

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

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

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

16      \* Sec. 21. AS 08.03.010(b)(11), AS 08.08.090, 08.08.220 and 08.08.250 are  
17      repealed.

*Repealed by Alaska Statute*

18      \* Sec. 22. Section 3 of Alaska Bar Rule 2 is repealed.

19      \* Sec. 23. AS 08.08.050 as amended by sec. 5 of this Act takes effect at  
20      the first election of members of the Board of Governors of the Alaska Bar  
21      after January 1, 1981. The governor shall appoint one member of the board  
22      each year to replace an elected member whose term expires.

23      \* Sec. 24. Sections 1, 2 and 24 of this Act take effect immediately in  
24      accordance with AS 01.10.070(c).

25      \* Sec. 25. Sections 3 - 23 and 25 of this Act take effect January 1,  
26      1981.

*Handwritten notes and signatures at the bottom of the page.*

(a)

1 THE PRACTICE OF LAW. A person who is an attorney or who represents himself  
2 to be an attorney and performs any of the following acts ~~for~~ on behalf of  
3 person with or without compensation is engaged in the practice of law:  
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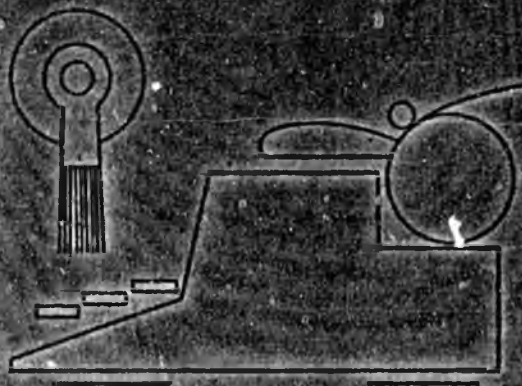
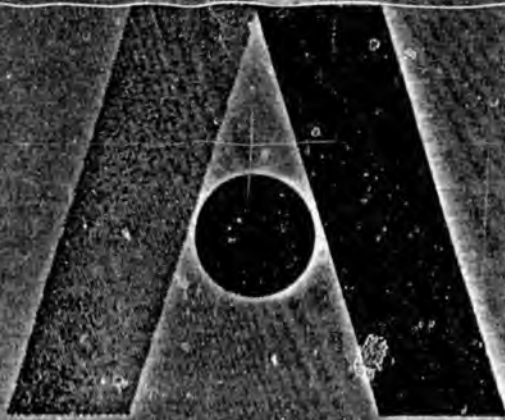
14 (b) The provisions of (a) of this section do not apply to:

15 (1) a person working under the supervision of an attorney;

16 (2) a person permitted by the Supreme court to practice law in this  
17 state;

18 (3) a government employee who is not an attorney acting in the course of  
19 his employment;

20 (4) a person who performs acts described in (a)(2)-(5) of this section  
21 for compensation if the acts are performed as part of the regular conduct  
22 of business the primary purpose of which is not the practice of law  
23 and if the acts do not consume the majority of the person's work time.  
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*(H) Judiciary Hearing NOTES -*  
*#2 '90* *BERCK*

BOOK No. \_\_\_\_\_ FROM \_\_\_\_\_ TO \_\_\_\_\_

**80 SHEETS**

**6 IN. x 9 IN.**

**NO. 43-8618**

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BAR - FEB. 24, 1980

Nels - leaning towards sunsetting the bar; seems very private.

Terry Martin - leaning that way also, tax dollars;

O'Connell query effect of \$5; reduction of services as result of reduction in funds.

Bar - mandatory membership - not like govt. like that info. not available to budget and audit;

Bar - query whether can amend B.R.; change code direct - legislative audit code available to code to bar.

W. S. - \$100,000 - \$100,000 from state

23 - 20 - 20 -

Bar - 1975 - the one to insist that he really would want.

Problem: Court will do very little  
for 1st couple of years.  
Impact for following fiscal  
year - need to get to  
court system.

Of decides to sunset -  
orderly transition.

Parts

1. Administration
2. Discipline
3. Rules

Anderson - sees nothing  
wrong;

Current

1 - ambulance Court rule -

Attorney - proposed AMENDMENT  
some kind of procedure  
apply to admin. Court  
... ..

O'Connell fears the costs.

favors short lease on continued life.

Hugh Malone - Court not want  
w/o adequate funding;  
like to keep in legislative  
control.

---

Parole Board options -  
phone call

1000 Madison Park, Pa.

Alaska - VA Law

Program - 4000 acres of

land - 15 a state

lot, taking about 5 1/2

to 240-260 days

working with # > referring

to an advisor

believe do to staffing problem,

1st of, but not fair know

kept in town

informal  
Charlie

Mary Lou Sparks  
Box 211  
Juneau 99802

Feb. 25, 1980 Monday

Parole Bd Sunset Hearings.

Harold Joe - #3 - I will not violate State or federal laws. Approximately 24

*Heck  
violates*

other stipulations go on person - even a preacher couldn't abide by this.

Isn't like the one where prevented to associate with other i-cons, violate const rights

Dept of institutions - classification board - he turned down by parole Bd before

spent in prison some certainty. They know ahead of time about not making parole the 1st time

no set time to how get parole - 1st time

Harold from time to time

found out that Rev. needed it very hard Parole board has

federal detainer.

Larry Larson - been twice  
before Parole Bd. no  
control, no recording,  
whole focus of parole Bd.  
on fact still fighting case  
Only area of interest. Then  
went off on Alz treatment  
suggested that he get it.

next time up they didn't  
pay any attention to it.  
didn't care about what he  
had done in jail  
no control or controls  
P 1

down road toward office  
of silence

S-S had mentioned parcel  
1.200

people from jail

Parole Bd. no control  
Parole Bd. no control  
Parole Bd. no control





Could it help wondering  
whether it did affect  
the Board's decision.

Eddie - records are thick -  
leave it to institutional  
counselor to summarize  
Could be a biased report.  
Board does it have time  
to review themselves. Don't  
have an report to review  
before that goes to Board.  
prior to meeting

why do you think you are  
the kind to control this  
could it be a matter of time  
no one is to be looking at  
it now

and - and you can see  
things in between you can see  
where the Board is

William Holly - looks a lot  
at recommendations of  
judge. Are no al<sub>2</sub> programs  
in here. Not his fault  
that can't get it.

If you go it doesn't help you  
(AA), but if don't go that's  
reason why denied.

Byron Charter - because no  
program - find out if  
work in West Virginia  
not available

Agenda of the program /  
committee on that that  
does the work.

There is a lot of work  
to be done.

any one of the  
work is a lot of work

AA doesn't evaluate your  
progress. Nor does institution.  
Lott more problems being  
AA work in institution  
since no home here.

had to go outside to  
get alz treatment + psychological

appreciated to see how  
who want help in life  
we want to help  
yourself

Disappointed -  
plan, no help  
Alz treatment  
help to  
plan, help  
plan, help

Only rules are what  
in statutes. They don't  
have vegs. in jails.

Mr. Hootch from Haines helped  
him get parole once.

Average age is 50 - parole  
board members.

"Get feeling" - man as a  
professional construction  
experience best for the  
industry.

all months out of year, but  
there is a certain period, not  
for use of public office

1953 - parole board

They are serious but not ready  
to go to jail.

1954 - parole board

AK. Parake Bird not have  
OJT. - supposed to meet  
month before coming up.

has to see Bird. before he  
gets married.

Pete - don't take consideration  
of person as individual. 1st  
time denied - because of past  
history - cost of  
prosecution

not allowed to look  
at any file. They don't  
follow the same procedure.

Time / Nature of  
investigation - surveillance  
necessary until the full

Part. Wife in  
1955. The date of  
part of the investigation. There is  
he had been known to  
CV, part of the next day of

Search warrant; parole officer has never come to see him.

Never got member of Parole Bd. to sign warrant, went anyway. Lawyer is Tom Nave. Chid up for assault. Wife situation.

Parole officer said it was ok to make pat.

Merrison v. Brewer - saep state violates his.

6' marijuana plant, plus 4 oz. from other plant, just cert.

Norman doing two yrs., 3rd. semester in college - just got denied in jan. had past record one other felony. Denied bec. of past record; no problems in institution.

Krauss AEW > denied him drug rehabilitation. Gung. the state about this - may send

out of state; judge's order  
recc. this; Q. will the Parole  
Brd. release him? A. We  
cant answer.

Terry Shine - 3 yrs. sale of  
pot; waived it twice - thought  
farce. Amount of time on  
street doesn't count. Revocation,  
he thinks is hard. Not  
willing to let them play  
mind games.

Reached probation - changed  
resident.

Deacon 9 yrs. - was denied by  
parole brd. psychiatric help.  
judge wanted this. Doesn't  
know why denied.

Ed thinks Lyons should  
resign. Denied because of  
past record; broke probation  
by getting drunk.

Crane probation violation.  
has 3 yrs. to go now. Shot person  
in leg. Son turned him.

Arnold K. up before Brd. seven months ago, has a ten yr. sentence. Reason denied no A12 treatment. J. Hansen said had to get treatment.

Vernon gave him a year set off - bec. need A12 treatment. Doesn't attend AA group bec. believes not help. Brd. says he has to go to AA group.

Moody Charles no A12 counseling -

Reason parole denied. Said counseling no good. No evaluations are given.

Terry Greg power of Brd. - Calif.

Law says only can serve 6 months on tech. violation. Maybe guy just got drunk or visited mother in another city. Assn. with felon was only <sup>opps.</sup> violation - this was done away with in California.

Jald had to have A/2  
treatment on the outside.  
They did not look at it. Parole  
Brd. Violated probation by  
drinking in public.

Mr. Montgomery

Said he had to have a job.

Said don't like to send to villages,  
other person said don't like to

possession of firearm - Kayoh -  
has to carry gun so won't  
be burden to village.  
other person was a guide to his  
whole life.

Memorandum - options re: parole Bd.

Shelma - thinks changes needed - kinds of members, length of term, conditions for parole - terms - parole.

Neil - order of Parole - state federal & local laws - I will obey.  
associating with X-felons.  
marriage

Rural communities - employment difficult - not make sense to ~~put~~ Neils.

Wells should be able to act as parole officer.  
subsistence - lifestyle - has to be able to have a firearm.

parole board should be able to record;

Should be able to appeal case to Bd. + get P.D.

6 month maximum for each violation. - Calif.

Last opinion - two bras - why this - workload - Answer.

Other individual puts together case file to board.

person should be able to review file prior to hearing.

Thelma programs not at jails in compliance with sentence orders. This is held against you at jail.

experience required as Chairman 71-78 - Lyon on Bd. got experience

Individual. Trained human relations. Some technical training.

Shelma - would like to see more ~~ethnic~~ <sup>ethnic</sup> groups represented on Bd. Would like to see at least two natives.

Most Bd. members have rec'd training from national Conf., but not have cultural sensitivity training.

Nels) no problem with Ethnic breakdown.

nominees may be made by judiciary committees.

---

need to check firearm - possession in new criminal code.

Ⓟ — 18 Federal firearms Act.  
— State laws (new criminal code)

---

marriage - "consult"

association with known  
felons -

Haverport - Mr. Miller -  
has authority to issue warrants

---

time on parole - 4 months.  
good time on parole not  
count.

---

Employment

travel

---

Identify the rights - of the  
parolees

Dean Handell A.S.

Present policy - village council -  
yes they can do this.

pre-sentence

judge sentence

judge's transcript

progress report (what happened  
in jail + release plan +  
application for parole.)

11.55. weapons

33.15

awaiting for federal citation.

Feb. 27, 1980 night meeting, Re.  
BAR ASSN.

if a st. bird should be treated  
as other st. birds, i.e. have lay  
members.

#4 Buchheit + Parr's choice

#1 or #6 Phillips choice

#6 Judiciary would do a sunset  
of bar two yrs from now

help in rules to sunset  
the bar assn, let Sup. Ct.  
have them, public can exert  
pressure on sup. Ct.

#3 de-integrate - Sup-Ct. resp.  
for discipline + admissions.  
is create mess. bc. that  
that's what we are doing.

Malone + against important public  
policy. Wants to check w Jay  
Kahinowitz & Boock. and at a  
minimum direct Ct + funds.  
60 days to speaker's office  
Mar. 15.

Marvin tends to join with Nels  
Comptroller Bar to ~~was~~ sanitation  
people.

Ar has signed off on petition.

Bond has b/p to slow out  
public need. Consistent public  
interest

Burchinoldt - favors #4

2 #3

2 #4

2 #6

D. alone favors short, maybe  
1 yr. lease.

Malone efforts are being made  
to obtain info.

Pass - what authority do we have  
over over bar. Incestuous  
relationship. Judges - etc.

Jurisd. of Sup. Ct who may practice  
law in state.

Rule 32 Bar  
Attorney - Commissioner

Principals

(1) Red current trans action of law is



H.C.A.B. 104A

4

Return to 2nd reading  
object

Amendment # 2

Page 2 line 17

has jurisdiction.  
guaranteed p2 line 21 delete  
pt. of second review in word review.  
Criminal dist. of case.

federal individual has r+ in  
federal system - pri'ary  
other States.

effect of bill - on Const.  
action we are taking in  
reference to Sup Ct. case  
actually increasing, justice  
delayed is justice denied.  
System has not been tried.  
You have had to develop bill  
amount

frankly amend will destroy  
entire concept.

Brown - concurs - won't  
write.

Another amendment - availability  
of tribunal - choice to either  
Ct. of Appeals or ~~Ct.~~ superior  
court.

Meekins ① inquires between different parts  
~~##~~ for individual.

② felonious since  
made minors of two appeals.  
Supreme court has least  
opportunity > Judicial Qualifications  
may be more.

Walton and judge should be  
washed out.

Provision - has intermediate  
court

Brown two tribunals are  
Allen Wick - Inter. Ct; Supreme  
Court.

21 years.

Second reading.

- ① has jurisdiction
- ② delete review

17 years —  
 18 years.

3rd reading.

12-2-11 → Appeal to

~~Court of~~

Superior or Court  
of Appeals.

resounding success  
Action.

read back to see

of changes  
initially

delete

(c) <sup>part</sup>  
limit

(d)

(pa) 12-~~27~~<sup>16</sup> ~~1111~~

delete (c) put in

(d) leave with new number  
+ a new section.

(e)

→ discretionary review should  
be continued if

(c) + (d) to read on  
paper  
PASSED.

①

2nd reading —

4 temp ex, Parr  
2 < court >  
2 < state agency >

---

Optimistic with appropriate  
law changes.

short time  
with appropriate changes

1 of 2 yr. retention

Business structure to be  
restructured.

Business  
1. 11/1/81  
2. 11/1/81  
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100. 11/1/81

~~Extension granted~~  
length of extension

1 yr. → June 30 '81 terminates.  
June 30, 82 - of extension.

(1) in the first year, one member shall be appointed, one member at large and one member from the third T. D.

(2) in the second year, one member shall be appointed, one member from the combined and one member from the 1st.

(3) in the third year, one shall be appointed one member from 3rd and one at large.

Meeting - Mar. 10, 1980

Meeting Mar. 11, 1980

Meeting March 13, 1980  
Minority Sentencing  
Committee

Some people are still interested  
in it. We need to keep  
it active, keep publishing  
the fact sheets.  
Sentencing to 1980, in the summer  
of 1980, a report on the  
state of the art.

Some people are interested in  
the fact sheets. We need to  
keep publishing them.

Top priority is to get the  
fact sheets published recently

superior court judges - some  
of their duties could ~~have~~  
be performed by layworkers  
non-lawyers.

Production management -  
task identification - never  
been looked at in  
judiciary.

would tend to exclude  
involvement of what to have  
a law degree.

to a ...

## [Criminal Justice]

1970s = have affirmed  
but corrections did not  
human it's already existing  
all agencies.

Campbell - affirm  
1970 - B.V. just to cover them  
145

pre-sentence reports -  
biased bec writer is white  
& is not.

What are goals of sentences -  
really no general agreement  
presump. sentence - control  
of judicial discretion.

No state wide laws, no agreement  
as to how to approach  
sentencing.

no control betw writers and  
judge, or defendant  
that is not what we  
want. Long of sentencing  
reform should be  
in relation to 3 + 1/2 day.

1. uniformity  
2. no sentencing  
3. court power  
4. sentencing guidelines  
5. sentencing

# Amends to Criminal Code

SB 511 - 3 changes in  
Crim Code.

Pretrial - diversion.

new law on allusion - other  
things aside going to jail.  
beneficial work

at many rec. community  
services but best doesn't  
work methodology.

Certain types by evidence -  
agreed to - done by

voluntariness - never was  
Hernandez.

problem with funding.

very successful - since  
case drug office

but could have avoided;  
criminal justice program;

offered prosecution -  
in existence for 2 yrs

Criminal Justice Program

Sentencing alternatives  
Rec. a Clearinghouse to  
assist in locating  
options.

England has many more  
alternatives.

~~Design~~  
Creation of a Bid.

... not evaluating  
itself.

... not evaluating  
itself.

Pardon ⇒ definition.

note, serve as juror, to extent

that these disabilities exist  
a pardon removes those disabilities.

after 60 days records are  
expunged - arrest ~~at~~ records.

These regs. are about ready  
to be filed with Lt. Gov.

60 days are allowed to  
file for false arrest  
suit.

fingerprints - use for  
identifying criminals,  
search + rescue.

Keep fingerprints, but  
expunge where 'got them';  
could have been bar  
admission, etc.

AGIS - Dept. of Justice -  
promulgated regs. pretty  
close to ours.

Notice of arrest and finger-prints goes to NC1 - FBI. This bill would not affect that information gathering system.

felony - after 10 yrs of clean life  
for misdemeanor 5yrs -  
Records are closed.

## HB 572 Guardianship

3 or 4 questions proposed to  
Dr. Gregovitch

page 23 - could they use  
another phrase other than  
"mentally ill" rec. to keep  
it.

March 22, 1980 HB 533 or rather  
SB 365.

another alternative  
suggested by Schubert which  
would permit only a  
best interest.

Ho at about 1980 - is activated  
by voters.

There that - that city  
assembly adopt ordinance  
to prohibit possession +  
operation.

Local municipalities  
and those areas not  
incorporated - provide  
for ordinances by  
native councils under  
fed law would become  
state law - State  
Troopers then ~~will~~  
feel obligated to enforce  
the laws.

To make violation of  
ordinances - as civil  
fines. Would require  
due process safeguards.

But to incorporate in  
legal code - if states  
authorized municipal  
governing bodies - by  
correction of local option  
law already on  
books becomes authorized.

Ordinance by Native  
Council - fed. law -  
making, it become  
a state crime. Indian  
Law - local govern. are  
sovereign except as feds  
permit state to be  
involved. may undermine  
sovereignty of local  
native councils.

delegation to local govern -  
allowed to determine  
what state law.  
Delegation of legislative  
authority, problems.

local policy opportunities  
to go out, stamp, drug.

thinkers called use 1971  
to set up  
a program of assistance.

Indians are sovereign.  
State + Indians have  
concurrent jurisdiction.

3rd. ~~the~~ Problem - intergovernmental  
agreement approach. That  
Inroads Tribe's sovereign  
w/o permission federal statute.

If village adopt an  
ordinance - state trooper  
has power to arrest  
as well as other individuals

① 2026 8/17/26

spelling council -

---

\* may desire to go to class  
B or around offense.

O'Connell - confiscation.  
Can it get the pilot -  
had reason to know.

Why not take out  
the 5 mile extraterritorial  
provision.

Senate - did nothing  
on either Parole  
Brd or Bar Assn  
Does this affect  
what we must do  
in statutes.  
Committee

① Bar extended for (1) yr.

② do we need to  
extend Parole Brd.

With 2015

44.66.

Parole Brd. 4 yrs - continues  
special

conclusion of affairs  
that require separate  
duties or responsibilities.

11<sup>th</sup>  
18<sup>th</sup>

on late

SB 365

holidays - not  
specify.

(5 mile) - not sure  
what to do

impairment + possession -  
insert - permit  
see A12, medication.

---

of ...  
A250 discipline  
Admission  
license

... Policy Fee  
= ...  
7.50

... in  
exchange

of any ~~potential~~ ward who  
~~seeks~~ <sup>appeals to</sup> services from  
the public guardian  
or any ward for  
whom the court  
is considering the  
appointment of the  
public guardian.

# Confidentiality of Records

need for privacy  
essential for creditors of  
disabled person to find out  
that a conservatorship  
has been est.

distinction betw. confidentiality  
of court records and of  
courtroom proceedings

(1) courts to maintain two  
files. One is summary -  
and available to the  
public. The other is  
a case file with limited  
access

Summary - also of  
the public use of the  
proceedings (but not  
the full text) a summary  
of the proceedings, by the  
court.  
- for being kept in a  
public and the public

which were issued,  
and any modifications  
made thereto.

Limited access - subject of record,  
his attorney or guardian ad  
litem

the guardian conservator  
~~of~~ or their attorney

other parties to proceedings  
and their attorney  
judge

not admitted to

Alcoholic can not be punished for  
Public intoxication.

Prior to Supreme Court opinion  
could be punished

Violent felonies committed while  
intoxicated.

Visible drunk - picked up for  
drunk and disorderly - usually  
the victim of crimes.

HCR 49

March 25, 1980

flex time Resolution suggested  
by Rep. Elison.

Rep Smith >

---

March 26, 1980 Evening meeting

Malone - ought to have definition of Standard of privacy they ~~was~~ we intend to defend here.

2nd sentence of Ak. privacy provision - Legislature shall implement.

responsibly refuse - again put in some definition - appropriate ends of federal census.

based fed. const., enumeration of people - power should be limited to what given in constitution.

Last resolve clause - refuse to answer quest. not specifically provided for in const.





believes that lower income  
persons - don't get treated  
the same way.

It now appears that treatment  
is PL<sub>2</sub>; PL<sub>3</sub>; division

It is a real problem

of insurance coverage

and rate

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

of insurance

pg. 31 rec. by Commission - Judicial  
Council should collect  
statistics.

Thinks E12 is too narrow. Fails  
to address other points  
raised by Commission.  
By-passes low income, but riders

was a ... - ...  
criteria ...

Magistrate ...  
at ...

H<sup>III</sup> ... - Study ...  
on ...

...  
...  
...

...  
...  
...

Wills would like to see  
bell help up til Puley  
speaks to committee.

status of rec. made by  
commission - as to what  
can be done this session  
(more detail)

part of current - said they  
were going to see as to  
to do for this year

[Fried]

Liberal and conservative (at)  
the same time in government  
to be done:

to be done - with all kinds  
to be set down

We are in a position to  
put a great public bill  
through this winter -  
it will be a great piece of  
work - possible to be done  
to put other members

Para - think about victims of  
Crimes. Rt. to secure an  
life + property.

for sentence reports /  
training - this project  
has been started by  
Judicial Council.

Health Hospital -  
... ..  
... ..  
... ..

... ..  
... ..  
... ..

Dean Guarelli

use my language

the treatment  
in institution

1. likes increase in Bd 5-7  
from ethnic groups.  
very under APA.

standards

distances

providing good time while  
on parole.

not fatherhood  
the...





Case of person gone through  
Calif. - baby, bear + big exam -  
might have an exception  
or those person.

\*Atty for Califor - atty.  
apple 1 - make them  
as the entire era

---

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

valued in 4 years →

look to other states or  
ABA for definition of  
practice of law.

3rd point

Sec. 1 existence only for

1 yr.

4th point

reference to other laws here  
part of

provision  
within 1 yr. in process  
in 15 days of a hearing  
advises —

at year of  
of 15 days  
of 15 days  
of 15 days

vt. of membership  
to Amend bylaws.

Regulations they do  
make - want to  
keep "Power of Board  
to make or change  
bylaws AND regulations"

Main pt.

APA accredited

5 pt. automatic hearing

Confidentiality of hearing

30 day notice of meetings

(no problem with regular meetings).

Board as never in session

no... court funding  
disposal... records

[2010 all] Executive 1/11

meeting... 1/11

... 1/11

1-7 - work 1/11

... 1/11

... 1/11

... 1/11



HB 5271

would like to go beyond  
the 12 hour hold. To 24  
hours or becomes sober.

would like to see Washington  
Program - proceed.

defense + extra time

170

Washington Center

presenting to

local

"item or items"

Hugh 3:00  
Nels 812

---

Separate out from Adoption  
Statutes - the relinquishment  
stuff.

limit to licensed agency / or state - wants  
to limit



Must give custody of child to  
someone.

Accredited law schools

at last meeting - a consensus seemed to exist for 2 standards - accredited law school graduation required to take exam if person is not an experienced attorney and non-accredited law school graduation, if an experienced attorney, desires to take the exam.

propose following amendment to § 12

reinsert AN ACCREDITED on line 17

add the words

"Applicants who have not graduated from an accredited law school but who have <sup>been licensed to</sup> practiced law in another jurisdiction as <sup>an</sup> admitted attorney for <sup>5 years or cumulative</sup> 2 years are eligible to take the ~~an~~ examination in the US

§ 13 reinsert A/AS/A BAR on line 22  
reinsert AN APPROVED on line 23

§ 14 reinsert EITHER AN APPROVED OR A NONAPPROVED on lines 3 & 4

§ 15 ~~law school means~~ delete <sup>words</sup> "whether or not" from line 9

§ 17 reinsert deleted material on line 2

Coon complaint against Alaska Bar Assn.

Date: Mar. 12, 1980

907

Telephone conversation: 745-4520

investigator Gary Martin - (Dep. Sheriff - H Sed. no speed  
degrees, wanted to go hunting)

CLASS - not have a case, Doc. SA D ylo.

Workman's Comp. - fired 1st.

\$160,000 Award.

1st. Atty Alz

waited one week before going to  
Court.

has Atty.

some wait answer complaints.

① haven't heard anything

③ Link is a drunk, malpractice case ← nothing come  
of it  
Keever - law partner took it over ← called by phone  
+ asked of  
extension.

Mar  
12, 1980  
Mar.  
17,  
1980

Glass - made him answer - complaints.

How discipline him.

Gary Martin - can't do  
anything about him.  
he's his boss.

George  
Teenage girl

prefers state agency - not courts  
or attorneys themselves.

Accredited law schools

At last meeting - a consensus seemed to exist for 2 standards - accredited law school graduation required to take exam if person is not an experienced attorney and non-accredited law school graduation, if an experienced attorney, desires to take the exam.

propose following amendment

to § 12

reinsert AN ACCREDITED on line 17

add the words

"Applicants who have not graduated from an accredited law school but have practiced law in another jurisdiction as an admitted attorney for 5 years are eligible to take the examination"

in the US

§ 13 reinsert A/AS/A BAR on line 22  
reinsert AN APPROVED on line 23

§ 14 reinsert EITHER AN APPROVED OR A NONAPPROVED on lines 3 & 4

§ 15 ~~law school means~~ delete "whether or not" from line 9

§ 19 reinsert deleted material on line 2

UPDATED  
MAY 21, 1980

Committee Markup  
April 28, 1980  
from: M.W. Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CSfa HOUSE BILL NO. AB 984

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

BERCK

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar  
7 Association and amending the statutes relating to the  
8 practice of law in the state; amending Alaska Bar Rule  
9 ? and 7; and providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
12 read:

13 (2) Board of Governors of the Alaska Bar Association  
14 (AS 08.08.040) - June 30, 1981.

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

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
18 Association, referred to in this chapter as the Alaska Bar. The Alaska  
19 Bar shall have a common seal, may sue and be sued, and may, for the  
20 purpose of carrying into effect and promoting the objects of the Alaska  
21 Bar, enter into contracts and acquire, hold, encumber and dispose of  
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar  
24 is subject to statutory requirements imposed on state agencies including  
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -  
26 44.62.320 and AS 44.66.

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

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the  
29 state ~~may~~ <sup>shall</sup> become a member of the Alaska Bar.

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

2           Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) Ther  
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be  
4 elected under bylaws                   AND REGULATIONS PROMULGATED by the boar  
5           (b) The board consists of ~~nine~~<sup>eight</sup> [NINE] ACTIVE members elected by t  
6 ACTIVE members of the Alaska Bar and three persons who are appointed  
7 by the governor and who are not attorneys.

\* Sec. 5. AS 08.08.050 is amended to read:

9           Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a)  
10           TWO MEMBERS of the board shall be elected by and from among t  
11 members of the association resident in the first judicial district;  
12           FOUR members of the board shall be elected by and from among the  
13 members of the associatior resident in the third judicial district;  
14           and           TWO MEMBERS by and from among the members of the associa-  
15 tion resident in the combined area of the second and fourth judicial  
16 districts .  
17 Three members who are not attorneys shall be appointed by the governor  
18 and are subject to confirmation by the legislature in joint session.

19           (b) Members of the Board of Governors shall hold office for three  
20 years and until their successors are elected or appointed and qualifie

21           (c) Board members shall be selected [ELECTED] annually, or  
22 the following triennial rotation: [.]

23           (1) in the first year, one member shall be appointed, one  
24 member shall be elected from                   and ~~one~~<sup>two</sup> members shall be elected [TWO  
25 the first judicial district,                   MEMBERS] from the third judicial district;

26           (2) in the second year, one member shall be appointed, one  
27 member shall be elected from the combined area of the second and fourth  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]  
29 one member shall be elected from the first judicial district, and  
one member shall be elected from the third judicial district; and

1 (3) in the third year, one member shall be appointed,  
2 one member shall be elected

3 FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS , and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy  
affecting an elected membership position on the board shall be filled  
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the  
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.3  
19 apply to the meetings of the board. Members of the Alaska Bar and the  
20 public shall be given 30 days notice of <sup>regular</sup> meetings of the board. Meeting  
21 of the board shall take place in the state. <sup>other than those</sup>  
<sup>dealing with the executive</sup>  
<sup>administration of the</sup>  
<sup>ALASKA BAR EXAMINATION</sup>

22 \* Sec. 9. AS 08.08.080 is amended to read:

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

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

28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

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

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

8 \* (6) providing for all other matters affecting in any way the  
9 organization and functioning of the Alaska Bar;

0 (7) providing for continuing legal education and certification of  
1 continuing legal education programs;

2 (8) establishing and maintaining a program for the certification  
3 of attorneys as specialists.

4 (b) The board may

5 (1) approve and recommend to the Alaska legislature changes  
6 to this chapter and to the provisions of state law generally;

7 (2) approve and recommend to the state supreme court  
8 rules for promulgation by the court including rules concerning admission,  
discipline, licensing and continuing legal education;

9 (3) adopt reasonable bylaws and regulations consistent with  
0 this chapter and the Alaska Bar Rules;

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

4 (5) fix the annual membership fee for active, inactive,  
5 judicial and honorary members.

6 \* Sec. 10. AS 08.08.085 is amended to read:

7 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
8 Governors shall report annually to the judiciary committees of the  
9 legislature on all matters concerning admissions, discipline of members

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*  
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SL 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

~~Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:~~

- ~~(1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or~~
- ~~(2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or~~
- ~~(3) Giving counsel as to any person's legal rights or obligations;~~

1 \* Sec. 11. AS 08.08 is amended by adding new sections to read:

2 Sec. 08.08.105. THE PRACTICE OF LAW (a) A person who is an  
3 attorney, or who is not an attorney but who represents himself to be an  
4 attorney, and who performs any of the following acts on behalf of  
5 another person, with or without compensation, is engaged in the prac-  
6 tice of law:

7 (1) appearance in or conduct of litigation or performance of  
8 any act in connection with proceedings, pending or prospective, before  
9 a court of this State unless otherwise provided by court rule; or

10 (2) appearance in or conduct of litigation or performance of  
11 any act in connection with proceedings pending or prospective before  
12 any other body constituted by law to settle controversies; or

13 (3) giving counsel as to any person's legal rights or obli-  
14 gations; or

15 (4) preparation or procurement of instruments or other  
16 papers creating, limiting, claiming, granting, terminating, or other-  
17 wise securing legal rights; or

18 (5) engaging in any act or other practice determined by  
19 the Supreme Court to constitute the practice of law.

20 (b) A person who is not an attorney and who does not represent  
21 himself to be an attorney and who for compensation performs any of the  
22 acts set forth in ~~(2) - (5)~~ of subsection (a) of this section is en-  
23 *he performs any of the acts set forth in (2) - (5) of subsection (a) and*  
24 gaged in the practice of law unless such acts are performed as part of  
25 the regular conduct of business the primary purpose of which is other  
26 than the performance of any of the acts set forth ~~in (1) through (5) of~~  
27 subsection (a) of this section and if such acts do not consume a  
28 majority of the person's work time.

29 (c) The provisions of (b) of this section do not apply to a  
person working under the direct supervision of an attorney in the

*motion  
to delete  
failed.*

1 course of that employment, or to a government employee in the course  
2 of his employment. In addition, the provisions of (b) of this section  
3 do not apply to a person employed by a nonprofit corporation that is  
4 engaged in public interest activities during the course of his employ-  
5 ment by such nonprofit corporation. However, notwithstanding AS 22.20.  
6 040, a nonprofit corporation may be represented in court by an officer  
7 or director who is not an attorney upon a showing to the court that  
8 the corporation cannot afford the expense of hiring an attorney for  
9 the action or proceeding and that the officer or director is competent  
10 to represent the nonprofit corporation before the court. >

1  
2           Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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

8           (c) The Board of Governors shall contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12           (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read:

16           Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicant  
17 who have not graduated from a [AN ACCREDITED] law school but are other  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21           (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the practice of law [ALASKA BAR] without  
23 having been graduated from a [AN APPROVED] law school shall register  
24 as a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course  
28 of study and has successfully completed his first year of studies at a  
29 school.

\* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended [EITHER AN APPROVED OR A NONAPPROVED] law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

\* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school, whether or not accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

\* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska AND IS AN ACTIVE MEMBER OF THE ALASKA BAR . A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

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

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

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

20 \* ~~Sec. 18. AS 22.05 is amended by adding new sections to read:~~

21 ~~ARTICLE 2. ATTORNEYS.~~

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

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

1 ~~Sec. 27.05.190 REGISTER OF LICENSED ATTORNEYS. (a) The clerk~~

2 ~~the supreme court shall maintain a register of each attorney licensed~~  
3 ~~practice law in the state.~~

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

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

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12 (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED  
15 GRADUATED] or submit proof that the law course required for graduation  
16 from [SUCH] a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.

18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25 Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

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

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

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

16 \*Sec. 21. Section 7 of Alaska Bar Rule 3 is repealed.

17 \* Sec. 22. AS 08.03.010(b)(11), ~~AS 08.03.010(b)(11)~~, 08.08.220 ~~and 08.03.010~~ a  
18 AND  
repealed.

19 \* Sec. 23. Section 3 of Alaska Bar Rule 2 is repealed.

20 \* Sec. 24. AS 08.08.050 as amended by sec. 5 of this Act takes effect a  
21 the first election of members of the Board of Governors of the Alaska Bar  
22 after January 1, 1981. The governor shall appoint one member of the board  
23 each year to replace an elected member whose term expires.

24 \* Sec. 25. Sections 1, 2 and 24 of this Act take effect immediately in  
25 accordance with AS 01.10.070(c).

26 \* Sec. 26. Sections 3 - 23 and 25 of this Act take effect January 1,  
27 1981.  
28

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*

Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 172 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

*make separate sections*  
Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be ~~or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction,~~ is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

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(b) A person who is not an attorney and who does not represent himself to be an attorney and who for compensation performs any of the acts set forth in (2)-(5) of subsection (a) of this section is engaged in the practice of law unless such acts are performed as part of the regular conduct of business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of this section and if such acts do not consume a majority of the person's work time.

(c) The provisions of (b) of this section do not apply to a person working under the direct supervision of an attorney in the course of that employment, or to a government employee in the course of his employment.

*will and how they  
but who*

THE PRACTICE OF LAW. (a) A person who is an attorney or who represents himself to be an attorney and who performs any of the following acts on behalf of another person with or without compensation is engaged in the practice of law:

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(1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or

(2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or

(3) Giving counsel as to any person's legal rights or obligations;

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or

(5) Engaging in any act or other practice determined by <sup>Supreme</sup> ~~the courts of~~ <sup>Court</sup> ~~law~~ to constitute the practice of law.

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise **Securing** legal rights; or

(5) Engaging in any act or other practice determined by <sup>Supreme</sup> ~~the courts of~~ ~~law~~ to constitute the practice of law.

(b) Any person, other than a person working under the supervision of a person licensed to practice law in this state or permitted by the Supreme Court to practice law in this state, not included in subsection (a) of this section who for compensation performs any of the acts set forth in (2) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of the section, *and which do not consume a majority of the person's work-time.*

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment.

(d) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as natural person.

*Change grammar*

(b) Any person, other than a person working under the supervision of a person licensed to practice law in this state or permitted by the Supreme Court to practice law in this state, not included in subsection (a) of this section who for compensation performs any of the acts set forth in (2) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of the section,

*and which do not consume a majority of the person's work-time. \**

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment.

(d) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as natural person.

*Change grammar*



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

March 18, 1980

TO: Legislative Affairs

FROM: Margaret W. Berck, Staff

RE: Request for bill by the House Judiciary Committee

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Pursuant to the sunset obligations of the House Judiciary Committee, the Committee intends to continue the Alaska Bar Association for one year and amend the statutory provisions regarding the association. The amendments to the statutory provisions are expressed in the attached rough draft. Please draft in final version form a bill that would accomplish the intent of the Committee.



## Alaska Court System

State of Alaska

303 "K" STREET  
ANCHORAGE, ALASKA  
99501

ARTHUR H. SNOWDEN II  
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 12, 1980

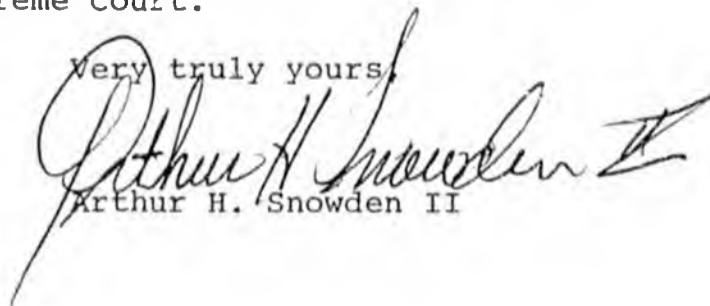
The Hon. Charles Parr, Chairman  
House Judiciary Committee  
Room 126, State Capitol Building  
Juneau, Alaska 99811

Dear Representative Parr:

In my letter of March 4, 1980, with reference to the sunset of the Alaska Bar Association, I stated in the last sentence that the Court hopes that the Bar Association and the Legislative Budget and Audit Committee can reach a reasonable accommodation of their present dispute.

I wish to make it clear that in commenting on this subject, in no way did I intend to comment or convey any information on the merits of the controversy between the Legislative Budget and Audit Committee and the Alaska Bar Association before the Supreme Court.

Very truly yours,



Arthur H. Snowden II



Official Business

# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House Judiciary  
Committee

FROM: Margaret W. Berck, Staff

DATE: March 11, 1980

RE: Issue #9, Memo of March 10, 1980

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The attached materials pertain to issue number 9 (coverage of non-litigation activities of lawyers by Consumer Protection) of my memo to you of March 10, 1980.

What do you want me to do regarding this issue ?

for their fees in order to do - if the fee in question is potentially true

# Attorney Investigation Bill

On February 5, 1980, Anchorage Representative Joseph McKinnon introduced House Bill No. 674 entitled: "An Act Relating to Unfair Trade Practices and Consumer Protection."

McKinnon's Bill would have the Legislature amend A.S. 45.50.495 by adding a new subsection to read:

"(c) The Attorney General may investigate complaints of unlawful acts and practices of attorneys which constitute violations of A.S. 45.50.471 and bring actions under A.S. 50.501 to restrain the unlawful acts and practices notwithstanding A.S. 45.50.481(1)."

## Consumer Protection

Commenting on McKinnon's proposed legislation, Connie Sipe, Chief of the Consumer Protection Section of the Attorney General's Office stated that although she had not thoroughly analyzed McKinnon's Bill, she had always believed her office to have jurisdiction to investigate complaints of unlawful acts and practices of professionals, including attorneys. However, Ms. Sipe cautioned that her belief that the legal profession was not exempt from her office's jurisdiction did not necessarily reflect the official administration position.

Ms. Sipe added that pending further analysis of the ramifications

of McKinnon's Bill, she could not comment on the likelihood of the Attorney General's Office supporting Mr. McKinnon's proposed legislation.

## Public Interest

According to Ms. Sipe, her office has not handled any complaints of unlawful acts and practices of attorneys. She explained that when her office does receive a complaint against a professional, the complainant is referred to the licensing body or appropriate professional organization. Ms. Sipe explained that the usual professional misconduct complaint is highly individualistic and ordinarily would not involve a pattern of conduct which the Attorney General's Office looks for in determining whether or not to institute a public interest investigation or litigation. Ms. Sipe explained that absent a pattern of conduct affecting many consumers or a practice of either an especially egregious nature or involving a substantial amount of money, her office would not deem an investigation or litigation to be in the public interest.

However, if a complaint involving deceptive advertising by an attorney were brought to her office, and the complaint met the public interest criteria, Ms. Sipe stated that she would not hesitate to investigate the matter.

*from Alaska Bar Log, Feb. 1980*



*amendment to BAR*

Sec. 08.08.130. ELIGIBILITY FOR ALASKA BAR EXAMINATION. (a) Every applicant for examination shall:

(1) File an application in a form prescribed by the Alaska Bar and produce and file the evidence and documents prescribed by the Alaska Bar in proof of eligibility for examination;

(2) Be a graduate of a law school or submit proof that a law course required for graduation from a law school will be completed and that a degree will be received as a matter of course before before the date of examination. Graduates of <sup>foreign</sup> law schools in which the principles of English common law are taught may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(3) Have attained the age of 19 years;

(4) Be of good moral character;

(5) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of examination.

(b) An applicant who meets the requirements (1) through (5) of subsection (a) of this section and:

(1) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(2) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or

subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall be required to pass the attorney bar examination as prescribed by the Alaska Bar.

*100-2140  
100-2140*

Original sponsor: McKinnon

Offered: 2/20/79  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 85

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to bar examination review procedures;

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and amending Alaska Bar Rule 7, Section 1."

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

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\* Section 1. Alaska Bar Rule 7, section 1 is amended to read:

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bar examination.

\* Sec. 2. Section 1 of this Act amends the Rules of Court (Rule 7 of Part I of the Alaska Bar Rules).

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 31, 1980

SUBJECT: The practice of law in Alaska  
(Work Order Number 8357)

TO: Representative Charles H. Parr  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley  
Legislative Counsel *B*

We have delivered to you the bill responding to your request for a bill disestablishing the integrated bar in Alaska.

Since it was delivered to you, an omission from the bill has come to our attention which should be corrected in any committee substitute requested.

In a series of places in the statutes, the law requires that certain things be done by a "member of the Alaska Bar Association." This phrase has historically been synonymous with "admitted to the practice of law in Alaska" but the bill requested will change that.

Accordingly, I proposed to add amendments to these sections in a committee substitute:

- (1) AS 09.43.200;
- (2) AS 18.85.060;
- (3) AS 41.17.130; and
- (4) AS 41.17.140.

Several sections already contain the appropriate language and would not be changed. See, AS 24.20.075, AS 42.06.060, and AS 47.37.080.

These sections turned up in a quick computer search. Others may exist and we will seek to identify them if a committee substitute is requested.

RAB:ljb

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1980

SUBJECT: The practice of law in Alaska  
(Work Order No. 8357)

TO: Representative Charles H. Parr  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley *B*  
Legislative Counsel

A bill responsive to the request of the committee is enclosed. Because the matters involved in the bill are complex, I have prepared this memorandum to offer observations to the committee on what it has requested and what I have delivered to you.

I chose not to follow the format of your request, a suggested repeal and reenactment of AS 08.08; rather, I have amended existing law where possible to reflect the changes made in AS 08.08.

The request of the committee directs that a bill be prepared abolishing the integration or unification of the Alaska Bar Association. The request then confers extensive police powers on the governing board of the resulting voluntary association.

I am concerned with the allocation of substantial police powers to a voluntary association. In my view, the mixed character of the resulting Alaska Bar Association offers the substantial possibility that what results will be found by the courts to be unconstitutional.

The bill imposes the responsibility of a public agency on a voluntary association. It is required to act in the same manner that a public agency would act. These safeguards cloud, in my judgment, the otherwise clear prohibition of the grant of police powers to a private, voluntary organization.

And I must confess, in candor, to the committee that the co-mingling of public responsibilities on a voluntary association has made difficult the task of drafting the bill before you. I will seek to identify the issues that have concerned me in the following analyses:

Section 10. The only change requested in this section is the substitution of "agency" for "instrumentality". The change is essentially semantic; I recognize, however, as does the committee, that "agency" is the customary word used to describe a unit of government. The change should help resolve the apparent concern of the committee which I discuss subsequent in this memorandum. For added emphasis, a subsection (b) is added to the section in place of the section requested by the committee as sec. 150.

Section 20. The provision is repealed and reenacted and the essential change is from a law requiring membership of all attorneys admitted to practice to a voluntary association.

Section 30. The provisions of sec. 30 are unchanged and the section does not appear within this draft.

Section 40(a). The only change in (a) is the deletion of any authority to the board regarding regulations. To my knowledge the bar has not adopted any regulations since statehood. What other regulatory agencies adopt as regulations, it proposes to to the Supreme Court as bar rules; by definition, "bar rules" are not administrative regulations.

The board has adopted by-laws regarding its internal procedures, particularly on the responsibilities of officers of the board and procedures for their election.

Note that I propose no amendment to AS 08.08.100, a section which excludes the bar from the application of the Administrative Procedures Act and that I propose to repeal AS 08.08.090 as inconsistent with Alaska Bar Rule 62.

Section 40(b). This subsection is amended consistently with the committee's request. See, sec. 50.

March 29, 1980

Section 50(a). An amendment decreasing the attorney members of the board from nine to six and providing nonattorney members to be appointed by the governor and confirmed by the legislature is added.

Section 50(b). The section is amended to implement the provisions of sec. 50(a).

Section 50(c). This section establishes the procedure for the selection of members, both appointed and elected, over a three year period.

This provision must be read with sec. 23 of the bill which establishes a transitional period for the implementation of sec. 50.

Section 60. The apparent request of the committee was that the officers of the association not be selected at the associations annual convention.

Section 70(a). This amendment was not requested by the committee in its present format. Elections [except under sec. 60] have traditionally been held by mail. As such, it seems logical to call a special election by mail to fill vacancies in the elected positions on the board. Whatever delay results from the conduct of the election by mail ballot is insignificant and the result seems preferable.

Section 70(b). The language of this subsection is as requested by the committee.

Section 70(c). The language is as requested by the committee.

Section 75. This section is added to the chapter and responds to the what was sec. 70 in the committees request. The language of the section is essentially as it was requested by the committee.

The request of the committee asked that the language be amended to require notice to the public of board meetings as is required of other professions. I checked certain other professional codes, including AS 08.04, regarding accountants; AS 08.36, regarding dentists; AS 08.40, regarding architects, engineers and land surveyors; AS 08.34, relating to the

practice of medicine; and AS 08.68, relating to the practice of nursing, and found no similar provision. Notwithstanding this conclusion, the language of the committee's request is included in the bill.

Section 80. This section brings into focus my difficulty in determining what powers, particularly what police powers, are proper to a voluntary association.

Section 80(a). I added the reference to "this chapter" as requested by the committee.

Section 80(a)(1). I retained the provision regarding the "classification of membership." A voluntary association may well have levels of membership but they are typically not set out in statute. Because of the mixed status of the Alaska Bar, I retained the language.

Section 80(a)(4). I added the authority to establish fees to this subsection. The provision regarding investment, as requested by the committee, is also added. I deleted the reference to licensing fees because of my transfer of these responsibilities to the Supreme Court. See, sec. 20 of the bill, infra, which adds amendments to AS 22.05.

I omitted the draft sec. 80(a)(5) relating to the maintenance of a register of attorneys. The Supreme Court typically exercises this responsibility in states without an integrated bar. See, here also the provisions relating to the authority of the Supreme Court in sec. 18 of the bill.

I added (a)(7) [continuing legal education] and (a)(8) [specialization] in a format different from the request by the committee.

Section 80(b). The provision requested by the committee directing the board to make recommendations for amendments to this chapter as well as to law of a general nature are incorporated into sec. 85, the section dealing with the annual report of the board of governors.

Section 80(b)(1). The provision relating to "continuing legal education" is incorporated in sec. 80(a)(7) and is not repeated here.

Similarly, the "licensing" function is transferred to the Supreme Court and is not duplicated here.

Section 80(b)(4). The concept of fees for inactive members seems unnecessary to a voluntary association. Licensing fees as such are collected by the Supreme Court under the fees set by the legislature. See, sec. 22.05.180, added in this bill by sec. 20.

Section 85. This section reflects the elements contained within draft sec. 90.

Section 90. I do not believe the committee proposed to amend sec. 90. I propose to repeal it.

The section does very little other than provide that the active members of the association may amend the by-laws and regulations prescribed by the board of governors. This power has sometimes been exercised by the membership at the annual convention. The provision appears to be superceded by Alaska Bar Rule 62 which provides for "adoption of recommended rules, by-laws, and regulations."

Section 95. This provision defines the "practice of law" and contains the material proposed in draft sec. 14).

The language is minimally unchanged from the draft.

I offer no endorsement of its content; I consider it altogether inadequate as a definition of the practice of law. Several further comments may be made:

(1) For many, the practice of law is essentially undefinable. To a large extent, this premise concedes that large aspects of commercial activity exist in the shadow of the legal profession, but for historical, practical, or other reasons have been left unregulated or included in the regulation of other professions.

(2) Sec. 95(b) is a somewhat cynical statement suggesting that bankers, realtors, and others may practice law so long as they do not do it on a full-time basis. From a public policy perspective, the provision seems to suggest that incompetence will be implicitly permitted so long as it is not a full-time activity.

(3) The provisions of sec. 95 totally ignore paralegal activity; they also ignore the field of increasing economic importance occupied by individuals in narrow fields of expertise where assistance is offered to the public in obtaining licenses, permits, and the like.

(4) I offer no provision to the committee which are better than those suggested in sec. 95. I am personally aware that the bar association locally, as well as the bar association nationally, has been concerned for some time with the practice of law and has not been able to come up with a better definition than that offered. I suggest it would be better to delete this provision than it would be to believe that it is comprehensive and effective.

Section 205. This section responds to sec. 170 of the committee's request.

This section and several other sections that follow it delete the requirement that applicants for admission to the Alaska Bar be a graduate of an accredited law school. These sections are contained within the draft identically to the committee's request. And, I offer no comment on their significance or implications.

Section 207. This section responds to sec. 180 of the committee's request and it is contained within the bill in the format requested by the committee.

Section 210. This section responds to sec. 150 of the committee's draft and is contained in the bill in the format requested by the committee.

Section 220. This section is repealed. The section is obsolete.

Section 230. This section responds to sec. 200 of the committee draft and is included within this bill in the format requested by the committee.

Section 18 of the bill adds a new article to AS 22.05. to deal with the responsibility of the Supreme Court over the annual license of attorneys and the maintenance of the register of licensed attorneys.

These sections are a substitute for sec. 120 and sec. 130 of the committee draft. I discussed my difficulty with Peggy Berck on the inclusion of the responsibilities to a voluntary association and suggested that the responsibilities be transferred to the Supreme Court. She agreed.

Section 45.50.495. The section cannot be fitted within the single subject requirement. It does not deal with the practice of law but rather with anti-trust activities of attorneys.

If the committee is concerned with the problem, I suggest repealing AS 45.50.481(1) in a separate bill.

Section 19 and section 20 amend Alaska Bar Rules in the format requested by the committee.

Section 21 repeals secs. 220, and 250.

Section 22 repeals sec. 3 of Alaska Bar Rule 2.

Section 23 is a transitional section which is designed to enable AS 08.08.050(c) added by sec. 5 by the bill to work.

Section 24 provides that the effective date of the act is January 1, 1981.

As noted, several sections of this bill amend Alaska Bar Rules. I wish to call to the committee's attention the question of whether the legislature may amend Alaska Bar Rules.

The source of the question is, of course, Article IV, sec. 15, of the Alaska Constitution, which provides:

SECTION 15. The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.

The Supreme Court has had a number of opportunities to comment on the implications of this section, and it has

generally limited its comments to the judicial embellishment that the provision of the bill amending rules, either directly or indirectly, must be indentified in the bill and must be voted on separately. [It is for this reason that the fact of the Alaska Bar Rules amendment is noted in the bill title.]

We assumed that based on the logic of the Bradner v. Hammond decision, 553 P.2d 1 (1976), the Supreme Court will determine that the provisions of this section will constitute the outer limits of the authority of the legislature to amend rules of the Supreme Court. Since the Alaska Bar Rules may not fairly be described as either "rules governing the administration of all courts," or "rules governing practice and procedure in civil and criminal cases in all courts," we believe that conservative legal advice to the committee would suggest that the legislature is without the authority to amend the Alaska Bar Rules.

If we may assist further, please advise.

RAB:ljb

Enclosure



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

March 18, 1980

TO: Legislative Affairs

FROM: Margaret W. Berck, Staff

RE: Request for bill by the House Judiciary Committee

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Pursuant to the sunset obligations of the House Judiciary Committee, the Committee intends to continue the Alaska Bar Association for one year and amend the statutory provisions regarding the association. The amendments to the statutory provisions are expressed in the attached rough draft. Please draft in final version form a bill that would accomplish the intent of the Committee.



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary  
Committee

FROM: Margaret W. Berck, Counsel to the Committee

DATE: March 12, 1980

RE: Recodification of the Alaska Integrated Bar Act.

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\*Section 1.

Chapter 08. Alaska Bar Act.

Sec. 08.08.010. CREATION OF THE ALASKA BAR ASSOCIATION. There is created an agency of the state known as the Alaska Bar Association, referred to in this chapter as the Alaska Bar. The Alaska Bar shall have a common seal, may sue and be sued, and may, for the purpose of carrying into effect and promoting the objects of the Alaska Bar, enter into contracts and acquire, hold, encumber and dispose of real and personal property. (§ 2 ch 196 SLA 1955)

Sec. 08.08.020. MEMBERS. A person licensed to practice law in the state may become a member of the Alaska Bar.

Sec. 08.08.030. GOVERNANCE OF THE ALASKA BAR. The Alaska Bar is governed by the Board of Governors of the Alaska Bar. The board has the powers and duties conferred by this chapter and by the Alaska Bar Rules. Members of the board shall receive no salary. (§ 6 ch 196 SLA 1955; am § 3 ch 181 SLA 1976)

Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR; ELECTION AND APPOINTMENT. The Board of Governors of the Alaska Bar shall consist of nine members, six of whom shall be elected by and from among the members of the association and three non-attorney members who shall be appointed by the governor.

(b) Of the elected members, one shall be elected by and from among the members of the association resident in the first judicial district; two shall be elected by and from among the members of the association resident in the third judicial district; one shall be elected by and from among the members of the association resident in the combined area of the second and fourth judicial districts; and two shall be at large from the entire state.

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

(d) Two members of the Board of Governors shall be elected annually and one member of the Board of Governors shall be appointed annually on the following triennial rotation:

(1) in the first year, one member shall be appointed, one member shall be elected at large, and one member shall be elected from the third judicial district;

(2) in the second year, one member shall be appointed, one member shall be elected from the combined area of the second and fourth judicial district, and one member shall be elected from the first judicial district;

(3) in the third year, one member shall be appointed, one member shall be elected at large and one member shall be elected from the third judicial district.

Sec. 08.08.050. ELECTION OF BOARD OFFICERS. The active members of the Alaska Bar Association shall elect annually by a majority vote the association's officers from among the membership of the Board of Governors.

Sec. 08.08.060. VACANCIES ON THE BOARD. A vacancy affecting an elected membership position on the board shall be filled by appointment by the remaining board members until the next annual election. A vacancy

same manner as other state boards.

note to drafter -  
make this a 30 day  
notice to be provided in

affecting an appointed membership position on the board shall be filled by appointment by the governor. Vacancies affecting appointed membership positions shall be filled for the unexpired term.

Sec. 08.08.070. MEETINGS OF THE BOARD. All meetings of the Board of Governors of the Alaska Bar shall be in compliance with AS 44.62.310, et. seq. Reasonable notice to the general public shall be provided.

(Furthermore all meetings shall take place within the geographical boundaries of this state.) Note to drafter - amend AS 44.62.310 to include intent of language contained in parentheses.

Sec. 08.08.080. POWERS OF THE BOARD. (a) Except as may be otherwise provided in the statutes or the Alaska Bar Rules, the board may adopt reasonable provisions:

- (1) concerning membership and classification of membership in the Alaska Bar;
- (2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers, duties, terms of office, and compensation;
- (3) concerning annual and special meetings;
- (4) concerning the collection, deposit, investment, and disbursement of membership, admission or licensing fees, penalties, and all other funds;
- (5) providing for the maintenance of the register of each attorney admitted to practice as an attorney at law in the courts of this state;
- (6) providing for continuing legal education and certification of continuing legal education programs;
- (7) providing for the specialization of attorneys admitted to practice as an attorney at law in the courts of this state;
- ~~(8) providing for the organization and government of local~~

~~subdivisions of the Alaska Bar;~~

(8) ~~(7)~~ providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may:

(1) Approve AND recommend to legislature statutory w. <sup>visions to ALASKA BAR ACT</sup>  
(1) approve and recommend to the state supreme c. <sup>additional AS well AS</sup>

rules for promulgation by the court including rules concerning <sup>legislation of a general nature</sup> admission, discipline, licensing and continuing legal education;

(2) adopt reasonable bylaws and regulations consistent with statutes and Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active, inactive, judicial, and honorary members.

Sec. 03.08.090. ANNUAL REPORT TO LEGISLATURE. The Board of Governors shall report annually to the Chairmen of the Senate and House Judiciary Committees of the Alaska State Legislature on all matters concerning admissions, discipline, and disbarment proceedings, except for those matters defined as confidential by court rule. Furthermore this report shall address any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal, or addition to the rules of court.

Sec. 08.08.100. POWER OF THE ALASKA BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

<sup>repealed</sup>  
Power of the bar to make or change bylaws and regulations. Any bylaw <sup>regulation</sup> adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.110. ADMINSTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

*Note to Drafter -  
Add a provision that would require BAR TO accept the tender of license fees*

Sec. 08.08 120. LICENSE FEES. The fee for the initial issuance and the annual renewal of a license <sup>to practice law in the state</sup> shall be \$25.00. License fees are due and payable to the Alaska Bar.

Sec. 08.08.130. SUSPENSION FOR NONPAYMENT OF LICENSE FEES. (a) Any attorney-at-law failing to pay the license fee within 30 days after it becomes due shall be notified in writing by certified or registered mail that the Executive Director of the Alaska Bar shall petition a Justice of the Supreme Court of Alaska for an order suspending such person for nonpayment of license fees.

(b) The Executive Director of the Alaska Bar shall annually notify the clerks of court of the names and date of suspension of all persons who have been then or previously suspended and not reinstated.

(1) Any person who has been suspended for less than one year, upon payment of the license fee, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the clerks of court that the license fees and penalties have been paid.

(2) Any person who has been suspended for a year or more, upon determination of good character by the Board, and upon payment of all accrued license fees, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the

clerks of court that the person is of good character and that the license fees and penalties have been paid.

Sec. 08.08.140. DEFINITION OF THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or <sup>intentionally</sup> causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
- (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
- (3) Giving counsel as to any person's legal rights or obligations; or
- (4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or
- (5) Engaging in any act or other practice determined by the courts of law to constitute the practice of law.

*under*  
*other than a person working under the supervision of a person licensed to practice law in this state or*

(b) Any person not included in subsection (a) of this section who, for compensation, performs any of the acts set forth in (1) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of this section. The practice of law shall not include actions by government employees in the course of their employment within the agency by which they are employed.

(c) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as a natural person.

Sec. 08.08.150. WHO MAY PRACTICE LAW.

Who may practice law. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska, ~~and is an active member of the Alaska Bar.~~ A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

~~(b) The practice of law shall be defined in the Alaska Bar Rules.~~  
(b) ~~(a)~~ This section and § 200 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~, until the results are released of the third Alaska Bar examination following that person's employment.

(c) ~~(d)~~ Employees of the Department of Law whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~ are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976)

*2021/11/15*  
*The Supreme Court*  
*will be*  
*practicing law*  
*the 1976*

Sec. 08.08.160. EMPLOYMENT OF PROFESSIONAL TEST ADMINISTRATORS  
IN THE CONSTRUCTION AND GRADING OF THE ALASKA PORTION OF THE  
ALASKA BAR EXAMINATION; TRAINING REQUIREMENTS FOR MEMBERS RESPON-  
SIBLE FOR THE PREPARATION AND GRADING OF THE ALASKA BAR EXAMINATION.

(a) The Board of Governors of the Alaska Bar shall contract with professional test administrators to assist the Alaska Bar in the preparation of questions and graders' analyses regarding the Alaska portion of the Alaska Bar Examination.

(b) Those members of the Alaska Bar who are designated by the board to prepare questions for the Alaska Bar Examination or to grade the Alaska Bar Examination shall ~~receive training~~ *HAVE BEEN TRAINED* in the preparation and grading of bar examinations.

Sec. 08.08.170. ELIGIBILITY TO TAKE BAR EXAMINATION.

Eligibility to take bar examination. Applicants who have not graduated from an ~~accredited~~ law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by § ~~207~~ of this chapter. (§ 12 ch 181 SLA 1976)  
§ 180

Sec. 08.08.180. LAW CLERKS.

(a) Every person who desires subsequently to qualify as a general applicant for admission to the ~~Alaska Bar~~ without having been graduated from an ~~accredited~~ law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school. → practice of law in this state

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or, if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the university an application to register as a law clerk. The application shall be made on a form to be provided by the university and shall require answers to interrogatories the university may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the university. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the university, in a manner satisfactory to the university, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the courts of study adopted by the university. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the university may determine.

(d) A law clerk whose registration has been approved by the university must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the

work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended ~~with a~~ ~~law school~~ law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section

(1) "law school" means a law school <sup>whether or not</sup> accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

(am 55 1 — 8 ch 119 SLA 1978)

Sec. 08.08.190. DISCIPLINARY PROCEEDINGS AND REVIEW.

a person licensed to practice law in the state

Upon finally determining any cause involving the discipline, disbarment, suspension, or reinstatement of ~~a member of the Alaska Bar~~, the board shall certify its findings and recommendations on the cause to the supreme court. Within 30 days after receiving the findings and recommendations, the court shall issue, in full accordance with the recommendations, an order of disbarment, suspension, reinstatement, dismissal, or otherwise, unless the accused member sooner petitions the court for review of the proceedings, findings, and recommendations of the board. If such a petition is made, the court shall promptly review the cause in the manner prescribed in the Administrative Procedure Act (AS 44.62). (§ 14 ch 196 SLA 1955; am § 6 ch 178 SLA 1960)

person ←

Sec. 08.08.200. CRIMINAL PENALTY FOR THE UNLAWFUL PRACTICE OF LAW.

(a) Any person not licensed to practice law in the state <sup>who engages in the practice of law</sup> as that term is defined in AS 08.08.140, or a person who is licensed to practice law in the state <sup>not licensed to practice law</sup> who wilfully employs ~~such~~ a person <sup>knowing</sup> that such person is engaging in the practice of law is guilty of a Class A misdemeanor.

(b) Nothing in this section prohibits the use of paralegal personnel as defined by the rules of the Alaska supreme court.

210  
Sec. 08.08.150. CONDITIONS FOR THE RECEIPT OF STATE FUNDS. No state funds shall be provided to the Alaska Bar unless all records of the Alaska Bar are made available to either the legislative auditor or the state ombudsman as his official duties or responsibilities may require.

220  
Sec. 08.08.160. SHORT TITLE. This chapter may be cited as the Alaska Bar Act.

\*Section 2. AS 45.50.495 is amended by adding a new subsection to read:

(c) The attorney general may investigate complaints of unlawful acts and practices of attorneys which constitute violations of AS 45.50.471 and bring actions under AS 45.50.501 to restrain the unlawful acts and practices notwithstanding AS 45.50.481(1).

\*Section 3. ALASKA BAR RULE 7, SECTION 1 IS AMENDED TO READ:

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

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

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegations [ALLEGATION] in the verified statement are found to be sufficient by the Board, a hearing shall be granted. A hearing shall be granted in all cases where the applicant requests it and the score of the applicant on the bar examination is within five points of the passing grade of the  
bar examination.

\*Section 4. ALASKA BAR RULE 2, SECTIONS 1,2, and 3, ARE AMENDED TO  
READ:

Section 1. Every applicant for examination shall

(a) File an application in a form prescribed by the board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for examination;

(b) Be a graduate of a law school [which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated] or submit proof that the law course required for graduation from [such] a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English common law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of the examination.

Section 2. An applicant who meets the requirements (a) through (e) of Section 1 of this rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall

be required to pass the attorney bar examination prescribed by the Board.

[Section 3. An applicant who meets the requirements of (a) and (c) through (e) of Section 1 of this rule may qualify for admission if an application is filed on or before June 8, 1977 and the applicant:

(a) Is admitted to practice and is an attorney in good standing in the law of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this rule.](Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974; by Supreme Court Order 220 effective December 15, 1975; and by Supreme Court Order 347 effective April 1, 1979)

UPDATED  
MAY 21, 1980

Committee Markup  
April 28, 1980  
from: MW Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *AB 984*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar  
7 Association and amending the statutes relating to the  
8 practice of law in the state; amending Alaska Bar Rules  
9 2 and 7; and providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
12 read:

13 (2) Board of Governors of the Alaska Bar Association  
14 (AS 08.08.040) - June 30, 1981.

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

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
18 Association, referred to in this chapter as the Alaska Bar. The Alaska  
19 Bar shall have a common seal, may sue and be sued, and may, for the  
20 purpose of carrying into effect and promoting the objects of the Alaska  
21 Bar, enter into contracts and acquire, hold, encumber and dispose of  
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar  
24 is subject to statutory requirements imposed on state agencies including  
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -  
26 44.62.320 and AS 44.66.

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

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the  
29 state ~~may~~ <sup>shall</sup> become a member of the Alaska Bar.

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

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

5           (b) The board consists of <sup>eight</sup>~~nine~~ [NINE] ACTIVE members elected by the  
6 ACTIVE members of the Alaska Bar and three persons who are appointed  
7 by the governor and who are not attorneys.

\* Sec. 5. AS 08.08.050 is amended to read:

9           Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a)

10           TWO MEMBERS of the board shall be elected by and from among the  
11 members of the association resident in the first judicial district;

12           FOUR members of the board shall be elected by and from among the  
13 members of the association resident in the third judicial district;

14           and           TWO MEMBERS by and from among the members of the associa-  
15 tion resident in the combined area of the second and fourth judicial  
16 districts .

17           Three members who are not attorneys shall be appointed by the governor  
18 and are subject to confirmation by the legislature in joint session.

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

21           (c)           Board members shall be selected [ELECTED] annually, on  
22 the following triennial rotation: [.]

23           (1) in the first year, one member shall be appointed, one  
24 member shall be elected from                   and <sup>two</sup>~~one~~ members shall be elected [TWO  
25 the first judicial district,                   MEMBERS] from the third judicial district;

26           (2) in the second year, one member shall be appointed, one  
27 member shall be elected from the combined area of the second and fourth  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]  
29 one member shall be elected from the first judicial district; and  
one member shall be elected from the third judicial district; and

1 (3) in the third year, one member shall be appointed,  
2 one member shall be elected

3 FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS, and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy  
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14 (b) The governor shall appoint a member to fill a vacancy in the  
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16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312  
19 apply to the meetings of the board. Members of the Alaska Bar and the  
20 public shall be given 30 days notice of <sup>regular</sup> meetings of the board. Meetings  
21 of the board shall take place in the state. <sup>other than those</sup>  
<sup>dealing with the executive</sup>  
<sup>administration of the</sup>  
<sup>ALASKA BAR EXAMINATION.</sup>

22 \* Sec. 9. AS 08.08.080 is amended to read:

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

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

28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

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

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

8 \* (6) providing for all other matters affecting in any way the  
9 organization and functioning of the Alaska Bar;

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11 (7) providing for continuing legal education and certification of  
12 continuing legal education programs;

13 (8) establishing and maintaining a program for the certification  
14 of attorneys as specialists.

15 (b) The board may

16 (1) approve and recommend to the Alaska legislature changes  
17 to this chapter and to the provisions of state law generally;

18 (2) approve and recommend to the state supreme court  
19 rules for promulgation by the court including rules concerning admission,  
20 discipline, licensing and continuing legal education;

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

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

26 (5) fix the annual membership fee for active, inactive,  
27 judicial and honorary members.

28 \* Sec. 10. AS 08.08.085 is amended to read:

29 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
Governors shall report annually to the judiciary committees of the  
legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*  
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

Sec 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
- (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
- (3) Giving counsel as to any person's legal rights or obligations;

or

1 \* Sec. 11. AS 08.08 is amended by adding new sections to read:

2       Sec. 08.08.105. THE PRACTICE OF LAW. (a) A person who is an  
3 attorney, or who is not an attorney but who represents himself to be an  
4 attorney, and who performs any of the following acts on behalf of  
5 another person, with or without compensation, is engaged in the prac-  
6 tice of law:

7           (1) appearance in or conduct of litigation or performance of  
8 any act in connection with proceedings, pending or prospective, before  
9 a court of this State unless otherwise provided by court rule; or

10           (2) appearance in or conduct of litigation or performance of  
11 any act in connection with proceedings pending or prospective before  
12 any other body constituted by law to settle controversies; or

13           (3) giving counsel as to any person's legal rights or obli-  
14 gations; or

15           (4) preparation or procurement of instruments or other  
16 papers creating, limiting, claiming, granting, terminating, or other-  
17 wise securing legal rights; or

18           (5) engaging in any act or other practice determined by  
19 the Supreme Court to constitute the practice of law.

20       (b) A person who is not an attorney and who does not represent  
21 himself to be an attorney and who for compensation performs any of the  
22 acts set forth in (2) - (5) of subsection (a) of this section is en-  
23 gaged in the practice of law unless such acts are performed as part of  
24 the regular conduct of business the primary purpose of which is other  
25 than the performance of any of the acts set forth in (1) through (5) of  
26 subsection (a) of this section and if such acts do not consume a  
27 majority of the person's work time.

28       (c) The provisions of (b) of this section do not apply to a  
29 person working under the direct supervision of an attorney in the

1 course of that employment, or to a government employee in the course  
2 of his employment.

3 in addition the provisions of (b) of this section do not apply to a  
4 person employed by a nonprofit corporation that is engaged in public  
5 interest activities <sup>during</sup> in the course of <sup>his</sup> ~~such~~ employment <sup>by such</sup>

6  
7  
8 *nonprofit corporation.*

1  
2           Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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

8           (c) The Board of Governors shall contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12           (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read:

16           Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants  
17 who have not graduated from a [AN ACCREDITED] law school but are other-  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21           (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the practice of law [ALASKA BAR] without  
23 having been graduated from a [AN APPROVED] law school shall register as  
24 a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course of  
28 study and has successfully completed his first year of studies at a law  
29 school.

\* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended [EITHER AN APPROVED OR A NONAPPROVED] law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

\* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school, whether or not accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

\* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska AND IS AN ACTIVE MEMBER OF THE ALASKA BAR . A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

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

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

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

20 \* ~~Sec. 18. AS 22.05 is amended by adding new sections to read:~~

21 ~~ARTICLE 2. ATTORNEYS.~~

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

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

1           ~~Sec. 22.05.190 REGISTER OF LICENSED ATTORNEYS. (a) The clerk of~~  
2 ~~the supreme court shall maintain a register of each attorney licensed to~~  
3 ~~practice law in the state.~~

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

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

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12           (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR  
15 GRADUATED] or submit proof that the law course required for graduation  
16 from [SUCH] a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.  
18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25           Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

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

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

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

16 \*Sec. 21. Section 7 of Alaska Bar Rule 3 is repealed.

17 \* Sec. 22. AS 08.03.010(b)(11), ~~AS 08.03.010~~, C8.08.220 ~~and 08.08.250~~ are  
18 repealed.  
AMD

19 \* Sec. 23. Section 3 of Alaska Bar Rule 2 is repealed.

20 \* Sec. 24. AS 08.08.050 as amended by sec. 5 of this Act takes effect at  
21 the first election of members of the Board of Governors of the Alaska Bar  
22 after January 1, 1981. The governor shall appoint one member of the board  
23 each year to replace an elected member whose term expires.

24 \* Sec. 25. Sections 1, 2 and 24 of this Act take effect immediately in  
25 accordance with AS 01.10.070(c).

26 \* Sec. 26. Sections 3 - 23 and 25 of this Act take effect January 1,  
27 1981.  
28

Committee Markup  
April 28, 1980  
from: MW Berck

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BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *HB 984*

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5 A BILL

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*motion carried*

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14 one member [TWO MEMBERS] by and from among the members of the associa-  
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16 districts; and two members [ONE MEMBER] at large from the entire state.  
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21 (c) Three board members shall be selected [ELECTED] annually, on  
22 the following triennial rotation: [.]

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25 MEMBERS] from the third judicial district;

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27 member shall be elected from the combined area of the second and fourth  
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29 one member shall be elected from the first judicial district; and

1 (3) in the third year, one member shall be appointed, one  
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17 (2) approve and recommend to the state supreme court  
18 rules for promulgation by the court including rules concerning admission,  
discipline, licensing and continuing legal education;

19 (3) adopt reasonable bylaws and regulations consistent with  
20 this chapter and the Alaska Bar Rules;

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

24 (5) fix the annual membership fee for active, inactive,  
25 judicial and honorary members.

26 \* Sec. 10. AS 08.08.085 is amended to read:

27 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
28 Governors shall report annually to the judiciary committees of the  
29 legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*  
↑  
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

**Administrative Procedure Act.** The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
  - (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
  - (3) Giving counsel as to any person's legal rights or obligations;
- or

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or

(5) Engaging in any act or other practice determined by the courts of law to constitute the practice of law.

(b) Any person, other than a person working under the supervision of a person licensed to practice law in this state or permitted by the Supreme Court to practice law in this state, not included in subsection (a) of this section who for compensation performs any of the acts set forth in (2) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of the section.

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment.

(d) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as natural person.

1  
2           Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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

8           (c) The Board of Governors shall contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12           (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read: *Motion failed to*  
*debatte.*

16           Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants  
17 who have not graduated from a [AN ACCREDITED] law school but are other-  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21           (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the practice of law [ALASKA BAR] without  
23 having been graduated from a [AN APPROVED] law school shall register as  
24 a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course of  
28 study and has successfully completed his first year of studies at a law  
29 school.

\* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended [EITHER AN APPROVED OR A NONAPPROVED] law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

\* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school, whether or not accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

\* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska <sup>restored this language</sup> ~~AND IS AN ACTIVE MEMBER OF THE ALASKA BAR~~. A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who *Leg check it out*

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

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

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

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

20 \* Sec. 18. AS 22.05 is amended by adding new sections to read:

21 ARTICLE 2. ATTORNEYS.

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

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

1           Sec. 22.05.190. REGISTER OF LICENSED ATTORNEYS. (a) The clerk of  
2 the supreme court shall maintain a register of each attorney licensed to  
3 practice law in the state.

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

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

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12           (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR  
15 GRADUATED] or submit proof that the law course required for graduation  
16 from [SUCH] a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.

18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25           Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.

29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

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

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

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

16 \* Sec. 21. AS 08.03.010(b)(11), AS ~~08.08.090~~, 08.08.220 and 08.08.250 are  
17 repealed. *Summit June 30, 1981* *in* *per honorat*

18 \* Sec. 22. Section 3 of Alaska Bar Rule 2 is repealed.

19 \* Sec. 23. AS 08.08.050 as amended by sec. 5 of this Act take effect at  
20 the first election of members of the Board of Governors of the Alaska Bar  
21 after January 1, 1981. The governor shall appoint one member of the board  
22 each year to replace an elected member whose term expires.

23 \* Sec. 24. Sections 1, 2 and 24 of this Act take effect immediately in  
24 accordance with AS 01.10.070(c).

25 \* Sec. 25. Sections 3 - 23 and 25 of this Act take effect January 1,  
26 1981.

*move to delete R. 3, Sec. 7. 3 times out. covered.*

*B. J. ...*

*Committee Markup  
April 28, 1980  
from: MW Berck*

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *AB 984*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar  
7 Association and amending the statutes relating to the  
8 practice of law in the state; amending Alaska Bar Rules  
9 2 and 7; and providing for an effective date."

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

11 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
12 read:

*one year sunset extension*

13 (2) Board of Governors of the Alaska Bar Association  
14 (AS 08.08.040) - June 30, 1981.

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

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
18 Association, referred to in this chapter as the Alaska Bar. The Alaska  
19 Bar shall have a common seal, may sue and be sued, and may, for the  
20 purpose of carrying into effect and promoting the objects of the Alaska  
21 Bar, enter into contracts and acquire, hold, encumber and dispose of  
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar  
24 is subject to statutory requirements imposed on state agencies including  
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -  
26 44.62.320 and AS 44.66.

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

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the  
29 state may become a member of the Alaska Bar.

*motion failed to return to mandatory organization*

By Pop.  
by professions  
Berch

1 \* Sec. 4. AS 08.08.040 is amended to read:

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

5 (b) The board consists of <sup>8</sup> ~~six~~ <sup>carried,</sup> [NINE ACTIVE] members elected by the  
6 [ACTIVE] members of the Alaska Bar and three persons who are appointed  
7 by the governor and who are not attorneys.

8 \* Sec. 5. AS 08.08.050 is amended to read:

9 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) One  
10 member [TWO MEMBERS] <sup>2</sup> of the board shall be elected by and from among the  
11 members of the association resident in the first judicial district; two  
12 [FOUR] <sup>4</sup> members of the board shall be elected by and from among the  
13 members of the association resident in the third judicial district;  
14 one member [TWO MEMBERS] <sup>2</sup> by and from among the members of the associa-  
15 tion resident in the combined area of the second and fourth judicial  
16 districts; and two members [ONE MEMBER] at large from the entire state.  
17 Three members who are not attorneys shall be appointed by the governor  
18 and are subject to confirmation by the legislature in joint session.

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

21 (c) Three board members shall be selected [ELECTED] annually, on  
22 the following triennial rotation: [.]

23 (1) in the first year, one member shall be appointed, one  
24 member shall be elected at large and one member shall be elected [TWO  
25 MEMBERS] from the third judicial district;

26 (2) in the second year, one member shall be appointed, one  
27 member shall be elected from the combined area of the second and fourth  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,] and  
29 one member shall be elected from the first judicial district; and

1 (3) in the third year, one member shall be appointed, one  
2 member shall be elected at large [FROM THE FIRST JUDICIAL DISTRICT, ONE  
3 MEMBER FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS], and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy  
affecting an elected membership position on the board shall be filled  
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the  
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312  
19 apply to the meetings of the board. Members of the Alaska Bar and the  
20 public shall be given 30 days notice of <sup>regular</sup> meetings of the board. Meetings  
21 of the board shall take place in the state.

22 \* Sec. 9. AS 08.08.080 is amended to read:

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

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

28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers.

could only discuss in  
executive - have to  
vote on motions  
in open.

dependent on  
general executive  
power in application  
to cases

other than  
those dealing  
with operation  
Administration  
of the  
Ak Bar  
Exam

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

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

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

8 \* (6) providing for all other matters affecting in any way the  
9 organization and functioning of the Alaska Bar;

10 (7) providing for continuing legal education and certification of  
11 continuing legal education programs;

12 (8) establishing and maintaining a program for the certification  
13 of attorneys as specialists.

14 (b) The board may

15 (1) approve and recommend to the Alaska legislature changes  
16 to this chapter and to the provisions of state law generally;

17 (2) approve and recommend to the state supreme court  
18 rules for promulgation by the court including rules concerning admission,  
discipline, licensing and continuing legal education;

19 (3) adopt reasonable bylaws and regulations consistent with  
20 this chapter and the Alaska Bar Rules;

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

24 (5) fix the annual membership fee for active, inactive,  
25 judicial and honorary members.

26 \* Sec. 10. AS 08.08.085 is amended to read:

27 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
28 Governors shall report annually to the judiciary committees of the  
29 legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

*repealed*  
↑  
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~rescinded~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

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~~Administrative Procedure Act~~ The bylaw and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

*11/11/77*  
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- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
  - (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
  - (3) Giving counsel as to any person's legal rights or obligations;
- or

*Find thanks too broad*

1  
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3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

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14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR  
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16 from [SUCH] a law school will be completed and that a degree will be  
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19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25           Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

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

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

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

16 \* Sec. 21. AS 08.03.010(b)(11), AS 08.08.090, 08.08.220 and 08.08.250 are  
17 repealed.

18 \* Sec. 22. Section 3 of Alaska Bar Rule 2 is repealed.

19 \* Sec. 23. AS 08.08.050 as amended by sec. 5 of this Act takes effect at  
20 the first election of members of the Board of Governors of the Alaska Bar  
21 after January 1, 1981. The governor shall appoint one member of the board  
22 each year to replace an elected member whose term expires.

23 \* Sec. 24. Sections 1, 2 and 24 of this Act take effect immediately in  
24 accordance with AS 01.10.070(c).

25 \* Sec. 25. Sections 3 - 23 and 25 of this Act take effect January 1,  
26 1981.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 26, 1980

SUBJECT: Alaska Bar Association  
(CSHB 984)

TO: Representative Charles H. Parr  
Chairman, House Judiciary Committee

FROM: Richard A. Bradley *B*  
Legislative Counsel

The bill requested is enclosed.

I wish to call your attention to certain provisions of the bill which have been prepared in accordance with your request.

The amendment to AS 08.08.100 has been included as requested. The changes that were made beyond those requested by the committee conform the provisions to present statutory style. AS 08.08.090 was repealed as inconsistent with the amendment to AS 08.08.100.

Note, however, that there are some problems.

The present status may be briefly summarized. AS 08.08.100 provides that the regulations adopted by the board are not subject to the Administrative Procedure Act.

Alaska Bar Rule 62, adopted by the Supreme Court at the request of the board, provides that "bylaws and regulations for the governance of the Alaska Bar" may be adopted by the board "in accordance with this Rule." These provisions may be viewed as generally consistent with one another.

Alaska Bar Rule 62 is a briefly stated procedures section. While it does not contain all the details of the APA, essential due process will be granted to the extent that it is followed.

Representative Charles H. Parr  
Page 2  
May 26, 1980

But the amendment putting the Board of Governors procedure for the adoption of regulations under the APA is inconsistent with Bar Rule 62.

I have added a temporary law section and amended the title to alert the legislature that its amendment to AS 08.08.100 constitutes an amendment to Alaska Supreme Court Bar Rule 62. Acknowledging that effect should also comply with the requirements of Article IV, sec. 15 of the state Constitution as interpreted by the Supreme Court -- that any amendment to court rules be specifically recognized as such by the legislature. Leege v. Martin, 379 P.2d 447 (Alaska 1963).

And finally, we are uncertain whether the legislature may amend rules of court regulating the Bar. This result occurs because the authority of the legislature over rules in Article IV, sec. 15 is limited to "rules of practice and procedure in civil and criminal cases in all courts" [compare Uniform Rule of the Legislature 38(e)] and perhaps to "rules governing the administration of all courts." Whatever the limits of those rules, it is generally agreed that the rules governing the practice of law are not included within their boundaries.

RAB:ljb

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

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RAB:ljb

Enclosure

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 984

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

12 \* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to  
13 read:

14 (2) Board of Governors of the Alaska Bar Association (AS 08.-  
15 08.040) - June 30, 1981.

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

17 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is  
18 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar  
19 Association, referred to in this chapter as the Alaska Bar. The Alaska  
20 Bar shall have a common seal, may sue and be sued, and may, for the  
21 purpose of carrying into effect and promoting the objects of the Alaska  
22 Bar, enter into contracts and acquire, hold, encumber and dispose of  
23 real and personal property.

24 (b) Except as otherwise provided by this chapter, the Alaska Bar  
25 is subject to statutory requirements imposed on state agencies including  
26 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.310,  
27 44.62.312 and AS 44.66.

28 \* Sec. 3. AS 08.08.040 is amended to read:

29 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There

1 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be  
2 elected under bylaws and regulations adopted [PROMULGATED] by the board.

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

6 \* Sec. 4. AS 08.08.050(a) is amended to read:

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

17 \* Sec. 5. AS 08.08.050(b) is amended to read:

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

20 \* Sec. 6. AS 08.08.050(c) is repealed and re-enacted to read:

21 (c) Three board members shall be selected annually, on the fol-  
22 lowing triennial rotation:

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

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

1 from the third judicial district;

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

4 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

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

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

10 \* Sec. 8. AS 08.08 is amended by adding a new section to read:

11 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312  
12 apply to the meetings of the board. Members of the Alaska Bar and the  
13 public shall be given 30 days notice of regular meetings of the board  
14 other than meetings dealing with the administration of the bar examina-  
15 tion. Meetings of the board shall take place in the state.

16 \* Sec. 9. AS 08.08.080 is amended to read:

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

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

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

25 (3) concerning annual and special meetings;

26 (4) concerning the establishment, collection, deposit, in-  
27 vestment, and disbursement of membership and admission fees, penalties,  
28 and all other funds;

29 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL

1 SUBDIVISIONS OF THE ALASKA BAR;]

2 (5) providing for all other matters affecting in any way the  
3 organization and functioning of the Alaska Bar;

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

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

8 (b) The board may

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

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

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

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

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

22 \* Sec. 10. AS 08.08.085 is amended to read:

23 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
24 Governors shall report annually to the judiciary committees of the  
25 legislature on all matters concerning admissions, discipline of members,  
26 and disbarment proceedings, except for those matters defined as con-  
27 fidential by court rule.

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

29 (1) each addition, modification, or repeal of a bylaw or

1 regulation of the Alaska Bar;

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

4 \* Sec. 11. AS 08.08.100 is amended to read:

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

9 \* Sec. 12. AS 08.08 is amended by adding new sections to read:

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

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

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

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

23 (4) preparation or procurement of instruments or other papers  
24 creating, limiting, claiming, granting, terminating, or otherwise se-  
25 curing legal rights; or

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

28 (b) A person who is not an attorney and who does not represent  
29 himself to be an attorney and who for compensation performs an act

1 described in (a) of this section is engaged in the practice of law  
2 unless he performs an act set out in (a)(2) - (5) of this section and  
3 the act is performed as part of the regular conduct of business the  
4 primary purpose of which is other than the performance of an act set out  
5 in (a) of this section and if the act does not consume a majority of the  
6 person's work time.

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

11 (d) The provisions of (b) of this section do not apply to a person  
12 employed by a nonprofit corporation that is engaged in public interest  
13 activities during the course of his employment by the nonprofit cor-  
14 poration. A nonprofit corporation may be represented in court by an  
15 officer or director who is not an attorney, notwithstanding AS 22.20.-  
16 040, on a showing to the court that

17 (1) the corporation cannot afford the expense of hiring an  
18 attorney for the proceeding; and

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

21 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
22 of Governors shall administer the bar examination under the Alaska Bar  
23 Rules.

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

27 (c) The Board of Governors shall contract with persons experienced  
28 in the administration of bar examinations for advice on the preparation  
29 and grading of the portion of the bar examination prepared under the

1 direction of the board.

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

5 \* Sec. 13. AS 08.08.210(c)(3) is amended to read:

6 (3) is employed by or under contract to the legislature and  
7 whose activities would constitute the practice of law under this chapter  
8 [AND UNDER ALASKA BAR RULES], until the results are released of the  
9 third Alaska Bar examination following that person's employment.

10 \* Sec. 14. AS 08.08.210(d) is amended to read:

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

15 \* Sec. 15. AS 08.08.230(a) is amended to read:

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

25 \* Sec. 16. Alaska State Supreme Court Bar Rule 2, Section 1(b), is  
26 amended to read:

27 (b) Be a graduate of a law school which was accredited or approved  
28 by the council of legal education of the American Bar Association or the  
29 Association of American Law Schools when the applicant entered or  
30

1 graduated or submit proof that the law course required for graduation  
2 from such a law school will be completed and that a degree will be  
3 received as a matter of course before the date of examination. An ap-  
4 plicant who has not graduated from a law school accredited under this  
5 section who has been licensed to practice law in one or more jurisdic-  
6 tions in the United States for five years since his admission is eli-  
7 gible to take the bar examination. Graduates of law schools in which  
8 the principles of English common law are taught but which are located  
9 outside the United States and beyond the jurisdiction of the American  
10 Bar Association and the Association of American Law Schools, may qualify  
11 for examination upon proof that the foreign law school from which they  
12 graduated meets the American Bar Association Council of Legal Education  
13 Standards for approval;

14 \* Sec. 17. Alaska State Supreme Court Bar Rule 7, Section 1, is amended  
15 to read:

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

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

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

28 An applicant who is denied an examination permit or who is denied  
29 certification shall allege facts which, if true, would establish an

1 abuse of discretion or improper conduct on the part of the Board, the  
2 Executive Director, the Committee or a master. If the allegation in the  
3 verified statement is [ARE] found to be sufficient by the Board, a  
4 hearing shall be granted. A hearing shall be granted to an applicant  
5 denied certification if his score on the bar examination is within five  
6 points of the passing grade of the bar examination.

7 \* Sec. 18. AS 08.03.010(b)(11), AS 08.08.090, 08.08.210(b), and 08.08.220  
8 are repealed.

9 \* Sec. 19. The provisions of AS 08.08.050 as amended by secs. 4 - 6 of  
10 this Act that relate to the election of the members of the Board of Governors  
11 of the Alaska Bar take effect at the first regular election of members of the  
12 Board of Governors held after January 1, 1981. The term of the member of the  
13 Board of Governors elected at large at the election held during 1980 ter-  
14 minates on the appointment by the governor and qualification of the three  
15 non-attorney members of the Board of Governors under AS 08.08.050(a) as  
16 enacted in sec. 4 of this Act.

17 \* Sec. 20. The governor shall appoint non-attorney members to the Board  
18 of Governors for the following initial terms: one member for a three-year  
19 term; one member for a two-year term; and one member for a one-year term.

20 \* Sec. 21. Section 3 of Alaska Supreme Court Bar Rule 2 is repealed.  
21 Section 7 of Alaska Supreme Court Bar Rule 3 is repealed.

22 \* Sec. 22. Section 16 of this Act amends Alaska Supreme Court Bar Rule 2.  
23 Section 17 of this Act amends Alaska Supreme Court Bar Rule 7.

24 \* Sec. 23. Section 11 of this Act has the effect of changing Alaska  
25 Supreme Court Bar Rule 62 by requiring the Board of Governors of the Alaska  
26 Bar to adopt bylaws and regulations under the Administrative Procedures Act  
27 (AS 44.62) and not under Bar Rule 62.

28 \* Sec. 24. This Act takes effect June 30, 1980.



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Legislative Affairs

FROM: Margaret W. Berck, Staff

DATE: May 22, 1980

-----  
Please provide the Committee with a CS in final version form that incorporates the Committee's amendments as written in the attached mark up. Please advise me of any changes that are made to this CS for drafting and style purposes.

*Copy of bill given to Gorsuch  
this date, May 23, 1980 for fiscal  
note preparation.*

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

2           Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) T  
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to b  
4 elected under bylaws           AND REGULATIONS PROMULGATED by the b

5           (b) The board consists of <sup>eight</sup>~~nine~~ [NINE] ACTIVE members elected b  
6 ACTIVE members of the Alaska Bar and three persons who are appoin  
7 by the governor and who are not attorneys.

\* Sec. 5. AS 08.08.050 is amended to read:

9           Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a)

10           TWO MEMBERS of the board shall be elected by and from among  
11 members of the association resident in the first judicial district;

12           FOUR members of the board shall be elected by and from among the  
13 members of the association resident in the third judicial district;

14           and           TWO MEMBERS by and from among the members of the associ  
15 tion resident in the combined area of the second and fourth judicial  
16 districts .

17           Three members who are not attorneys shall be appointed by the govern  
18 and are subject to confirmation by the legislature in joint session.

19           (b) Members of the Board of Governors shall hold office for th  
20 years and until their successors are elected or appointed and qualif

21           (2) Board members shall be selected [ELECTED] annually,  
22 the following triennial rotation: [.]

23           (1) in the first year, one member shall be appointed , one  
24 member shall be elected from           and <sup>two</sup>~~one~~ members shall be elected [TWO  
25 MEMBERS] from the third judicial district;

26           (2) in the second year, one member shall be appointed, one  
27 member shall be elected from the combined area of the second and four  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]  
29 one member shall be elected from the first judicial district, and  
one member shall be elected from the third judicial district; and

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24 member shall be elected from                   and <sup>two</sup>~~one~~ members shall be elected [TWO  
25 MEMBERS] from the third judicial district;

26           (2) in the second year, one member shall be appointed. one  
27 member shall be elected from the combined area of the second and fourth  
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]  
29 one member shall be elected from the first judicial district, and  
one member shall be elected from the third judicial district; and

1 (3) in the third year, one member shall be appointed,  
2 one member shall be elected

3 FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-  
4 TRICTS , and one member shall be elected from the third judicial dis-  
5 trict.

6 \* Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 3 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska  
8 Bar shall elect their officers annually from the membership of the Board  
9 of Governors.

10 \* Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy  
affecting an elected membership position on the board shall be filled  
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the  
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 \* Sec. 8. AS 08 08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.31  
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20 public shall be given 30 days notice of <sup>regular</sup> meetings of the board. Meetings  
21 of the board shall take place in the state. <sup>other than those</sup> dealing with ~~the~~ executive  
administration of the ALASKA BAR EXAMINATION.

22 \* Sec. 9. AS 08.03.080 is amended to read:

23 Sec. 08.03.080. POWERS OF BOARD. (a) Except as may be otherwise  
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28 (2) providing for employees of the Alaska Bar, the time,  
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

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

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

8 \* (6) providing for all other matters affecting in any way the  
9 organization and functioning of the Alaska Bar;

10 (7) providing for continuing legal education and certification of  
11 continuing legal education programs;

12 (8) establishing and maintaining a program for the certification  
13 of attorneys as specialists.

14 (b) The board may

15 (1) approve and recommend to the Alaska legislature changes  
16 to this chapter and to the provisions of state law generally;

17 (2) approve and recommend to the state supreme court  
18 rules for promulgation by the court including rules concerning admission,  
19 discipline, licensing and continuing legal education;

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

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

25 (5) fix the annual membership fee for active, inactive,  
26 judicial and honorary members.

27 \* Sec. 10. AS 08.08.085 is amended to read:

28 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of  
29 Governors shall report annually to the judiciary committees of the  
30 legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

~~Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)~~

repealed

repealed

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

\* Sec. 11 AS 08.08 is amended by adding new sections to read:

~~Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:~~

- ~~(1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or~~
- ~~(2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or~~
- ~~(3) Giving counsel as to any person's legal rights or obligations;~~

~~or~~

1 \* Sec. 11. AS 08.08 is amended by adding new sections to read:

2       Sec. 08.08.105. THE PRACTICE OF LAW. (a) A person who is an  
3 attorney, or who is not an attorney but who represents himself to be an  
4 attorney, and who performs any of the following acts on behalf of  
5 another person, with or without compensation, is engaged in the prac-  
6 tice of law:

7           (1) appearance in or conduct of litigation or performance of  
8 any act in connection with proceedings, pending or prospective, before  
9 a court of this State unless otherwise provided by court rule; or

10           (2) appearance in or conduct of litigation or performance of  
11 any act in connection with proceedings pending or prospective before  
12 any other body constituted by law to settle controversies; or

13           (3) giving counsel as to any person's legal rights or obli-  
14 gations; or

15           (4) preparation or procurement of instruments or other  
16 papers creating, limiting, claiming, granting, terminating, or other-  
17 wise securing legal rights; or

18           (5) engaging in any act or other practice determined by  
19 the Supreme Court to constitute the practice of law.

20       (b) A person who is not an attorney and who does not represent  
21 himself to be an attorney and who for compensation performs any of the  
22 acts set forth in ~~(2) - (5)~~ of subsection (a) of this section is en-  
23 gaged in the practice of law unless <sup>he performs any of the acts set forth in (2) - (5) of subsection (a) and</sup> such acts are performed as part of  
24 the regular conduct of business the primary purpose of which is other  
25 than the performance of any of the acts set forth in ~~(1) through (5)~~ of  
26 subsection (a) of this section and if such acts do not consume a  
27 majority of the person's work time.

28       (c) The provisions of (b) of this section do not apply to a  
29 person working under the direct supervision of an attorney in the

1 course of that employment, or to a government employee in the course  
2 of his employment. In addition, the provisions of (b) of this section  
3 do not apply to a person employed by a nonprofit corporation that is  
4 engaged in public interest activities during the course of his employ-  
5 ment by such nonprofit corporation. However, notwithstanding AS 22.20.  
6 040, a nonprofit corporation may be represented in court by an officer  
7 or director who is not an attorney upon a showing to the court that  
8 the corporation cannot afford the expense of hiring an attorney for  
9 the action or proceeding and that the officer or director is competent  
10 to represent the nonprofit corporation before the court.  
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2           Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board  
3 of Governors shall administer the bar examination under the Alaska Bar  
4 Rules.

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

8           (c) The Board of Governors shall contract with persons experienced  
9 in the administration of bar examinations for advice on the preparation  
10 or grading of the portion of the bar examination prepared under the  
11 direction of the board.

12           (d) The Board of Governors shall establish and maintain standards  
13 for experience or training of persons who administer the portion of the  
14 bar examination prepared under the direction of the board.

15 \* Sec. 12. AS 08.08.205 is amended to read:

16           Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants  
17 who have not graduated from ~~AN ACCREDITED~~ law school but are other  
18 wise qualified may take the bar examination if they have completed a  
19 clerkship in the manner prescribed by AS 08.08.207.

20 \* Sec. 13. AS 08.08.207(a) is amended to read:

21           (a) Every person who desires subsequently to qualify as a general  
22 applicant for admission to the ~~practice of law~~ ALASKA BAR without  
23 having been graduated from ~~AN APPROVED~~ law school shall register as  
24 a law clerk as provided by this section. He must be a bona fide resi-  
25 dent of the state and shall present satisfactory proof that he has been  
26 granted a bachelor's degree (other than bachelor of laws) by a college  
27 or university offering the degree on the basis of a four-year course  
28 of study and has successfully completed his first year of studies at a law  
29 school.

\* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended ~~either an approved or a nonapproved~~ law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

\* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school ~~whether or not~~ accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

\* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska AND IS AN ACTIVE MEMBER OF THE ALASKA BAR . A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under act to the legislature and  
3 whose activities would constitute the practice of law under this chapter  
4 [AND UNDER ALASKA BAR RULES], until the results are released of the  
5 third Alaska Bar examination following that person's employment.

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

10 \* Sec. 17. AS 08.08.230(a) is amended to read:

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

20 ~~\* Sec. 18. AS 22.05 is amended by adding new sections to read:~~

21 ~~ARTICLE 2. ATTORNEYS.~~

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

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

11 \* Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12 (b) Be a graduate of a law school WHICH WAS ACCREDITED OR AP-  
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATIO  
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED O  
15 GRADUATED or submit proof that the law course required for graduation  
16 from SUCH a law school will be completed and that a degree will be  
17 received as a matter of course before the date of examination.

However, applicants who have not graduated from an accredited law  
school, but who have been licensed to practice law in a jurisdiction in  
the United States as an admitted attorney for five years, consecutive or  
cumulative, are eligible to take the bar examination.

18 Graduates of law schools in which the principles of English common law  
19 are taught but which are located outside the United States and beyond  
20 the jurisdiction of the American Bar Association and the Association of  
21 American Law Schools, may qualify for examination upon proof that the  
22 foreign law school from which they graduated meets the American Bar  
23 Association Council of Legal Education Standards for approval;

24 \* Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25 Section 1. An applicant who has been denied an examination permit  
26 or who has been denied certification to the Supreme Court for admission  
27 to practice shall have the right within thirty days after notice of such  
28 denial to file with the Board a written verified statement of appeal.  
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds  
2 upon which he intends to rely and may:

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

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

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

16 \*Sec. 21. Section 7 of Alaska Bar Rule 3 is repealed.

17 \* Sec. 22. AS 08.03.010(b)(11), ~~AS 08.08.015~~, 08.08.220 ~~and 08.08.254~~ ar  
18 AND  
19 repealed.

20 \* Sec. 23. Section 3 of Alaska Bar Rule 2 is repealed.

21 \* Sec. 24. AS 08.08.050 as amended by sec. 5 of this Act takes effect at  
22 the first election of members of the Board of Governors of the Alaska Bar  
23 after January 1, 1981. The governor shall appoint one member of the board  
24 each year to replace an elected member whose term expires.

25 \* Sec. 25. Sections 1, 2 and 24 of this Act take effect immediately in  
26 accordance with AS 01.10.070(c).

27 \* Sec. 26. Sections 3 - 23 and 25 of this Act take effect January 1,  
28 1981.

