

HB

984

#13

(9)

COMMITTEE REPORT

HOUSE

3/31/80

FURTHER: Review

Date: _____

Mr. Speaker: ✓

The Committee on JUDICIARY has had HB 984

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

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 107 same title
 new title
- and recommends amendments
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

[Signature]

[Signature]

[Signature]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

HB 984 file

HOUSE
JOURNAL SUPPLEMENT

March 13, 1980

Thursday

No. 29

This House Journal Supplement contains all material submitted by committees for Sunset Review.

Guide Licensing and Control Board

Board of Barber Examiners

Board of Hairdressing and Beauty Culture Examiners

Alaska Public Utilities Commission

Board of Registration for Architects, Engineers and Land Surveyors

Real Estate Commission

Board of Public Accountancy

Board of Welding Examiners

Board of Marine Pilots

Board of Electrical Examiners

State Board of Parole

Alaska Bar Association

Collection Agency Board

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Resources Committee has had under consideration for "Sunset" review the Guide Licensing and Control Board pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with statutory requirements a public hearing was held on the review of this board at which testimony was taken from members of the board and of the profession as well as from the administrative agencies dealing with the operation and enforcement of Guide Board functions.

Directed, in part, by the report prepared by the Division of Legislative Audit the Committee took into consideration the factors required to be evaluated under AS 44.66.050(c).

Your Resources Committee thereby makes the following findings:

1. That the licensing of Guides is needed to protect the safety and welfare of the public and to protect the Resources of the State of Alaska.
2. That the licensing function as it applies to guides should be transferred from Occupational Licensing to Public Safety.
3. That the "Transporter Laws" should be repealed as unworkable.
4. That certain other statute changes primarily those listed in the audit report be included in the "Sunset" legislation to be introduced by this committee.
5. That the Guide Licensing and Control Board be continued for one year during which time...
 - a. the Department of Law is requested to perform a complete legal audit of the minutes and records of the Board to determine whether their procedures and actions have been in full compliance with the Alaska Constitution and all applicable statutes.

- b. a legislatively directed study can evaluate and recommend specific statutory changes under which rural residents can enter the guiding profession and receive the maximum benefits from local guiding activities.

Respectfully submitted,

Alvin Osterback

Rep. Alvin Osterback
Co-Chairman
House Resources Committee

Phil (Uncle) ...

...

...

Fred L. Sheroff

Blasius

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Barber Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee generally concurs in the eight findings and recommendations as they appear on pages 9 through 15 of the Performance Review of the Board of Barber Examiners dated March 31, 1979, which is hereby incorporated by reference as though fully set out herein.

However, the Committee feels that compliance with the recommendations of the Division of Legislative Audit would not fully address the problems of the Board of Barber Examiners. The Committee has decided that it would be in the best interests of the people of the state of Alaska to join the Board of Barber Examiners and the Board of Hairdressing and Beauty Culture Examiners into one combined board. The State of Oregon has already done this, and we are looking to their legislation as a possible model for our proposal. The Governor's Committee on Regulatory Reform has come to similar conclusions.

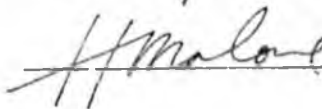
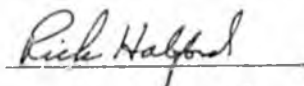
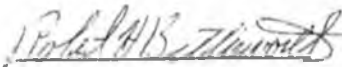
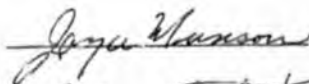
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Barber Examiners in its present form be discontinued, and that its functions be assumed by the new board described above.

A bill will be introduced by the Commerce Committee facilitating the establishment of a new combined board of barbers and hairdressers.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee



The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Hairdressing and Beauty Culture Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

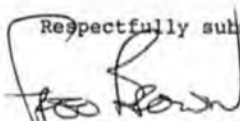
Your Commerce Committee thereby makes the following findings: The Committee generally concurs in the nine findings and recommendations as they appear on pages 10 through 15 of the Performance Review of the Board of Hairdressing and Beauty Culture Examiners dated June 11, 1979, which is hereby incorporated by reference as though fully set out herein.

However, the Committee feels that compliance with the recommendations of the Division of Legislative Audit would not fully address the problems of the Board of Hairdressing and Beauty Culture Examiners. The Committee has decided that it would be in the best interests of the people of the state of Alaska to join the Board of Hairdressing and Beauty Culture Examiners and the Board of Barber Examiners into one combined board. The State of Oregon has already done this, and we are looking to their legislation as a possible model for our proposal. The Governor's Committee on Regulatory Reform has come to similar conclusions.

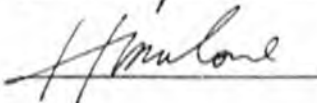
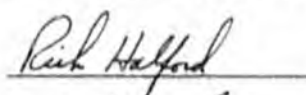
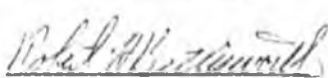
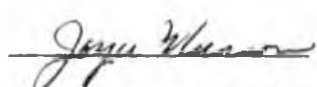
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Hair-dressing and Beauty Culture Examiners in its present form be discontinued, and that its functions be assumed by the new board described above.

A bill will be introduced by the Commerce Committee facilitating the establishment of a new combined board of barbers and hairdressers.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee



MINORITY REPORT CONCERNING SUNSET REVIEW OF
THE BOARDS OF
HAIRDRESSING AND BEAUTY CULTURE EXAMINERS
AND
BARBER EXAMINERS

The majority report concerning the disposition of the Board of Hairdressing and Beauty Culture Examiners and the Board of Barber Examiners proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding these Boards. These boards, like all others which are granted monopoly status by the state, do a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue these boards and their attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the hairdressing profession in unnecessary red tape, regulation of our lives, and the squandering of tax dollars.

A far more proper course of action would be the transfer of as many of these duties and responsibilities as possible to the hairdressers and the public, and away from the bureaucracy. Were persons involved in the hairdressing profession allowed to form multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any hairdresser practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Alaska Public Utilities Commission, pursuant to your referral under AS 44.66.010 and AS 44.66.050.

In accordance with the statutory requirements, a public hearing was held on the review of this commission. The hearing extended over a period of three days, during January 21, 22, 23, 1980 and included over eighteen hours of hearings and deliberations by the Committee. During that time, testimony was heard from the Deputy Commissioner of the Department of Commerce and Economic Development representing the Commissioner (in accordance with the statute), from two members of the Commission, including its Chairman and from interested individuals and from representatives of the private sector affected by the regulatory scheme, representing all aspects of Alaskan utilities. Extensive use was made of the legislative teleconferencing network, which allowed the participation by witnesses and observers at all sites covered by the teleconferencing network.

The Committee considered the proposed budget of the Alaska Public Utilities Commission for FY 1981, and particularly examined the Performance Review of the activities of the commission prepared by the Legislative Audit Division, dated August 1, 1979, which is hereby incorporated by reference as though fully set out herein. Representatives of the Legislative Audit Division were present at all hearings and participated in the considerations with the Committee and followed up inquiries that had begun during the audit.

Guided in part by the report prepared by the Legislative Audit Division, the Committee took into consideration the factors required under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings:

The Committee finds some merit in recommendation number one which recommends that the Alaska Public Utilities Commission, the Alaska Transportation Commission and the Alaska Pipeline Commission should be combined into a single regulatory commission. However, this will require considerable further study. The Committee finds it is not in the public's interest to do so at this time.

In recommendation number two, the Legislative Audit Division recommends that AS 42.05 should be amended to allow the Alaska Public Utilities Commission to cease all certification and regulation of cable television. The Committee does not concur. Cable systems in Alaska, particularly in the remote areas, do not serve a mere entertainment function. Cable television in some areas of Alaska is the only source of information and entertainment. It is felt that regulation should continue in these areas. In urban areas, where alternative forms of entertainment and information are available, the Committee agrees that certification and regulation may not be necessary. Recent legislation passed in the state of California provides a formula that the Committee believes will, with modification, provide for deregulation of the cable systems in major urban areas of Alaska while providing regulatory protection for Alaska's rural population.

Recommendation number three asks that AS 42.05 should be amended to allow the Alaska Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash and other waste materials. In both the Legislative Audit Report and the public hearing, the reason most often heard for this deregulation was that "We don't have the staff to do this." An assertion is made in the Performance Review that the refuse industry is not capital intensive and that competition in this industry would not be as detrimental to the public's interest as competition among more capital intensive industries.

However, it has also been argued to the Committee that there should be some limited activity by the Alaska Public Utilities Commission in this area. Contentions have been made in favor of the Commission having appellate authority over local government units which may assume the regulatory function; and it has also been argued that the APUC be allowed to have jurisdiction "by consent," when a municipality and a utility have both agreed to that jurisdiction. While the Committee tends to agree with the recommendations of the Legislative Auditor about deregulation in this area it will consider these arguments about very limited jurisdiction during the preparation of the Committee's legislation.

Recommendation number four asks that AS 42.05 be amended to allow nonprofit telephone and electric cooperatives to petition for withdrawal from APUC economic regulation. It further recommends that the membership of the cooperatives, by a vote of a majority of the members, be given an opportunity on a utility by utility basis to determine whether their cooperative should remain under APUC regulation. The Committee finds several problems in considering deregulation of the cooperatives. One, as pointed out by the Performance Review, is the large number of consumer complaints received by the APUC against cooperatives. The second, which was brought out in public hearing, is that the annual meetings of the cooperative associations have a less than representative number of members present. Before the Committee can consider deregulation of the utilities by vote of the membership, the Committee would have to be assured that the vote in fact represented a majority of the actual members as opposed to a majority of the members present at any given annual meeting, or that similar safeguards are provided.

With this modification, the Committee's legislation will reflect this recommendation.

The Committee in general concurs with recommendation number five that asks that AS 42.05 be amended to exempt from economic regulation all utilities with annual gross revenues not exceeding \$100,000. We agree with the Legislative Audit Division that the cost of regulation "on a percentage basis" to a small utility may outweigh the potential benefits. However, when considering regulation of a utility we must look not only to the cost factor but also to the factors of public safety that are involved. Many of these small utilities provide vital needs to communities, for instance, water utilities. The Committee while including deregulation for these utilities in its legislation, will attempt to include some triggering device that would submit the utility to regulation if serious consideration of public health and safety should warrant such action.

The Committee concurs with recommendation number six that the statutes and regulations governing the Alaska Public Utilities Commission should be revised, and will work with the Commission to accomplish this.

The Committee concurs with recommendation number seven that salary levels for the professional and technical support staff should be upgraded. If salaries are not competitive with private industry in Alaska, we cannot expect qualified personnel to work for the APUC on an extended basis. The Commission will only become a training ground for industry (it's close to this now).

The Committee concurs with recommendation number eight that the APUC should implement a time management system. We were informed during the public hearing that new concepts are being implemented by the Executive Director and the situation is improving. If this is accomplished within a reasonable length of time, no legislative action will be necessary.

Recommendations number nine, ten, and eleven address "housekeeping" functions of the APUC. It is our understanding, as a result of testimony by the Alaska Public Utilities Commission, that action is being taken on these recommendations. If this action proceeds in a timely manner, it is felt that no legislative action will be necessary in this area.

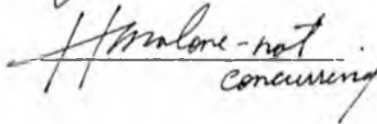
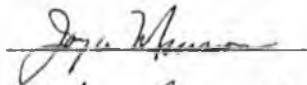
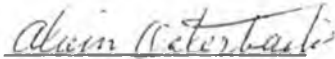
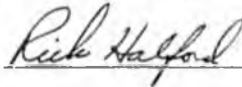
Recommendation number twelve urges that the Office of the Governor keep the appointment of the Chairman of the Alaska Public Utilities Commission current. Complaints that the Office of the Governor has been slow in making appointments to boards and commissions have appeared often in the Performance Reviews. It is hoped that the Governor's Office will make timely appointments to boards and commissions in the future.

Corresponding legislation will be introduced soon to accomplish the goals of this report.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee



Although I concur with the Committee's recommendations, I would have preferred that the Committee further address the "informal" and off-the-record complaints about the APUC raised by several persons in private communications to members of the Committee. Something is seriously wrong with the regulatory scheme when members of the public do not feel free to express their views on the APUC at a public meeting, for fear of sanctions by the Commission against the utilities with which they are affiliated. I don't know whether those fears are well-founded, but they certainly are widespread.


Rep. Robert Bettisworth

MINORITY REPORT CONCERNING SUNSET REVIEW OF
ALASKA PUBLIC UTILITIES COMMISSION

The majority report concerning the disposition of the Alaska Public Utilities Commission proposes a continued course of action which promotes the inefficient provision of utility services to consumers due to government interference in the market system. This interference further allows the opportunity for subjective determinations by politically appointed bureaucrats.

Furthermore, the existence of the politically oriented APUC gives consumers a false sense of protection from the claimed shortcomings of the free enterprise system. In fact, the APUC eliminates competition in the field of utilities and thereby insures that the incentive for technological advance, which might benefit consumers, will never occur. By governmentally setting rates on the basis of utility investments and expenditures, the APUC allows inefficient utilities to continue operating at a profit even though they don't deserve one.

Since utilities are used by most Alaskans, the placement of commissioners on the APUC has become politically strategic. This has caused these "god like" positions to become even more powerful than those politicians who appointed them.

In short, the APUC should be systematically dismantled, and the businesses which it rules should be deregulated. It is hard to imagine the justification for continuing a commission which claims to have the "public interest" as its objective, and yet has a difficult time defining the "public interest" when asked its meaning. The ingenuity of the American consumer would manage to find ways, through a competitive economy, to insure that they received utilities services far superior to those presently provided under the "benevolent" misallocation of resources insured by a dictatorial regulatory commission.

As an example of the political weight which these types of commissions are able to exert, it should be noted that the majority report apparently is unwilling to positively address two of the major problems under the current commission mode of operation. Great savings could be achieved by combining the APUC, ATC and APC, but of course this would also eliminate a number of commissioners' positions, and so is not politically practical. In theory, the staff of the APUC should be totally independent of the commissioners so that the research it provides would be based on objectivity rather than politics. No provisions to insure this separation have been implemented. This leaves the commissioners with much more freedom to make subjective decisions and back them up after the fact with directed justification. This practice is evidenced by the replacement of executive directors three times within the last year since that position was made partially exempt. As has been the case so far with Sunset legislation, the individual consumer becomes the loser.



Richard L. Randolph

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Couch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Registration for Architects, Engineers and Land Surveyors pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Commerce Committee concurs in part in the findings made by the Division of Legislative Audit in considering the factors required for consideration under AS 44.66.050(c), as they appear on pages 9 through 14 of the Performance Review of the Board of Registration for Architects, Engineers and Land Surveyors prepared by the Division of Legislative Audit, dated May 11, 1979 which is hereby incorporated by reference as though fully set out herein.

In brief, we do not concur in recommendation number one that the board have lay representation. We feel the public is adequately represented by having three separate professions on the board, although some adjustment of membership allocation may be necessary.

We concur in recommendation number two that the board should revise its procedures for the Alaska portion of the land surveying examination, and concur in recommendation number three that the board should continue its efforts to make the statutes and regulations more relevant and workable.

We do not concur in recommendation number four requiring continuing education for architects, engineers and land surveyors, although the board should take such action as it can to encourage voluntary continuing education. With so many different professions included under this board, it would be too unwieldy for the board to promulgate specific regulations as to continuing education for each profession, particularly considering the current workload of the board. The marketplace will also assure professionalism in this area: in these highly technical and ever-changing fields, ongoing education is necessary for the economic survival of the architect, engineer or land surveyor.

We concur in recommendation number five that the board should develop reports and procedures that will enable the legislative and executive branches to evaluate its performance.

We concur in recommendation number six that the Division of Occupational Licensing should collect, record and maintain for five-year periods files and statistics of licensing and testing applicants and related workload of the licensing examiner.

We concur in recommendation number seven that the Division of Occupational Licensing should handle investigations in a more comprehensive and timely manner. We feel very strongly about this and have received testimony that the lack of speedy investigations has hampered all of the boards which we have had under "Sunset" review.

Therefore, pursuant to AS 44.66.050(d) the Committee on Commerce of the Alaska State House of Representatives offers the following summary and recommendations:

The Board of Registration for Architects, Engineers and Land Surveyors addresses a real need in protecting public safety and property rights. The nature of the professions involved is highly advanced and complex, and members of the lay public cannot easily judge basic competence in these fields. Therefore, we do not think it appropriate to eliminate this board.

We have found that this board has engaged to some degree in "turf protecting," that is limiting the entrance of applicants into at least one of these fields.

Specifically, we believe the experience (as an equivalent to formal education and experience) required to take the land surveyor's examination, set by the board at 12 years, is too long. We believe there should be a statutory requirement of eight years' experience with three years experience in charge of the work, and that other similar and related requirements should be addressed by statute, not regulation. We believe the net effect of limiting entry into the surveying field will increase costs and slow down the transfer of public lands to private ownership, at a time when the Legislature has specifically provided for transfer of land interests for various private uses.

We further find that the requirement for inclusion of a photograph with the application for licensure is unnecessary and could be used to discriminate against certain persons because of race, sex, etc. The board should remove this requirement.

Furthermore, it is the belief of this committee that a separate Alaska examination is not necessary for surveyors licensed in another state which has licensing requirements equivalent to those of the State of Alaska, and which has a "public lands" history similar to Alaska's. We feel these surveyors should be licensed by simple endorsement. In the engineering field, we believe that more specialties should be recognized. For instance, Alaska has a particular interest in the licensing of competent and professional petroleum engineers.

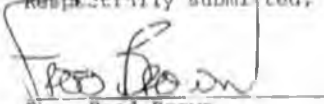
Statutory changes are needed to provide for licensing by endorsement for those engineering specialties for which the State of Alaska has no exams.

Therefore, the Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and offers several further recommendations.

The Commerce Committee recommends that with the changes stated in this report the Board of Registration for Architects, Engineers and Land Surveyors continue for another four years, that is, that the repealer with regard to the activities of that board be amended to read 1984.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,


Rep. Fred Brown
Chairman
House Commerce Committee

H. Malone

Rep. Hugh Malone
Subcommittee Co-Chairman
Board of Architects, Engineers
and Land Surveyors "Sunset"
Review

Rich Halgedal

Alvin Peterbakk

Paul W. Hutchinson

Joye Munson


MINORITY REPORT CONCERNING SUNSET REVIEW OF
BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND LAND
SURVEYORS

The majority report concerning the disposition of the Board of Registration for Architects, Engineers and Land Surveyors proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Registration for Architects, Engineers and Land Surveyors. This board, like all others which are granted monopoly status by the state, does a disservice to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the engineering professions in unnecessary red tape, regulation of our lives, and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the architects, engineers and land surveyors, and the public, and away from the bureaucracy. Were persons involved in these professions allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any architect, engineer or land surveyor practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner
Speaker of the house
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Real Estate Commission pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this commission, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the commission testified in person or by teleconference. The Committee considered the proposed budget of the commission for FY 1981 and particularly examined the performance audit of the activities of the commission conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs only in recommendation number two and does not concur in recommendations one, three, four, and five as they appear on pages 10 through 13 of the Performance Review of the Real Estate Commission dated May 7, 1979, which is hereby incorporated by reference as though fully set out herein.

The Committee has found that the Real Estate Commission, has been hampered in the performance of its functions by lack of investigative support provided by the Division of Occupational Licensing. We agree with testimony provided by members of the commission that the commission could do a better job if it had its own investigator or auditor, or both. Therefore, legislation will be introduced which will remove the Real Estate Commission from the umbrella of the Division of Occupational Licensing (except for minor and administrative support) allowing the commission a separate budget, including at least one full-time investigator or auditor. The Committee believes that minimum requirements for licensing of real estate brokers and real estate salesmen should be set by statute.

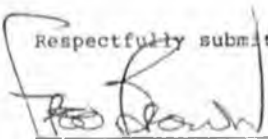
The Committee will also include in its legislation assignment to the Real Estate Commission of responsibility for determining monetary settlements from the Real Estate Surety Board. This latter recommendation is the same as recommendation number two in the Performance Review of the Real Estate Commission conducted by the Division of Legislative Audit.

The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Real Estate Commission be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982.

We have recommended a two-year extension to allow review by the Legislature of this new structure before the unning of a full four-year "Sunset" term.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee

Rep. Robert Bettisworth

Rep. Robert Bettisworth
Subcommittee Chairman
Real Estate Commission
"Sunset" Review

Joyce Whelan

Chairman (Bettisworth)

Rep. Paul Hoff

Rick Halford

H. Malone

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Public Accountancy pursuant to your referral under AS 44.66.950 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by R. W. Pavitt and Associates, Inc. and Homan-McDowell Associates under contract to the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in the eight findings and recommendations as they appear on pages 7 through 15 of the Performance Review of the Board of Public Accountancy dated October 1, 1979 which is hereby incorporated by reference as though fully set out herein.

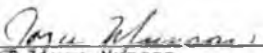
The Committee further recommends that the board use its powers in the granting of licenses, in acceptance of experience in the public and private sectors, and in cases involving reciprocity in a more judicious and even-handed manner.

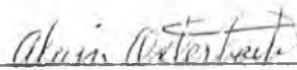
The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Public Accountancy be continued for another four years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1984.

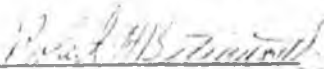
A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

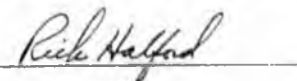
Respectfully submitted,

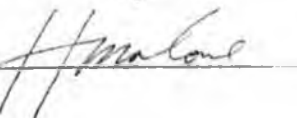

Rep. Fred Brown
Chairman
House Commerce Committee


Rep. Joyce Munson
Subcommittee Chairman
Board of Public Accountancy
"Sunset" Review


Alvin Osterback


Paul H. B. Stewart


Rick Halford


H. Malone

MINORITY REPORT CONCERNING SUNSET REVIEW OF
BOARD OF PUBLIC ACCOUNTANCY

The majority report concerning the disposition of the Board of Public Accountancy proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Public Accountancy. This board, like all others which are granted monopoly status by the state, does a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the accounting profession in unnecessary red tape, regulation of our lives and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the accountants and the public, and away from the bureaucracy. Were persons involved in the accounting profession allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any accountants practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.



Richard L. Randolph

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Welding Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

In considering the findings and recommendations of the Division of Legislative Audit as they appear on pages 8 through 15 of the Performance Review of the Board of Welding Examiners dated June 8, 1979, which is hereby incorporated by reference as though fully set out herein, the Committee makes the following recommendations:

The Committee finds that it would be in the best interests of the people of the state of Alaska for the board to be continued and disagrees with Legislative Audit recommendation number 1 which recommends that State licensing of welding personnel be discontinued.

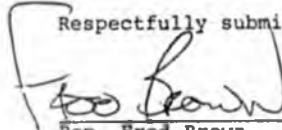
In general, we concur with findings 2 through 6. It appears that the Board of Welding Examiners will address these problems adequately through regulatory change. If it proceeds to do so, it will not be necessary for the Committee to address these problems by statute.

The Committee feels that it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes

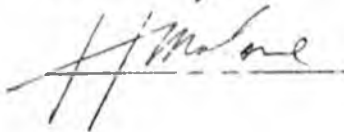
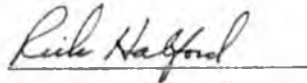
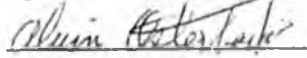
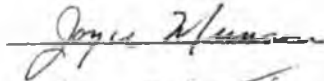
stated in this report the Board of Welding Examiners be continued for another four years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1984.

A bill will be introduced by the Commerce Committee to implement the recommendations in this report.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee



MINORITY REPORT CONCERNING SUNSET REVIEW OF
BOARD OF WELDING EXAMINERS

The majority report concerning the disposition of the Board of Welding Examiners proposes a course of action which in my opinion, substantially violates the intent of the Sunset legislation. The Legislature and the majority of Alaskans embraced the concept of Sunset Legislation as a vehicle to reduce governmental interference in our lives, not to further concentrate and accentuate it. Unfortunately, the latter would be the result of the implementation of the proposal put forth in the majority report of the House Commerce Committee.

I do not concur in the House Commerce Committee recommendations regarding the Board of Welding Examiners. This board, like all others which are granted monopoly status by the state, does a dis-service to consumers by reducing supply of services, restricting competition, raising costs and providing only the illusion of protection.

Government regulation continues to cost the public far in excess of the benefits received. This whole function can far more reasonably be handled to the degree necessary and desired by the profession and their consumers. To continue this board and its attending regulatory schemes is to make a mockery of the intent of Sunset review. The recommendations of the Committee continue to involve the welders profession in unnecessary red tape, regulation of our lives and the squandering of tax dollars.

A far more proper course of action would be the transfer of these duties and responsibilities to the welders and the public, and away from the bureaucracy. Were persons involved in the welding profession allowed to form a multiplicity of voluntary associations which set their own standards as to admittance and consumer insurance, consumers could choose the level of service that they would demand in this area of commerce. There should be no restraints against any welders practicing their profession in Alaska. However, those practicing a particular profession should continue to be civilly liable for negligent or intentional torts and breach of contract committed during the course of their activities.


Richard L. Rand, ph

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

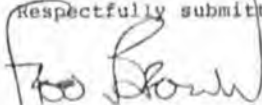
Your House Commerce Committee has had under consideration for "Sunset" review the Board of Marine Pilots pursuant to your referral under AS 44.66.050 and AS 08.03.010.


In accordance with the statutory requirements, a public hearing was held on the review of this board, members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

Guided, in part, by the report prepared by the Legislative Audit Division the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

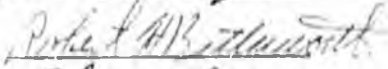
Your Commerce Committee recommends that the Board of Marine Pilots be terminated. We have found evidence of extreme "turf protecting" with this board.

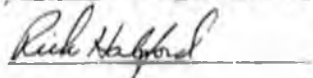
A bill will be introduced by the Commerce Committee to implement the recommendations in this report.

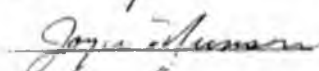
Respectfully submitted,

Rep. Fred Brown
Chairman
House Commerce Committee

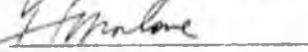

Rep. Alvin Osterback
Subcommittee Chairman
Board of Marine Pilots "Sunset"
Review











The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Electrical Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in some and disagrees with others of the nine findings and recommendations as they appear on pages 9 through 14 of the Performance Review of the Board of Electrical Examiners dated May 2, 1979 which is hereby incorporated by reference as though fully set out herein.

As will be seen, the Committee agrees that the auditors have found serious problems with the current activities of the Board of Electrical Examiners, and some of those problems still were in existence at the time of our hearings and at the time that the Division of Legislative Audit provided us with a limited follow-up review of the board to determine the present status of the findings and recommendations of the earlier audit. That follow-up review was dated February 6, 1980.

However, while we agree with many of the criticisms of the ongoing functioning of the present Board of Electrical Examiners, we do not concur with the auditor that the Board of Electrical Examiners should be allowed to terminate.

It appears that the auditors may have confused the role played by each of the several parties doing electrical work from the design table to wiring in the field. The qualifications needed for electrical design are those addressed, for instance, by the State Board of Registration for Architects, Engineers, and Land Surveyors when they grant a certificate to a professional engineer endorsed with a specialty in electrical engineering. Similarly, the Board of Electrical Examiners should function to license an electrical administrator who is a contractor who should be competent beyond the level of a lineman, and able to deal easily and fully with the designer on the one hand and the electrician on the other. The electrician, who is issued a certificate of fitness by the Department of Labor, is required to know how to do "hands-on" work in accordance with minimum electrical standards established by statute.

The auditor listed as allegedly adequate to protect the public's health, safety, and welfare, and economic well-being, the State laws governing electrical safety under the Department of Labor (AS 18.60.580-660); laws requiring certificate of fitness issued by Department of Labor (AS 18.62); State laws governing construction contractors (AS 08.18); and inspection by State and local agencies. However, the State laws governing electrical safety largely deal with the inspection function and it is clear that an electrical administrator who is not adequately supervising a job could cause various violations that could be dangerous to life safety, but which could never be found by a State inspector without tearing the walls out of a finished building. All the State inspector can see are the portions of the electrical system that are exposed or easily available without destruction. Also, the unfortunate reality is that the State inspection program is very inadequate.

Of course, the requirement of a certificate of fitness addresses the competence of electricians who do the "hands-on" work. The role of the electrical administrator is a different one, as noted above.

The State laws about construction contractors provide little help to the public's health or safety or economic well being, in that those contractors are only required to post certain bonds. Collecting on a performance bond in a lawsuit after the loss of life resulting from incompetent actions by an electrical contractor is certainly not enough of a remedy or a protection of the general public. The other provisions in the laws on construction contracting require electrical contractors to have electrical administrators. Of course, doing away with the board would render this requirement meaningless.

Inspections by State and local agencies are few and far between, particularly with regard to private buildings. Also, inspections should not be solely relied upon for the reasons indicated above relating to the electrical safety laws administered by the Department of Labor.

However, having concluded that the Board of Electrical Examiners should not be terminated and that it should continue to license electrical administrators, the Committee has found that it is necessary to provide the board with a short extension and continuing audit monitoring, because it has not been responsive enough to criticisms by the Division of Legislative Audit, particularly even after a period of many months following the original audit report, as can be seen from the follow-up report of February 6, 1980.

For instance, in following up its recommendation number three, relating to a requirement for more uniformity and consistency in the enforcement of current laws by the board, the Legislative Auditor found that even since August, 1979, six of the seventeen electrical administrators who were licensed did not have a certificate of fitness required by present regulations. Also, in following up its recommendation number four regarding the establishment of uniform procedures for examinations, the auditor found some improvement on the conduct of the examination, but found that grading the examination still has the incredible inconsistencies noted in the original audit report.

For instance, as to this last recommendation, the February 6, 1980 report from the auditor notes that "some applicants are passed and others are failed, even though the same questions are missed." (Page two.)

Additionally, while the auditor notes that the problems on review and regrading examinations have been partially corrected, the reasons for changing a grade are still not stated, nor are there indications of follow-up to determine impact on all examinees. The auditor notes that this is directly in violation of a new regulation promulgated by the board on May 25, 1979. Other audit recommendations are yet to be discussed, but it can already be seen that the board has a long way to go to correct the problems originally indicated in the audit.

For these reasons, the Committee is of the view that the Board of Electrical Examiners should be extended for only another two years, rather than the usual four years anticipated by the Sunset legislation, and that the Legislative Budget and Audit Committee should be asked to request the Division of Legislative Audit to perform a more thorough follow-up review of the Board of Electrical Examiners for the intervening year before full Sunset review again occurs in 1982.

Other recommendations urged certain statutory changes (recommendation number two, five, six, and seven).

Briefly, the Committee wishes to address some of these statutory recommendations, but cautiously.

The auditors recommended (number two) that legislation exempt "communications electricians" from the electrical administrator's statutes. The board disagreed, and provided some graphic examples of life-threatening occurrences in the installation of home communications equipment (particularly MDS and cable television services). However, the Committee finds that it is very difficult to easily delineate what areas ought and ought not to be exempted, although some justification for exemption in certain areas seems appropriate.

To the extent possible, the Committee will attempt to provide language in its proposed legislation that will exempt some "communications electricians" from the requirements of the chapter, but which still can address some of the concerns of the board in this area. This will not be easy.

The Committee accepts part of the auditor's recommendation number five which urges statutory changes to allow licensure by endorsement or reciprocity. However, the Committee will attempt to include in its legislation provisions that may still allow the board to require examination of an outside electrical contractor who is fully qualified in his state, but only as to those areas of knowledge and skill required for work in the unique Alaskan environment and that specially relate to the usages of the trade in Alaska.

Pursuant to recommendation number six, the Committee will include in its legislation provisions requiring the board to establish continuing competency requirements for electrical administrators, which may be met by proof of attendance at relevant functions of the applicable trade association, approved on a case by case basis by the board. The board has agreed with recommendation number seven, to add public members to the board, and has suggested legislation along those lines: Such provisions will be included in the Committee's legislation.

The Committee feels that the current examination given by the board does not really meet the role indicated for an electrical administrator: That he be a competent interface between the design electrical engineer on the one hand, and the "hands on" properly certificated electrician on the other. The examination seems geared toward making sure that he understands what his electricians are doing, but not necessarily what the designer had in mind.

Admittedly, this criticism would not apply to much work done in the state of Alaska. For relatively small buildings, or relatively conventional office or public buildings, the experienced electrician who has seen many jobs might well be able to function. But in dealing with any specialized or unusual area of design, an electrical administrator whose qualifications tilt closer to that of the electrician may have some difficulty in carrying out the work under these circumstances. Therefore, the Committee is of the view that AS 08.40.120 should have additional requirements for the examination that will assure that the electrical administrator can better serve his role as an interface between the engineer and the electrician.

It appears from the testimony prepared by the Department of Commerce and Economic Development, from the oral testimony by experienced electrical contractors before the Committee and from the board's own proposed legislation, that there has been a serious problem of "borrowing" and "renting" of an electrical administrator's license. It is clear that the original statutory scheme intended that an electrical administrator would supervise a job at the job site. In the very least, if the job site is a remote one, it should not be closed off (or concealed by other steps of construction) before the electrical administrator who is so charged has actually personally inspected the work. Of course, it is far better practice if he be present to supervise all the work.

The Committee will propose statutory language to accomplish this end which may go beyond that proposed by the board in this area.

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Electrical Examiners be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982, and that an interim one-year performance audit of the board be requested of the Legislative Audit Division through the Legislative Budget and Audit Committee, so that the Legislature can monitor the response of this board to the problems raised in this report.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee

H. Malone
 Rep. Hugh Malone
 Subcommittee Chairman
 Board of Electrical
 Examiners "Sunset"
 Review

John Munn

Alvin Kosterlachs

Robert A. B. Stewart

Rich Halford

The Honorable Terry Gardiner
 Speaker of the House
 Alaska State Legislature
 Pouch V
 Juneau, Alaska 99811

Dear Mr. Speaker:

Your House Commerce Committee has had under consideration for "Sunset" review the Board of Electrical Examiners pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of this board, at which written testimony of the Commissioner of the Department of Commerce and Economic Development was received and representatives of the Division of Occupational Licensing of that Department were available for questioning by the Committee. Members of the board testified in person or by teleconference. The Committee considered the proposed budget of the board for FY 1981 and particularly examined the performance audit of the activities of the board conducted by the Division of Legislative Audit.

Guided, in part, by this performance review the Committee took into consideration the factors required to be considered under AS 44.66.050(c).

Your Commerce Committee thereby makes the following findings: The Committee concurs in some and disagrees with others of the nine findings and recommendations as they appear on pages 9 through 14 of the Performance Review of the Board of Electrical Examiners dated May 2, 1979 which is hereby incorporated by reference as though fully set out herein.

As will be seen, the Committee agrees that the auditors have found serious problems with the current activities of the Board of Electrical Examiners, and some of those problems still were in existence at the time of our hearings and at the time that the Division of Legislative Audit provided us with a limited follow-up review of the board to determine the present status of the findings and recommendations of the earlier audit. That follow-up review was dated February 6, 1980.

However, while we agree with many of the criticisms of the ongoing functioning of the present Board of Electrical Examiners, we do not concur with the auditor that the Board of Electrical Examiners should be allowed to terminate.

It appears that the auditors may have confused the role played by each of the several parties doing electrical work from the design table to wiring in the field. The qualifications needed for electrical design are those addressed, for instance, by the State Board of Registration for Architects, Engineers, and Land Surveyors when they grant a certificate to a professional engineer endorsed with a specialty in electrical engineering. Similarly, the Board of Electrical Examiners should function to license an electrical administrator who is a contractor who should be competent beyond the level of a lineman, and able to deal easily and fully with the designer on the one hand and the electrician on the other. The electrician, who is issued a certificate of fitness by the Department of Labor, is required to know how to do "hands-on" work in accordance with minimum electrical standards established by statute.

The auditor listed as allegedly adequate to protect the public's health, safety, and welfare, and economic well-being, the State laws governing electrical safety under the Department of Labor (AS 18.60.580-660); laws requiring certificate of fitness issued by Department of Labor (AS 18.62); State laws governing construction contractors (AS 08.18); and inspection by State and local agencies. However, the State laws governing electrical safety largely deal with the inspection function and it is clear that an electrical administrator who is not adequately supervising a job could cause various violations that could be dangerous to life safety, but which could never be found by a State inspector without tearing the walls out of a finished building. All the State inspector can see are the portions of the electrical system that are exposed or easily available without destruction. Also, the unfortunate reality is that the State inspection program is very inadequate.

Of course, the requirement of a certificate of fitness addresses the competence of electricians who do the "hands-on" work. The role of the electrical administrator is a different one, as noted above.

The State laws about construction contractors provide little help to the public's health or safety or economic well being, in that those contractors are only required to post certain bonds. Collecting on a performance bond in a lawsuit after the loss of life resulting from incompetent actions by an electrical contractor is certainly not enough of a remedy or a protection of the general public. The other provisions in the laws on construction contracting require electrical contractors to have electrical administrators. Of course, doing away with the board would render this requirement meaningless.

Inspections by State and local agencies are few and far between, particularly with regard to private buildings. Also, inspections should not be solely relied upon for the reasons indicated above relating to the electrical safety laws administered by the Department of Labor.

However, having concluded that the Board of Electrical Examiners should not be terminated and that it should continue to license electrical administrators, the Committee has found that it is necessary to provide the board with a short extension and continuing audit monitoring, because it has not been responsive enough to criticisms by the Division of Legislative Audit, particularly even after a period of many months following the original audit report, as can be seen from the follow-up report of February 6, 1980.

For instance, in following up its recommendation number three, relating to a requirement for more uniformity and consistency in the enforcement of current laws by the board, the Legislative Auditor found that even since August, 1979, six of the seventeen electrical administrators who were licensed did not have a certificate of fitness required by present regulations. Also, in following up its recommendation number four regarding the establishment of uniform procedures for examinations, the auditor found some improvement on the conduct of the examination, but found that grading the examination still has the incredible inconsistencies noted in the original audit report.

For instance, as to this last recommendation, the February 6, 1980 report from the auditor notes that "some applicants are passed and others are failed, even though the same questions are missed." (Page two.)

Additionally, while the auditor notes that the problems on review and regrading examinations have been partially corrected, the reasons for changing a grade are still not stated, nor are there indications of follow-up to determine impact on all examinees. The auditor notes that this is directly in violation of a new regulation promulgated by the board on May 25, 1979. Other audit recommendations are yet to be discussed, but it can already be seen that the board has a long way to go to correct the problems originally indicated in the audit.

For these reasons, the Committee is of the view that the Board of Electrical Examiners should be extended for only another two years, rather than the usual four years anticipated by the Sunset legislation, and that the Legislative Budget and Audit Committee should be asked to request the Division of Legislative Audit to perform a more thorough follow-up review of the Board of Electrical Examiners for the intervening year before full Sunset review again occurs in 1982.

Other recommendations urged certain statutory changes (recommendation number two, five, six, and seven).

Briefly, the Committee wishes to address some of these statutory recommendations, but cautiously.

The auditors recommended (number two) that legislation exempt "communications electricians" from the electrical administrator's statutes. The board disagreed, and provided some graphic examples of life-threatening occurrences in the installation of home communications equipment (particularly MDS and cable television services). However, the Committee finds that it is very difficult to easily delineate what areas ought and ought not to be exempted, although some justification for exemption in certain areas seems appropriate.

To the extent possible, the Committee will attempt to provide language in its proposed legislation that will exempt some "communications electricians" from the requirements of the chapter, but which still can address some of the concerns of the board in this area. This will not be easy.

The Committee accepts part of the auditor's recommendation number five which urges statutory changes to allow licensure by endorsement or reciprocity. However, the Committee will attempt to include in its legislation provisions that may still allow the board to require examination of an outside electrical contractor who is fully qualified in his state, but only as to those areas of knowledge and skill required for work in the unique Alaskan environment and that specially relate to the usages of the trade in Alaska.

Pursuant to recommendation number six, the Committee will include in its legislation provisions requiring the board to establish continuing competency requirements for electrical administrators, which may be met by proof of attendance at relevant functions of the applicable trade association, approved on a case by case basis by the board. The board has agreed with recommendation number seven, to add public members to the board, and has suggested legislation along those lines. Such provisions will be included in the Committee's legislation.

The Committee feels that the current examination given by the board does not really meet the role indicated for an electrical administrator: That he be a competent interface between the design electrical engineer on the one hand, and the "hands on" properly certificated electrician on the other. The examination seems geared toward making sure that he understands what his electricians are doing, but not necessarily what the designer had in mind.

Admittedly, this criticism would not apply to much work done in the state of Alaska. For relatively small buildings, or relatively conventional office or public buildings, the experienced electrician who has seen many jobs might well be able to function. But in dealing with any specialized or unusual area of design, an electrical administrator whose qualifications tilt closer to that of the electrician may have some difficulty in carrying out the work under these circumstances. Therefore, the Committee is of the view that AS 08.40.120 should have additional requirements for the examination that will assure that the electrical administrator can better serve his role as an interface between the engineer and the electrician.

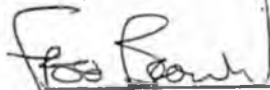
It appears from the testimony prepared by the Department of Commerce and Economic Development, from the oral testimony by experienced electrical contractors before the Committee and from the board's own proposed legislation, that there has been a serious problem of "borrowing" and "renting" of an electrical administrator's license. It is clear that the original statutory scheme intended that an electrical administrator would supervise a job at the job site. In the very least, if the job site is a remote one, it should not be closed off (or concealed by other steps of construction) before the electrical administrator who is so charged has actually personally inspected the work. Of course, it is far better practice if he be present to supervise all the work.

The Committee will propose statutory language to accomplish this end which may go beyond that proposed by the board in this area.

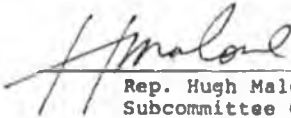
The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that with the changes stated in this report the Board of Electrical Examiners be continued for another two years, that is, that the repealer with regard to the activities of the board be amended to read June 30, 1982, and that an interim one-year performance audit of the board be requested of the Legislative Audit Division through the Legislative Budget and Audit Committee, so that the Legislature can monitor the response of this board to the problems raised in this report.

A bill will be introduced by the Commerce Committee facilitating the changes and recommendations in this report.

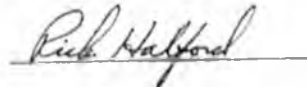
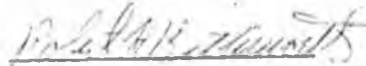
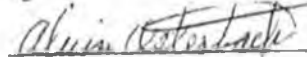
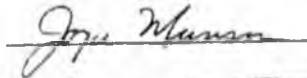
Respectfully submitted,



Rep. Fred Brown
Chairman
House Commerce Committee



Rep. Hugh Malone
Subcommittee Chairman
Board of Electrical
Examiners "Sunset"
Review



The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Mr. Speaker:

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the Alaska Bar Association. By letter of July 31, 1979, the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

The Alaska Bar Association has taken the position "that it is not a State agency, and that it is not subject to the Sunset review process." The Association refused the Legislative Auditor access to some of its records; therefore, no performance audit has been conducted.

On November 7, 1979 the Committee requested information on 87 points; by letter of January 30, 1980 and a 71-page booklet, The Alaska Bar Association, February 1980, the Association answered completely 73 of the 87 points. Another 13 points were addressed by the Alaska Bar Association, but were not answered completely because of stated lack of adequate or feasibly retrievable information. On one point, a request for a copy of the card index on discipline, the Alaska Bar Association refused to reply, stating that it could not release this confidential information to the House Judiciary Committee.

In addition to receiving testimony during in camera hearings, the Committee held 2 hearings to receive public testimony in Juneau. Also, 2 teleconference hearings were held to obtain testimony from Anchorage, Fairbanks, Kodiak, Valdez, Ketchikan, Slicka and Nome. Written testimony was received from 6 persons and the Kenai Peninsula Bar Association. Oral testimony was received from about 15 persons. Witnesses included the president, president-elect, two former presidents, and three members of the present Board of Governors of the Association; the Ombudsman, and a number of attorneys.

The Alaska Supreme Court has delegated to the Association the responsibility for admissions and discipline, and by statute the Association may propose court rules or rule changes. All attorneys practicing in Alaska are required to be members of the Association, and to pay dues (now \$180.00 per year). Statutory authority is AS 08.08.010 - 250, commonly called the Integrated Bar Act, and some members of the Bar seem to feel that authority also resides in the inherent power of the Alaska Supreme Court.

The Committee found that the Association is conducting a number of worthwhile activities. Unfortunately, it is not clear that most of these are benefiting the general public, as opposed to Association members. (If, as it claims, the Association is not a State agency, it would be under no obligation to benefit the general public.)

In some ways one of the most disturbing revelations was the extent to which attorneys form a closed corporation. The Association comprises all attorneys in the State, only its members may practice law, it is in charge of admissions to the Bar and of discipline of its members, it nominates the three attorneys who sit on the Judicial Council, which in turn sends judgeship nominees to the Governor, judges must themselves be attorneys, and the Association furnishes nine members of the Board of Directors of Alaska Legal Services Corporation. Only in the disciplinary hearing and attorney fee review committees is there any lay presence. There seems to be at

present no provision for the exercise of supervisory responsibility by the elected representatives of the people. The position of the Court System on the Alaska Bar Association sunset is included as an appendix to this report.

The Committee received more complaints and more testimony on the subject of Bar examinations than on any other subject related to the Alaska Bar Association. A major defect in the administration of the Alaska examination is that it is prepared and graded by persons who, while skilled attorneys, are amateurs in testing. Professionalism is needed in both the preparation and grading of the examination to ensure that the examination will score persons only on relevant factors. The training of the preparers and graders should be financed by the income derived each year from the administration of the bar examination (about \$16,000 anticipated in 1980, not including the costs of any litigation which may arise from the examination).

There appears to be no discrimination against women in the Alaska Bar Association. Alaska has one of the highest percentages of women lawyers in the United States and, specifically, the highest percentage of women on its Board of Governors. In fact, the president of the Alaska Bar Association is a woman.

Although no apparent preference for non-minorities is shown, there is a disparity in the numbers of minorities versus non-minorities in the Alaska Bar Association. Ethnic minorities are poorly represented in the Alaska Bar Association. Present membership from these ethnic groups is as follows:

Alaska Native	5
Black	4
Asian-American	2
Hispanic	1

To the best of our knowledge, 12 Native people have been admitted to the Alaska Bar since Statehood. The only reliable statistics available are those reflecting current membership. Because the problem of low representation of minorities in the Alaska Bar Association has not been addressed adequately in the past, reasons for this situation cannot be determined at this time.

The Judiciary Committee recognizes that the percentage of minorities failing the Alaska bar examination, compared with the percentage of non-minority persons failing, is disproportionately high. The Committee believes that this disparity may be caused in part by cultural factors.

The Committee does not believe that the Alaska Bar Association intends to discriminate against minorities. The Committee commends the Board of Governors' Legal Educational Opportunities Committee for its work in gathering statistics regarding minorities in the Alaska Bar Association. The Committee urges the Board of Governors to

continue this work so that accurate minority pass rates may be established.

The Committee urges the Board of Governors to develop a program which will speak to the statistics reflecting minority representation in the Alaska Bar Association and the apparently low percentage of minority and non-minority individuals who pass the bar examination.

The Committee urges the Board of Governors to be aware of the disparity in minority participation in the bar and to direct its Committee of Bar Examiners to continually scrutinize the preparation and grading of the examination for possible cultural biases.

The Committee urges the Board of Governors to look into establishing some other criteria for evaluating an individual's competency to practice law in the State.

When, after completion of testimony, the Committee began its deliberations, the diversity of opinion was clearly evident. Apparently no one believed that the Alaska Bar Association should be extended for the maximum four years. Some members wanted to treat attorneys like other professionals, with a board to handle admissions and discipline; others preferred to make the Supreme Court directly responsible for those functions; and a third group preferred a short extension together with appropriate statute changes. The last viewpoint was finally adopted.

Findings required by AS 44.66.050(4) follow:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

Finding: The Alaska Bar Association is intended to address the need for admission and discipline of attorneys in the State.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding: The objectives are to upgrade the Bar in terms of education, competence, and

professionalism of its members, and to perform some services for the general public.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding: There are no other programs having similar or conflicting objectives.

(4) an assessment of alternative methods of achieving the purposes of the program;

Finding: The responsibilities could be turned over to the Supreme Court or to a professional board in the Division of Occupational Licensing. The Committee has considered these alternatives but believes that they are not feasible at this time.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level,

Finding: The Association could not be eliminated unless some other agency were responsible for the functions.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts;

Finding: The extension of the Association for one year will permit time for a more thorough review and there is no duplication of other efforts.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest;

Finding: Information which would improve the performance of the Association is included in

other portions of this report or in legislation to be introduced by the House Judiciary Committee.

The House Judiciary Committee finds that:

- (1) The Alaska Bar Association should be extended until June 30, 1981.
- (2) Statutory changes are needed in the public interest. The Committee will propose a bill incorporating these changes.

Charles H. Parr

Charles H. Parr, Chairman

Nels A. Anderson, Jr.

Nels A. Anderson, Jr.

Ramona L. Barnes

Ramona L. Barnes

Fred E. Brown

Fred E. Brown

Thelma Buchholdt

Thelma Buchholdt

Hugh Malone

Hugh Malone

Terry Martin

Terry Martin

Patrick M. O'Connell

Patrick M. O'Connell

Rand Phillips

Rand Phillips

SUPPLEMENT

Representative Charles H. Parr
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:


You have asked that I comment on behalf of the Court System concerning the sunset legislation of the Alaska Bar Association currently pending before your committee.

I have conferred with the Supreme Court with regard to your request and they asked me to comment as follows.

The Court strongly supports continued existence of the Alaska Bar Association as an integrated bar. The Court further suggests that the Bar Association and the Legislative Budget Committee reach a reasonable accommodation of the current dispute.

The Court has not given me brief to comment further on the subject. I hope these comments will help the committee.

Cordially,



Arthur H. Snowden, II
Administrative Director


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

March 11, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Mr. Speaker:

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the State Board of Parole.

By letter of July 31, the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

Committee staff conducted the necessary research. Also available to the Committee were the Executive Summary, Alaska Corrections Master Plan, 1979, and A Performance Review of the Alaska State Board of Parole, Division of Legislative Audit, May 9, 1979.

In addition to receiving testimony during interim hearings, the Committee held three hearings in Juneau. Also, two teleconference hearings were held to receive testimony from Anchorage, Fairbanks, Ketchikan, Dillingham, Kenai, Nome and Bethel.

A total of about 35 witnesses testified, including the Director, Division of Corrections; the present Chairman, a former Chairman, and the Executive Director of the Board. One other member of the Board attended a hearing but did not testify.

Art. III, Sec. 21, of the Alaska Constitution requires that "a parole system shall be provided by law". The Committee received an opinion from the Legislative Affairs Agency to the effect that the Constitution does not mandate a parole board. One option which was considered would have done away with the Parole Board and had the sentencing judge retain jurisdiction over the parolee. Once this option was rejected, the choices narrowed to a parole board in some form.

Testimony indicated that the workload of the present Board is heavy. The Chairman estimated that the average member spends 60 days a year on Board duties. The Committee considered the possibility of a full-time, paid board, but rejected it. (The new criminal code which prohibits parole for those convicted of second and succeeding felonies may result in a reduced workload after a few years.)

Also considered was the possibility of establishing a second board and dividing the work between the two. Prisoner reclassification and transfer could, however, result in both boards being involved with the same parolee or potential parolee. This seems undesirable.

Testimony indicates that Parole Board members may rely too heavily on "gut reactions" in deciding whether or not to grant parole. Although no human being can be perfectly objective, and a completely mechanical system would probably be unacceptable, there is need for a proper balance. The Board has recognized this need and is considering objective criteria which have shown a high correlation with successful parole.

A matter of concern to the Committee was the recidivism rate among parolees. Although only about 4% were re-incarcerated because they committed a new felony, about 20% went back to prison for technical violations (violating conditions set by the Board at the time parole was granted). Examples of such conditions are (1) that the prisoner have an assigned job as part of his parole plan, which may be impossible in a village situation, and (2) that the parolee not associate with other felons, although these may be in some cases his only friends or close acquaintances. In effect, about a fourth of all parolees are returned to prison, a disturbing statistic in view of the present and expected overcrowding in Alaska's correctional institutions. The Judiciary Committee, therefore, spent a significant amount of time considering the parole conditions now being set.

Findings required by AS 44.66.050(d) follow:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

Finding: There is a need to avoid unnecessary incarceration.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding: The Parole Board is intended to provide for mitigation of sentence while simultaneously protecting the general public.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding: There are no similar or conflicting programs.

(4) an assessment of alternative methods of achieving the purposes of the program;

Finding: The program could be handled by the judicial branch but this would remove the element of judgment by one's peers.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

Finding: The program is constitutional and cannot be eliminated. Funding it at a lower level would make it very ineffective.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

Finding: The program is necessary and no other agency performs similar functions.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

Finding: Other information will be contained in legislation to be introduced or in other portions of this report.

The Judiciary Committee finds that:

- (1) The Alaska State Board of Parole is necessary and should be continued.
- (2) Statutory changes are needed to improve the functioning of the Board. The Committee will propose a bill incorporating these changes.
- (3) The chances that parole will be successful, from the standpoints of both society and the parolee, are to some extent dependent on the prisoner's willingness and ability to change while in prison. Educational, alcohol treatment, psychiatric counseling and work programs are generally unavailable or inadequate. The Judiciary Commit-

tee recommends approval of additional funds and personnel spaces for the Division of Corrections for programs which can be shown to reduce recidivism.

Charles H. Parr

Charles H. Parr, Chairman

Nels A. Anderson, Jr.

Nels A. Anderson, Jr.

Ramona L. Barnes

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Fred E. Brown

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Randy Phillips

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The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Fouch V
Juneau, Alaska 99811

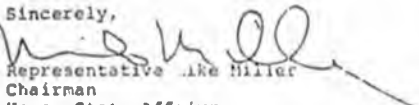
Dear Mr. Speaker:

The House State Affairs Committee has had under consideration for "Sunset" review the Collection Agency Board under AS 24.20.271 and AS 44.66.050.

A public hearing was held on the review of the board, at which testimony of the Director of the Division of Occupational Licensing was received. Additional testimony was received from the public in person and by teleconference. The Committee particularly examined the performance audit of the activities of the board prepared by the Legislative Audit Division.

The State Affairs Committee finds itself in agreement with the Legislative Audit Division and recommends that the Collection Agency Board not be reinstated. The committee further recommends that legislation be introduced to transfer the duties of the Collection Agency Board to the Division of Occupational Licensing.

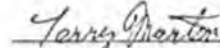
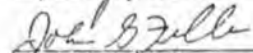
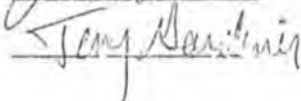
Sincerely,


Representative Mike Miller
Chairman
House State Affairs

Members:





Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

POUCH V
JUNEAU, ALASKA 99811

June 2, 1980



Senate

CHAIRMAN
SENATE JUDICIARY COMMITTEE
IMMEDIATE PAST CHAIRMAN
WESTERN CONFERENCE - COUNCIL OF
STATE GOVERNMENTS

VICE CHAIRMAN
SENATE RULES COMMITTEE

MEMBER
SENATE STATE AFFAIRS COMMITTEE
SENATE COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

The Honorable Terry Gardiner,
Speaker of the House
Alaska State House of Representatives
Room 210 Capitol Building
Juneau, Alaska

Dear Mr. Speaker:

The House is doing strange and wonderful things to an honorable profession - that is the State Bar.

Members in the House should be advised that Article IV, Section 8 of the Constitution provides that three attorney members of the Judicial Council must be members of the organized state bar.

The way things are going it appears as if the organized bar will no doubt soon be unorganized and thus you are efficaciously killing the Judicial Council; this means of course, that without a constitutional amendment, you are guaranteeing that no judicial vacancies can be filled after the current attorney members on the Council are disqualified by virtue of the fact they are no longer members of the organized state bar.

I make no comment about the wisdom or desirability of actions the House has taken to date, but I felt this grave constitutional question should be called to your attention.

Regards,

A handwritten signature in dark ink, appearing to read "Ziegler".

Robert H. Ziegler, Sr.

RHZ:lk

cc: Representative Parr
Representative Anderson
Representative Brown
Representative Buchholdt
Representative Malone
Representative Barnes
Representative Martin
Representative O'Connell
Representative Phillips

Bar Assoc

total budget	\$ 525,000
income from fees	200,000
	<hr/>
	\$ 335,000

assuming no Bar dues increase from
\$180/annum will need \$335,000

obviously, if Bar dues increase,
approved at June Convention,
then funding requirements will
decrease.



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.

UPDATED
MAY 21, 1980

April 28, 1980
from: H.W. Lunde

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS for 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 Rule
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~~ ^{shall} 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 ^{eight}~~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 the first judicial district, and ^{two}~~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 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska
8 Bar shall elect their officers annually from the membership of the Boa
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 ^{regular} meetings of the board. Meetin
21 of the board shall take place in the state. ^{other than those}
^{dealing with the executive}
^{administration of the}
^{ALASKA BAR EXAMINATION}

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

23 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwis
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.

Power of the bar to ^{repealed} 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), (3), (4), (5)~~ 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

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
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~~ 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 chap
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 B
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 BOT

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 annu~~
23 ~~fee for a license to engage in the active practice of law in the stat~~
24 ~~is \$25. The annual fee for inactive practice is \$10. and the annual f~~
25 ~~for members of the judiciary is \$20. Fees are payable to the clerk o~~
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.~~

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

(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.

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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.

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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; -

* Sec. 20. Section 1 of Alaska Bar Rule 7 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

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 08.08.091~~, 08.08.220 ~~and 08.08.224~~ a
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 a
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.

Copies members
HB 984

LA32 3627 16.04 JAO1 0075 16.04 05/16/80

P O M

TO: CHARLES PARR AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE
FROM: TRED EYERLY
PO BOX 248
BETHEL, ALASKA 99559 PHONE: 543-2237

RE: HB 984, CONCERNING CONTINUING THE EXISTENCE OF THE ALASKA BAR ASSOC.
AND AMENDING CERTAIN STATUTES AND BAR RULES

I HAVE READ HB 984 AND HAVE SPOKEN WITH PEGGY BURKE ABOUT ITS PROVISIONS.
I AM THEREFORE FAMILIAR WITH THE BILL.

I STRONGLY FAVOR PASSAGE OF SECTION 19 OF HB 984, WHICH WOULD AMEND ALASKA
BAR RULE 2 AND ELIMINATE THE REQUIREMENT THAT ONE GRADUATE FROM AN ABA
ACCREDITED LAW SCHOOL BEFORE BEING ALLOWED TO SIT FOR THE ALASKA BAR EXAM-
INATION. I AM CURRENTLY PRACTICING LAW FOR ALASKA LEGAL SERVICES UNDER A
WAIVER GRANTED BY ALASKA BAR RULE 43. I GRADUATED FROM SAN FRANCISCO LAW
SCHOOL, WHICH HAS BEEN ACCREDITED BY THE STATE BAR OF CALIF. SINCE 1934.
(INCIDENTALLY, FORMER CHIEF JUSTICE BUELL NESBEH IS A GRADUATE OF MY SCHOOL)
I HAVE PASSED THE CALIFORNIA BAR EXAM AND AM ADMITTED TO PRACTICE THERE.
HOWEVER, THE BOARD OF GOVERNORS OF THE ALASKA BAR ASSOCIATION HAS DENIED ME
PERMISSION TO TAKE THE ALASKA BAR EXAM BECAUSE OF ALASKA BAR RULE 2. I FEEL
THAT THIS IS UNFAIR BECAUSE, AS MY SUPERVISORS AT ALASKA LEGAL SERVICES WOULD
AGREE, I HAVE SHOWN MY COMPETENCE TO PRACTICE LAW IN ALASKA.

THEREFORE, I URGE PASSAGE OF THIS PROTION OF HB 984 WHICH WOULD GIVE APPLI-
CANTS WITH CIRCUMSTANCES SUCH AS MINE THE OPPORTUNITY TO TAKE THE ALASKA
BAR EXAM.

THANK YOU.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

February 21, 1980

TO: Members of the House Judiciary Committee
FROM: Charles H. Parr, Chairman
SUBJECT: Options for Bar Association Sunset Review

It appears to me that there are a number of options for the Committee in dealing with the Sunset Review of the Bar Association. I have listed these very sketchily and hope that they may serve as a framework for our discussions.

- 1 - Continue the existing situation in which the Supreme Court has final authority and delegates to the Bar Association the responsibility for admissions, discipline, and rule proposal.
- 2 - Same as No. 1 above except that no State funds will be made available to the Bar Association and it would be made clear to the Supreme Court that such funds should not be included in its budget.
- 3 - De-integrate the Bar Association, which would then become purely a private organization. Make the Supreme Court directly responsible for admissions and discipline.
- 4 - Establish a Board of Legal Practice similar to the existing boards for other professions. Make this board responsible for admissions and discipline. Under this option the Bar Association would be a private organization and would carry out any other functions it might choose.
- 5 - Do away with mandatory membership in the Bar Association, leaving other things as they are.

*Fred - 6 - Extension for short time
As with other professions, with
responsibility
transfer to the board*

CHP:vc

Peggy please call

Debbie Coon

SRC Box 8338

Palmer, AK 99645

April 29, 1980

House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir,

I was referred to you from
Governor Jay Hammond, to express
my complaints against the Alaska
Bar Association.

Therefore, I have enclosed
a formal complaint, my husband has
filed against the Bar Association.

There are alot of problems
that related to his filing this
complaint.

And if you are really
serving the Bar Association

ALASKA BAR ASSOCIATION
REQUEST FOR INVESTIGATION

REQUEST FOR INVESTIGATION OF ALASKA BAR ASSOCIATION
BAR BOARD OF GOVERNORS
A Member of the State Bar of Alaska
TO THE ALASKA BAR ASSOCIATION:

I, George L. Coon
(Type, or print your full name)

complain about the above named ^{ASSOCIATION} attorney and state that he or she:

1. Maintains his or her address at
300 K STREET SUITE 105
P.O. Box 279 Anchorage, Alaska 99510
(Street and Number, City, village, town, zip code)

Alaska, Telephone No. 214 1469 OR 272 7466

2. Has committed acts of misconduct as set forth in the statement below.

I, therefore, request that such misconduct be investigated by the State Bar Counsel.

DATE: MARCH 12, 1980

SIGNATURE: George Coon

ADDRESS: SRC Box 8338 Palmer, AK 99645

TELEPHONE: 745 4520

INSTRUCTIONS:

- Please type or hand letter all information except signature.
- Under "Statement" state all circumstances as to the conduct of the attorney, in chronological order. Attach additional sheets if necessary.
- Specify exactly what the attorney did which you believe to have been misconduct.
- Please return original of this form and attachment to: Alaska Bar Association, Box 279, Anchorage, Alaska 99510
- An additional copy should be retained by person signing this form.
- All proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential at all levels of the proceedings, and members of the bar participating in those proceedings are required to keep them confidential; provided, that upon the filing of the record in the Court, the record shall be considered public information, except in cases involving allegations of disability. ABR II-31, §1.

STATEMENT

The ALASKA BAR ASSOCIATION doesn't fully investigate legitimate complaints.

Some ATTORNEYS never respond to the complaints against them. Refuse to properly enforce discipline, which causes suffer to many people due to many ATTORNEYS incompetence.

Allowing yourselves to become a laughing joke to the public and causing loss of respect of laws.

In general the ALASKA BAR ASSOCIATION is a big cover up to please the public.

Now if you want to fully investigate this complaint, all ALASKA BAR ASSOCIATION members would resign to better this ASSOCIATION.

P.S. Sending copies of this complaint to all legislators.

ALASKA BAR ASSOCIATION
REQUEST FOR INVESTIGATION

REQUEST FOR INVESTIGATION of ALASKA BAR ASSOCIATION
Bar Board of Counselors
A Member of the State Bar of Alaska
TO THE ALASKA BAR ASSOCIATION:

I, George L. Conn
(Type, or print your full name)

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ALASKA BAR ASSOCIATION
BOX 279
ANCHORAGE, ALASKA 99510
272-7469

Peggy please call

Debbie Coon
SRC Box 8338
Palmer, Ak. 99645
April 29, 1980

House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir,

I was referred to you from Governor Jay Hammond, to express my complaints against the Alaska Bar Association.

Therefore, I have enclosed a formal complaint, my husband has filed against the bar association.

There are alot of problems that related to his filing this complaint.

And if you are really examining the bar association

and want more comments you
can reach me at (907) 745-4520
or come see both my husband
and I, as we own and operate
Chickatoon General Store & Service
mile 76 Glenn Highway.

I myself was born and
raised here in Alaska, and am
totally disgusted with the corruption
I've witnessed so far, not only
with the bar association, but also
the racket with Alaska attorneys.

We'd give our comments
gladly. Something has to be done!

Sincerely

Debbie Coon

SRC Box 8338

Palmer, Ak. 99645

745-4520

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ALASKA BAR ASSOCIATION

BOX 279

ANCHORAGE, ALASKA 99510

272-7469

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JAMES GAY
ROBERT G. MOCH
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BRIAN L. COMSTOCK
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LAW OFFICES

ROBERTS, SHEFELMAN & LAWRENCE, GAY & MOCH
18 4 BUILDING
SEATTLE, WASHINGTON 98101
TEL. (206) 622-1818
SUITE 302
2600 DENALI STREET
ANCHORAGE, ALASKA 99503
TEL. (907) 276-1338

JOHN E. HAVELOCK • •

JAMES P. WETER (1877-1991)
F. M. ROBERTS (1880-1973)
JAMES C. HARPER (RETIRED)

April 8, 1985

The Honorable Charles H. Parr
Chairman, House Judiciary Committee
Pouch "V"
Juneau, AK 99811

Dear Charlie:

I fooled around with your House Bill No. 984 and have the following suggestions:

FIRST: With respect to the composition of the board: raise the size to ten, give the president power to vote only to break ties (as is in fact the practice now), leave the regional representation of the board as is, knock out the two at large members. Have one public member appointed by the Governor, one by the chief justice, and one by the ombudsman.

SECOND: With respect to the definition of the practice of law, regardless of whether you buy my (perhaps) radical approach to alternative licensing, your draftsmen might still use the bifurcated approach to the definition, distinguishing between those activities which are practice of law, paid or not, and those which are practice of law only when for a fee.

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(1) an attorney licensed to practice in this state;

(2) an employee of the other person;

(3) an employee of an attorney or of any branch of state government acting within the scope of his employment;

(4) engaged in a fiduciary occupation as determined by the Commissioner of Commerce, licensed by the state and his conduct or advice is within the scope of the fiduciary role of the occupation as defined by the licensing authority; or

(5) a legal technician.

(b) The Commissioner of Commerce may, by regulation, establish categories of legal, technical specialty, skill, set standards of education and administer examinations to test the proficiency of a person wishing to practice as a legal technician. The Commissioner shall establish a license fee schedule for legal technician reflecting the costs of processing an application and administering an exam. The Commissioner may establish a bonding requirement and may establish standards by specialty for good conduct by a legal technician and establish a procedure for revocation of the license of a person who does not meet a standard.

The Honorable Charles H. Parr
April 8, 1980
Page Three

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LASTLY: With respect to proposed AS 22.05.180, the new licensing provision, I would add at line 26, "The Commissioner of Commerce shall be regulation change the fees charged under this section not less frequently than annually to reflect changes in the national price index."

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copy members packets

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

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ANCHORAGE
WILLIAM B. ROZELL
PRESIDENT ELECT
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P.O. BOX 279
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RANDALL P. BURNS, EXECUTIVE DIRECTOR
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DONNA C. WILLARD



March 5, 1980

Honorable Charles Parr
Chairman
House Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Alaska Bar Association
Sunset Review

Dear Chairman Parr,

Patrick Anderson, vice-chairman of the ABA Committee on Legal Educational Opportunities, and I offered testimony to the House Judiciary Committee by teleconference network with regard to the activities of our bar association committee. Since that hearing, our committee has met and asked that I convey the committee's feelings about its work and the related usefulness of the Alaska Bar Association:

1. Our committee has raised money from a private foundation Outside to be used for the association's scholarship program. The money was allocated to the association on the strength of a few phone calls and letters from me on behalf of the bar association. I am convinced that my having the name and authority of the Alaska Bar Association behind me was a determining factor in my successful efforts. I cannot imagine being as persuasive had I been calling on behalf of the "Ad Hoc Committee of Some Alaska Lawyers Dedicated To Giving Scholarships to Alaskans." Nor can I imagine the private bar and local bar associations' contributions as forthcoming without the ABA's support.

2. Our committee has offered to provide an individual review of the bar exam for those candidates who fail the exam. We believe that this assistance will help the unsuccessful candidates understand why they failed and what techniques they can use to be more successful on their next exam.

Honorable Charles Parr
House Judiciary Committee
March 5, 1980
Page 2

3. As a result of our personal experiences with the review of these bar exams, we have concluded that the major cause of failure is the applicants' inability to organize their answers, to discuss the facts of their exam problem in terms of the relevant legal rules and to convey their legal knowledge in writing. This is most distressing when one realizes that these unsuccessful candidates have spent seven years in school, paid for and taken a bar review course and paid to take the exam. We are notifying the Board of Governors of our conclusions and will urge the Board of Governors to advise the organizations administering bar review courses that a greater emphasis be placed on sharpening writing skills and that additional time be allocated to writing practice exams.

4. We are in written contact with the State Bar of California to keep advised of their research with regard to the bar exam and its impact on ethnic minorities. The California research is extremely valuable to our committee's work because 80% of the Alaska bar exam is the same as the California bar exam and because we are benefiting from the California research at no cost to our association, its members or the taxpayers of this state. I believe the State Bar of California is more likely to respond to the requests of another bar association than it would to requests from a private group not within California.

5. The committee is committed to working jointly with the Alaska Federation of Natives, the U. of A. Criminal Justice Center, the Anchorage Native Caucus and the state R.E.A.A.s, to create a series of films designed to interest Alaskan Natives in the practice of law and related occupations.

6. We are developing and maintaining a list of law schools that are affirmatively interested in having minority students.

7. We are developing and maintaining a list of law school scholarships available to Alaska students.

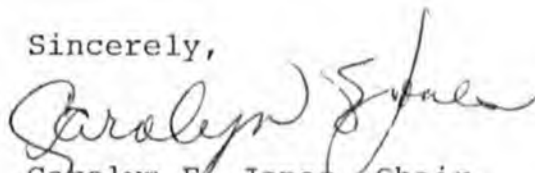
8. The bar association office answers most inquiries about the work this committee does, distributes information to

Honorable Charles Parr
House Judiciary Committee
March 5, 1980
Page 3

the unsuccessful bar candidates about the work of this committee, distributes and collects scholarship applications, deposits and manages the scholarship funds raised by the committee, and provides secretarial assistance to us. As civic-minded as we believe ourselves to be, there is just so much time in each of our lives to take away from our job and our families. Without the bar association, these additional responsibilities would be an intolerable burden on this statewide committee.

In conclusion, I am sure that at some point in our lives each one of our committee members has been annoyed with the Alaska Bar Association. On balance, however, we believe that the Alaska Bar Association has more to offer its members and the people of Alaska by its continued existence than by its demise and we ask for the opportunity to continue our work within the association to change those practices with which we are dissatisfied.

Sincerely,



Carolyn E. Jones, Chair
Alaska Bar Association
Committee on Legal Educational
Opportunities

CEJ:tb

WENDELL P. KAY

6914 Exmoor Drive
Mesa, Az. 85208

March 11, 1980

Dear Charles:

As one of the few lawyers around pre-dating the integrated bar, let me express an opinion on the bill to "sunset" the Bar and go back to a voluntary association. This is a really big step backward.

I practiced briefly in Illinois before integration, and in Alaska. A voluntary association is a pleasant social club run by a few insiders. It is nothing, zero.

I was one of the sponsors of the act integrating the bar in 1955 and there is no comparison. You may not like everything the association does, but it is a working, functioning, democratic group with much participation. Thanks.

Sincerely,
Wendell

COUNSEL
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(c) The Board of Governors shall contract with the University for the preparation or grading of the Alaska law portion of the bar examination.

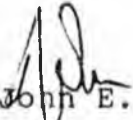
FOURTH: With respect to your amendments to the clerkship section (AS 08.08.207(a)), the quality standards of the program would be seriously undermined if a person could go to (or get a mail order diploma from) any one year fly-by-night law school and then enroll as a clerk here. Further, he should be a bona fide resident of Alaska before he goes out. Accordingly, require that any resident (not person) who desires to qualify shall register prior to his enrolling in the one year of a law school approved by the University.

FIFTH: Let me remind you again that the clerkship program is a dead letter until someone appropriates some money to it. Fifty thousand to the University for this program would see us produce a very active and academically respectable program like the WHAMI medical program, which is the way Alaska ought to go.

LASTLY: With respect to proposed AS 22.05.180, the new licensing provision, I would add at line 26, "The Commissioner of Commerce shall be regulation change the fees charged under this section not less frequently than annually to reflect changes in the national price index."

I hope these comments are of some use to you.

Sincerely yours,


John E. Havelock

file copy

Committee Markup
April 28, 1980
from: MW Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *HB 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 become a member of the Alaska Bar.

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 six [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] 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] 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] 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 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,

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
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

(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:

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 la
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 \$2. 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.

18 * Sec. 22. Section 3 of Alask. 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.