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COMMITTEE REPORT

HOUSE

5/14/81

FURTHER:

(5)

Date: 5-14-81

Mr. Speaker:

The Committee on STATE AFFAIRS has had _____

"An Act relating to housing authorities."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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[Signature]

CHAIRMAN

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST Session

HOUSE BILL NO. 256

By THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

"An Act relating to housing
authorities."

Housing authorities

Introduced in the House 3/4, 1981

HISTORY IN THE HOUSE

1981 Mar. 4	<p>Read first time and referred to Committee on State Affairs and Finance Reported back with recommendation that</p> <p>Read second time and</p> <p>Read third time and</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table> <p style="text-align: center;">Reconsideration</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table> <p>Reported correctly engrossed Signed by Speaker Sent to Senate</p>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	<p>Read first time and referred to Committee on</p> <p>Reported back with recommendation that</p> <p>Read second time and</p> <p>Read third time and</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table> <p style="text-align: center;">Reconsideration</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table> <p>Reported correctly engrossed Signed by President Returned to House</p>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	<p>Received from Senate</p> <p>Concurred in Senate amendment thus adopting: VOTE</p> <p>Failed to concur in Senate amendment; asked Senate to recede VOTE</p> <p>Senate receded from amendment VOTE</p> <p>Senate failed to recede from amendment VOTE</p> <p>CC appointed by House</p> <p>CC appointed by Senate</p> <p>CC adopted by House VOTE</p> <p>CC adopted by Senate VOTE</p> <p>To enrolling Reported correctly enrolled Sent to Governor</p> <p>..... by Governor</p> <p>Filed with Lt. Governor</p> <p>Chapter No.</p>
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TO: Hon. Charles Webber, Commissioner DATE: April 2, 1979
Department of Commerce & Economic
Development

FILE NO. J-66-600-79

TELEPHONE NO.

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Assignment of subor-
dinates to act for
you at meetings of
boards & commissions

By:
Rodger W. Pegues
Assistant Attorney General

You have asked whether you may assign subordinates, for example, the deputy commissioner, to sit in your place and act for you on boards and commissions when you are otherwise engaged.

The short answer is yes.

Under the provisions of AS 44.17.010, the principle executive officer of each department is authorized to delegate functions to subordinates. Your service on any board or commission is ex officio, i.e., by reason of the office you hold, and not personal to you. You may assign this function to a subordinate just as surely as any other.

Ordinarily -- and your department may well have an internal rule or office manual explicitly providing for it -- each deputy commissioner acts for the commissioner when the latter is otherwise engaged. He does not act on his own but rather in the capacity of or in the place of his senior, exercising the latter's powers or authority for him. This means that he signs or acts in the commissioner's name. 63 AM. JUR.2d Public Officers and Employees § 487. In doing so, he possesses all the power and authority of the commissioner. Id., § 486.

RWP/pjg

RECEIVED
APR 2 1979

OFFICE OF THE
COMMISSIONER

HOUSE BILL No.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to housing authorities."

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

*Section 1. AS 18.55.020 is amend to read:

Sec. 18.55.020. ALASKA STATE HOUSING AUTHORITY. (a) There is created within the Department of Commerce and Economic Development the Alaska State Housing Authority consisting of the commissioner of Commerce and Economic Development or his designee and four residents of the state.

(b) The term of office of a board member, other than the commissioner of Commerce and Economic Development is three years. The terms of office are staggered, with two terms expiring every third year beginning with 1968 and one term expiring each remaining year.

*Sec. 2. AS 18.55.288. DEFINITIONS. In § 10-290 of this chapter:

(1) "authority" means the Alaska State Housing Authority;

(2) "public buildings" means a publicly owned structure leased to the state for governmental, public or educational use;

(3) "project site" means area devoted for a housing project;

(4) "commissioner" means the Commissioner of Commerce and Economic Development or the designee of the commissioner of Commerce and Economic Development.

TESTIMONY TO THE HOUSE STATE AFFAIRS COMMITTEE
By: James Crawford, Alaska State Housing Authority
April 22, 1981

My name is Jim Crawford, I am the Deputy Executive Director of the Alaska State Housing Authority (ASHA). The Alaska State Housing Authority is a nonprofit public corporate authority funded through rental project revenues and subsidies from the United States Department of Housing and Urban Development (HUD). ASHA presently manages or owns and manages over 3,000 apartment units throughout the State of Alaska. The corporate authority is governed by a five member Board of Directors appointed by the Governor. The Commissioner of the Department of Commerce and Economic Development is a member of our Board of Directors.

My responsibilities at ASHA include, but are not limited to, arranging for financing through the tax exempt bond market and other methods for new construction activities.

As background to the discussion of HB 256, please let me explain the financial arrangements between ASHA and the State of Alaska prior to the revisions of Title 14 by the 11th Alaska State Legislature. Prior to that time, the Department of Revenue was able to accommodate ASHA's financial requirements with favorable terms and rates. An example of this accommodation is the existing interim financing for ASHA's Cordova and Seward senior projects which amounted to loans totaling \$3,439,000 at 7% for a period not to exceed two years past construction completion. At that time, recognition was given by the Department of Revenue to the differential between tax exempt and nontax exempt market rates. With the passage of SB 315 during the last session which mandated competitive national rates for investments of the Department of Revenue, the ability of ASHA to go to Department of Revenue for interim or long term borrowing was severely restricted.

In further background to the preparation of the legislation under hearing today, please let me explain the audits of ASHA's fiscal year ended March 31, 1980. Because ASHA showed no apparent financial problems, HUD approved ASHA's contract with an independent auditing firm for compliance testing and the normal financial audit of federal and nonfederal programs. ASHA last year contracted with Peat, Marwick, Mitchell & Co. for that audit. No material findings were reported in the audit of ASHA activities either in the federal programs or the nonfederally funded activities. Next, HUD auditors did a performance review, again with much the same result. Finally, Division of Legislative Audit completed a special review and a full performance review of ASHA.

Subsequent to the recommendations contained in the audit report and within our Chairman's response to those recommendations, House Bills 256

through 260 were presented in draft form to the Legislative Budget and Audit Committee. We found the recommendations of the legislative auditors to be encouraging and the bills as redrafted by Legislative Budget and Audit will, if passed by the Legislature, be a positive step toward the greater production of needed senior, family and handicapped housing within the State of Alaska.

HB 256 addresses the duplication of regulation by the Federal Government and the State of Alaska and designates the regulations to follow by funding source. For full technical compliance with the Administrative Procedures Act, ASHA would have to implement all HUD regulations which impact funding of ASHA operated projects. ASHA implementation of federal regulations would be onerously time consumptive and of questionable value. The real problem with ASHA adoption of all federal HUD regulations, however, occurs when HUD changes those regulations, which it does frequently. When a change occurred, ASHA would then have to advertise the change, hold hearings then implement the changes. The additional staff time and expenses are plainly not cost beneficial since we do not have the option of changing those regulations without jeopardizing our funding. The amendment contained in HB 256 to AS 18.55.110 will not result in significant changes in ASHA's day-to-day activities. Our proposed amendment would create a simple and clean dichotomy: federally funded or assisted projects are not subject to the Administrative Procedures Act or Title 36; ASHA's nonfederally assisted projects would still be subject to the State statutory provisions. Implementation of the amendment to AS 18.55.110 will not create or maintain a regulatory vacuum. The Federal Government rarely, if ever, leaves the regulatory stone unturned. For instance, ASHA's low rent projects are governed by the federal regulations in Volume 24, Code of Federal Regulations, program handbooks prepared by the Department of Housing and Urban Development and an Annual Contributions Contract between ASHA and HUD. A review of these documents demonstrates that ASHA's activities are tightly controlled and monitored and that the purposes of the APA have been met by the publication of the federal regulations and amendments thereto in the Federal Register. If ASHA was also required to publish certain low rent regulations in accordance with the APA, the regulations adopted by ASHA could not violate the federal requirements and would, therefore, be a mere reflection of the federal regulations at best.

The application of Title 36 to ASHA's federal projects also involves a duplication of federal and State efforts. ASHA's utilization of federal construction dollars is contingent upon ASHA's compliance with the federal Davis-Bacon Act. The Davis-Bacon Act sets minimum wages for mechanics and laborers. Title 36 is known as "the little Davis-Bacon Act" because of its parallel purpose to the federal act. Again, the amendments proposed to AS 18.55.110 would create a clear dichotomy based on funding source: the Davis-Bacon Act would apply to projects utilizing federal funds and Title 36 would apply to projects using only State funds.

In summary, ASHA's proposed amendments to AS 18.55.110 will reduce State and federal duplication and prevent a raise in ASHA and the State of Alaska's administrative expenses. Any ASHA monies thus saved enhance the construction, maintenance and management of our projects.

HB 256 also addresses the terms under which ASHA may sell bonds and notes. With the previously explained altered relationship with the State Department of Revenue and the resultant limitation on ASHA's ability to arrange interim funding through the Department of Revenue, ASHA is now in a position of going to the private market either through the tax exempt note market or to individual financial institutions for interim financing on new federal projects. Our existing enabling legislation does not address the sale of project notes although the practice has occurred previously. The amendments to AS 18.55.140 et al. clearly indicate ASHA's ability to sell notes as well as bonds. The amendment to AS 18.55.180 clarifies the method by which ASHA may sell bonds and notes. Currently since ASHA has not been in the bond market since 1974 under a completely different program, we are in the position of hiring a bond agent to arrange a private placement of bonds which cannot be sold at less than par. The implementation of the amendment will allow ASHA to go to an underwriter, get a price quote and sell the bonds immediately. We presently have structured a \$16,350,000 bond sale which is pending HUD approval of additional funding to cover the differential between initial financial feasibility at 7.5% interest and existing market rates in the range of 10% to 11%. The amendments as suggested in HB 256 will allow the sale of bonds for federally funded or federally guaranteed projects on a much more timely basis with a definite cost up front. The pre-sale of bonds prior to a project's construction locks in a definite financing cost at the beginning of the project.

In addition to the amendment which addresses the method by which ASHA may sell bonds, we are requesting amendment to AS 18.55.185 which would require an independent financial advisor on the sale of bonds or notes to an underwriter. The language for the amendment and the independent financial advisor is identical to that in the enabling legislation of Alaska Housing Finance Corporation's at AS 18.56.115. The existing language of AS 18.55.185 is as follows:

Prohibited Bidding on Bonds and Notes.

- a. No person who provides financial programming of marketing assistance to the Authority in connection with the issuance or sale of bonds or bond anticipation notes of the Authority under any section of this chapter may bid on the bonds or notes if offered at public sale or negotiated for their purchase if sold at a private sale.
- b. The sale of bonds or notes of the Authority to a person who is prohibited from bidding on the bonds or notes under (a) of this section is public policy and the sale is void.

- c. In this section person means an individual firm, agent, factor intermediary, partnership, corporation, association, bond house, stockbroker or bond broker.

Obviously, a financial advisor on a bond issue to retain independence would be in fact prohibited from bidding on bonds or notes. The existing language could potentially create a voided sale. It is ASHA's position that adequate criminal prosecution would be available in the event a fraudulent action. The bond purchaser, however, would be in a third party status and should not suffer the potential loss from a voided sale due to no culpable activity on his part. Our concern is centered on protecting the bond holder's interest as a voided sale would tremendously damage ASHA's later capability of issuing bonds or notes.

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