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HB 437 SB 313  
on  
Nonprofit Corporations

Summary

The bill would replace the Alaska Nonprofit Corporations Act, AS 10.20, with the Alaska Nonprofit Corporations Code (ANCC), a comprehensive revision.

The bill recognizes the diverse entities that organize as nonprofit corporations. It finds they fall into two basic types, (1) public benefit corporations such as charities that solicit and operate on funds donated by the public, and (2) mutual benefit corporations such as fraternal lodges that collect and operate on dues and contributions and other payments of members.

High standards of accountability are required for public benefit corporations, with reports required both to the public and to the Commissioner of Commerce and Economic Development. The reports and controls will provide, for the first time, an accurate history of the income, costs of administration and nature of expenditures of these corporations.

The general public interest to be protected with respect to mutual benefit corporations is not as great. The statutory goal for mutual benefit corporations is to guaranty that control of management is firmly in the members.

The selection between mutual and public benefit form is essentially left to those organizing the corporation. However, no benefit will be gained by disguising the nature of the corporation. If a mutual benefit corporation seeks to rely on publicly donated funds, the funds will be impressed with a charitable trust. The bill contains rigorous restraints upon distribution of corporate assets to members during the life of the corporation or upon its dissolution.

A further general description of the bill is in the transmittal letter at the start of the commentary that follows in the binder. The philosophy of the bill is further explained in the section analysis.

The bill follows the general form of HB 343/SB 246, a bill revising the for profit corporations code. It is anticipated that bill will go through the legislative process before this bill on nonprofit corporations. In that way, any changes made in the for profit code (ACC) can be reflected in this nonprofit code (ANCC).

Status

The bill is introduced in both houses for greater flexibility and for the possibility of joint hearings should that be the choice of the house and senate committees.

Status going into the Second Session of the Thirteenth Legislature: In House and Senate Labor and Commerce Committees, the first committees of reference. Second reference: House and Senate Judiciary Committees.

ALASKA CODE REVISION COMMISSION



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ALASKA STATE LEGISLATURE  
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-4878

EXECUTIVE SECRETARY  
BILLY G. BERRIER

MEMORANDUM

TO: ALL LEGISLATORS

FROM: John W. Abbott, Chairman *John W. Abbott*  
Alaska Code Revision Commission

DATE: January 25, 1984

RE: HB 437/SB 313 on nonprofit corporations;  
HB 343/SB 246 on for profit corporations

Following a teleconferenced meeting on January 20, 1984, the code revision commission met and agreed to send the attached letter to the chairmen of the House and Senate Labor and Commerce and Judiciary Committees.

Please note the suggestion that work on the nonprofit corporation code be discontinued for this session. The commission wishes to reflect upon some of the testimony given in the January 20th teleconference. It anticipates offering the bill to the next legislature, with changes.

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In contrast to its request on the nonprofit bill, the commission is asking for priority attention to the bill to revise the Alaska Business Corporation Act. That bill has received considerable exposure since it was first introduced in the Twelfth Legislature on March 24, 1982. It has been well received.

JWA:chw

Attachment

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EXECUTIVE SECRETARY  
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January 23, 1984

Representative John Cowdery, Chairman  
House Labor and Commerce Committee  
Senator Richard I. Eliason, Chairman  
Senate Labor and Commerce Committee  
Representative Charlie Bussell, Chairman  
House Judiciary Committee  
Senator Bill Ray, Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
Pouch V, State Capitol  
Juneau, Alaska 99811

RE: HB 343/SB 246 on profit  
corporations; HB 437/SB 313  
on nonprofit corporations

Gentlemen:

As you know, there are bills in the legislature for comprehensive revision of the Alaska law on both profit and nonprofit corporations. The bills were drafted by the code revision commission.

The commission respectfully asks that the legislature discontinue work on the nonprofit corporations code for this session.

As a corollary to this request, the commission asks that the bill on profit corporations be included among bills that are given priority attention.

Of course, the commission will fully cooperate in providing testimony and background material on any bills it drafts. However, the foregoing is offered as a reasonable allocation of effort by the legislature and the commission.

If you, as the committee chairmen directly concerned, agree to this proposed allocation of effort, we would like to inform all legislators so they will be able to accurately advise constituents who inquire about the bills.

Very truly yours,

*John W. Abbott*  
John W. Abbott, Chairman  
Alaska Code Revision Commission

JWA:chw

# ALASKA CODE REVISION COMMISSION



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(907) 465-4878

EXECUTIVE SECRETARY  
BILLY G. BERRIER

## MINUTES

December 8, 1983  
Room 320, Court Building  
Juneau, Alaska 99801  
CONTACT: 465-3443

PRESENT: Chairman John W. Abbott  
(presiding), Judge Thomas  
B. Stewart, L.S. (Jerry)  
Kurtz, Jr., Fred Brown,  
Jim Baldwin and Sen. Pat Rodey

ABSENT: Rep. Charlie Bussell

ALSO PRESENT: Joe Brewer, Professor Daniel  
Wm. Fessler, Myron Klein,  
Dave Shaftel, Kathryn Black,  
Dick Thwaites, Phyllis Smith,  
George Goerig, Andrew Hoge,  
Bob Vasquez, Margie MacNeille,  
Dick Regan and Catherine Walsh

The December 8, 1983 meeting of the Alaska Code Revision Commission was called to order at 9:40 a.m. Roll call followed.

As the first order of business, Chairman Abbott asked for approval of the minutes of the September 22, 1983 meeting. Commissioner Brown noted two spelling errors and then moved to adopt the minutes. There being no further objections, the minutes were unanimously adopted.

Senator Rodey brought up the subject of the commission's legislative package and the need to set priorities. Dick Regan's memorandum on the subject dated December 7, 1983, was referenced. Chairman Abbott discussed the concerns of the Tanana Chiefs Conference regarding the nonprofit corporations code in the areas of contracts and grants money and public disclosure. Michael Walleri, counsel to Tanana Chiefs, has agreed to provide a written critique for review at the next meeting. It was decided that part of the next commission meeting would be a teleconference on the nonprofit corporations code. A

letter for the chairman's signature directed to the public on the nonprofit bill will be drafted advising of the teleconference informational hearing time and date. Moving on to the setting of priorities, the commission listed the four bills in this order: (1) for profit corporations, (2) recording, (3) nonprofit corporations, and (4) security interests. In discussing the security interests bill, it was agreed that a meeting would be set up with Commissioners Kurtz, Rodey and Abbott and the principals in mortgage banking and the Alaska Bankers Association to listen to any criticisms and give answers. Commissioner Kurtz thought that the same procedure should be used with respect to the recording bill--a meeting with the commissioner of natural resources, Esther Wunnicke, and deputy director of technical services, Joe Burch. Commissioner Rodey said he would talk with Joe Burch. At this point, Dick Regan asked what priority the probate-related bills would be given. The commission deferred the question until the next meeting. The for profit corporation code will be also be placed on next meeting's agenda for an outline of approach which will be prepared by Chairman Abbott.

At this point the forthcoming meeting was scheduled to be held in Juneau on Friday and Saturday, January 20-21, 1984. Professor Fessler offered to stay over until the 23rd in order to meet with any legislative committee on the for profit corporations code.

The commission's legislative package binder, which will be issued to each legislator, was given a new title by Senator Rodey so that it could be used for each session.

Consideration of the Administrative Procedure Act was the next item on the agenda. Myron Klein, hearing officer with the Department of Revenue, was introduced to members. Chairman Abbott advised him of the status of the proposed APA revision, and that it had not been approved yet as an official project. Generally discussed were the areas of due process, separation of functions, the concept of a hearing officer pool, fact finding, conclusions of law, and regulations. Commissioner Stewart moved to bring back the tabled motion to take on the APA as a project. There being no further discussion, unanimous approval was given to the motion.

Dick Regan's December 6th memorandum on contracts for proposals on the Administrative Procedure Act was referenced. There is approximately \$78,000 in the budget for contracts. A request for consultant services has been drafted. Commissioner Brown suggested distribution in the Alaska Bar's newsletter for this solicitation and a listing with the hearing officer's association. There was some discussion as to the qualifications necessary for the contractor.

Following the lunch break, the commission returned to the record to consider probate matters. Commissioner Baldwin

chaired the session. The following guests were introduced: Dave Shaftel, Kathryn Black, Phyllis Smith, Dick Thwaites, and George Goerig. Dick Regan talked about the meeting with the bar's probate and tax committees on November 4th in Anchorage regarding the commission's draft bills. At that meeting two additional subjects were proposed, payment of life insurance to a testamentary trustee and assignment of group term life insurance and pension benefits. During a section-by-section review of the Uniform Principal and Income Act draft, two changes were adopted. Commissioner Stewart moved to adopt the draft bill. There being no further objections, the motion passed unanimously.

The commission began its review of the draft relating to renunciation of rights in decedent's estates. Comments were made by the probate committee. After much discussion on whether to adopt the draft as is or to begin a draft incorporating the model act, Commissioner Kurtz moved to adopt the bill. There being no objection, it was so adopted. After further discussion, Commissioner Brown moved to place this subject on January's or February's agenda. The motion passed unanimously.

Dick Regan was asked to comment on the draft bill regarding dower and married persons' rights in a family home. The committee had no problem with this draft. Acting Chairman Baldwin moved for adoption, and there being no objection the motion passed. After some discussion on the proposed payment of life insurance to a testamentary trustee and assignment of group term life insurance and pension benefits, Commissioner Brown moved to prepare two bills on these subjects. There being no objection, the motion passed. Mr. Goerig agreed to provide the forms of these provisions as they appear in other states.

The draft relating to life insurance payable on simultaneous death was discussed. The probate committee would like to see the simultaneous death act introduced as a whole. This topic will be placed on the next agenda for consideration.

There was some discussion on the reintroduction of the community property rights at death act. The probate committee feels that the property and tax law advantages would be helpful to estate planning. Commission Stewart moved for reintroduction of the bill. There being no objections, the motion carried.

The two bills concerning dollar amounts in the probate code were considered. Commissioner Brown moved for introduction. The motion passed without objection.

The guests from the probate and tax committees were thanked for their comments and opinions.

Following a brief recess the commission returned to the record to consider the subject of cooperatives. Andy Hoge,

Margie MacNeille and Bob Vasquez and Professor Fessler were present for the discussion. Mr. Hoge informed the commission that he had gone through Professor Fessler's study. He foresees a need for a more comprehensive statute in light of upcoming problems such as deregulation, higher consumer rates and financing by REA. The commission explained that at present it is just in a preliminary stage with this topic. Professor Fessler stated that, as one alternative, there could be a lot of cleaning up done without major substantive change. Commissioner Stewart moved to take up cooperatives as an issue. Commissioner Kurtz objected and discussion followed. A postponement of the motion was moved by Commissioner Stewart. This passed without objection. Consideration of cooperatives will be placed on the January agenda. The guests were thanked for comments.

The commission returned to the topic of contracting for a consultant to work on the Administrative Procedure Act. A request for a first stage proposal was suggested and development of a work plan. A short form requesting a statement of qualifications should be distributed to all members of the bar via the Bar Rag. Dick Regan mentioned the persons he has contacted about the project. It was agreed that Chairman Abbott, Commissioner Baldwin and Dick Regan would suggest a form for requesting proposals, and that a telephone conference meeting could be set up to review it.

There being no further business, Commissioner Stewart moved for adjournment. Without objection, Chairman Abbott adjourned the meeting at 6:50 p.m.

Respectfully submitted,

*Catherine H. Walsh*

Catherine H. Walsh, Secretary  
Alaska Code Revision Commission

CHW:s

cc: Myrton R. Charney, Executive Director  
Legislative Affairs Agency

Members, Alaska Legislative Council

ALASKA CODE REVISION COMMISSION



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(907) 465-4878

EXECUTIVE SECRETARY  
BILLY G. BERRIER

MEMORANDUM

TO: Nonprofit corporations and interested parties

FROM: Alaska Code Revision Commission

DATE: January 6, 1984

RE: Teleconference on nonprofit corporations law,  
House Bill 437/Senate Bill 313

This is notice that at 1:30 p.m., Friday, January 20, 1984, the Alaska Code Revision Commission will hold a teleconference concerning a proposed revision of Alaska law on nonprofit corporations.

The proposed revision is in the form of a bill drafted by the commission and introduced as two identical bills, one in each house of the legislature, House Bill 437 and Senate Bill 313. Here we generally refer to them as "the bill".

Although the bill is already in the legislature and referred to the Labor and Commerce Committees of the House and Senate, the teleconference is neither a meeting of those committees nor a substitute for hearings of those committees.

Rather, it is part of a regular meeting of the code revision commission that drafted the bill, an informational hearing and a chance for the commission to hear suggestions about the bill that it will, if it believes warranted, pass on to the Labor and Commerce Committees in the form of proposed changes.

The bill will go through hearings of the legislative committees. However, we expect a bill revising for profit corporation law, as differentiated from nonprofit corporation law, will be treated first by the committees. Legislative committee hearings on the nonprofit bill may be weeks or months away. The early teleconference provides an early look at the bill before the legislature is actively working with it.

We ask that persons who wish to either listen in or testify at the January 20 teleconference notify their local teleconference center as soon as possible, so that center will be included in the teleconference. The list of centers is attached.

We hope and trust the teleconference will be helpful for all that are concerned with the bill.

DR:chw  
Attachment

*Draft*

MEMORANDUM

TO: ALL LEGISLATORS

FROM: Dick Regan, Research Director  
Alaska Code Revision Commission

DATE: January 12, 1984

RE: Profit and Nonprofit Corporations  
Codes ~~Teleconferencing~~

Alaska Nonprofit Corporations Code, HB 437/SB 313.

With the concurrence of the appropriate committee chairmen, the code revision commission will teleconference part of its next meeting to explain and discuss the nonprofit corporations bills, HB 437/SB 313. The teleconferenced part of the meeting will be in the Juneau Court and Office Building, Court Room A, at 1:30 p.m, Friday, January 20.

The attached notice is in the mail to over 3,000 nonprofit corporations. The notice explains the purpose of the teleconference.

Sitting in on the code revision commission teleconference would serve to inform legislators or staff about the purpose and the bill on nonprofit corporations which probably will be coming up for hearings of the House and Senate Labor and Commerce Committees later in the session.

Alaska Corporations Code, HB 343/SB 246.

The Friday, January 20th teleconference of part of the code revision commission's meeting should not be confused with a joint hearing of the House and Senate Labor and Commerce Committees on the for profit code--HB 343/SB 246--scheduled for 8:30 a.m., Monday, January 23rd, in the House Labor and Commerce Committee Room. Professor Fessler will be here for that meeting also, and that, too, would be a chance for staff to hear an outline of the lengthy bill. Of course, the joint committee will take testimony from others who wish to be heard.

DR:chw  
Attachment

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EXECUTIVE SECRETARY  
BILLY G. BERRIER

December 16, 1983

Representative Walt Furnace, Chairman  
House Labor and Commerce Committee  
Senator Richard I. Eliason, Chairman  
Senate Labor and Commerce Committee  
Pouch V, State Capitol  
Juneau, Alaska 99811

Re: Nonprofit Corporations Bill, HB 437/SB 313

Dear Senator Eliason and Representative Furnace:

As you know, four bills are in your Commerce and Labor Committees that were drafted by the code revision commission. The bills and their current and future committee assignments are listed in the enclosure.

Among the bills is a proposed revision of the state law on nonprofit corporations. In the commission's view, any serious work by legislative committees on the nonprofit bill should follow, rather than precede, committee work on the general for profit corporations bill. Because of this logical sequence, as we see it there is a period of time before legislative committee work will begin on the nonprofit bill.

The interim between sessions has given interested persons a chance to study the lengthy bill. Very recently the commission has been receiving inquiries about it.

As part of its next meeting the commission has tentatively scheduled an information hearing on the bill. It is set at the teleconferencing center in Juneau at 1:30 p.m., Friday, January 20th.

The hearing is "tentative" because the bill is already in the legislature. We are suggesting the informal hearing by the code revision commission and its consultant as a practical way for the commission to be of continued assistance to the legislature on the bill. We hope to hear from diverse interests, not all of which were known to the commission when it sought comments as the bill was being drafted. Through the hearing we hope to determine if the bill in its present form properly covers all the great variety of nonprofits or whether some changes should be proposed by the commission. Of course, anyone who disagreed with what came out of the hearing would have the legislative committee process in which to express his or her opinions.

Representative Walt Furnace  
Senator Richard I. Eliason  
December 16, 1983  
Page 2

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In our concept, the teleconference session would not only inform the commission and the members of the public who participate. It would also provide background for you or any staff person who might wish to attend.

Please let us know if you agree that the commission should proceed in this way. My phone in Anchorage is 349-5285. The commission's phone in Juneau is 465-4878. If we haven't heard from you in a few days, we will check with your office.

Very truly yours,

*John W. Abbott*  
by: chw

John W. Abbott, Chairman  
Alaska Code Revision Commission

JWA:chw

Enclosure

ALASKA CODE REVISION COMMISSION



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EXECUTIVE SECRETARY  
BILLY G. BERRIER

December 16, 1983

Representative Charlie Bussell, Chairman  
House Judiciary Committee  
Senator Bill Ray, Chairman  
Senate Judiciary Committee  
Pouch V, State Capitol  
Juneau, Alaska 99811

Re: HB 437/SB 313 on nonprofit corporations

Dear Representative Bussell and Senator Ray:

Enclosed is a letter being sent to the chairmen of the House and Senate Labor and Commerce Committees. You will see it proposes the commission gather further comment on HB 437/SB 313, a revision of law on nonprofit corporations. A code revision commission teleconference with notice to interested parties is the means proposed.

Your House and Senate Judiciary Committees are the second committees of reference on these bills.

We anticipate that legislative committee hearings on this nonprofit corporations bill will be deferred until hearings have been held on the for profit bill, HB 343/SB 246. Therefore, as we see it the commission's proposed teleconference would precede legislative work on the bill and would make that work go more smoothly. The proposed teleconference at 1:30 p.m., January 20, 1984, would be an opportunity for any of your staff to get some information on the bill and raise any questions.

We will inform you if the proposed teleconference is canceled or if the time is changed.

Very truly yours,

*John W. Abbott*  
by: chw

John W. Abbott, Chairman  
Alaska Code Revision Commission

JWA:chw

Enclosure

SB 313 TITLE & SPONSOR SUMMARY

14:26 5/22/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT REVISING THE NONPROFIT CORPORATIONS CODE; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 6/09/83 IN (S) LABOR & COM REFERRAL: JUDICIARY

SB 313 SENATE ACTION

14:26 5/22/84 PAGE 2 OF 2

DATE SEQ PAGE

LEGISLATIVE ACTION

06/09/83 01 1251  
06/09/83 02 1251

FIRST READING -- COMMITTEE REPORTS  
COMMENTARY JOINT SUPPL #12  
LABOR & COMMERCE  
JUDICIARY  
FINANCE  
RULES

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OFFICIAL BUSINESS

# ALASKA STATE LEGISLATURE - SENATE

## COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON  
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811  
(907) 465-3844

### MEMORANDUM

To: Senate Labor and Commerce Committee Members

From: Senator Dick Eliason, Chair *Dick*  
Senate Labor and Commerce Committee

Re: SB 313/HB 437 - "An Act revising the nonprofit corporations code"

Date: January 17, 1984

The Alaska Code Revision Commission will hold a teleconference at 1:30 p.m., Friday, January 20, 1984, to discuss the proposed revision of Alaska law on nonprofit corporations. The teleconference will take place in the Juneau Court and Office Building, Court Room A.

This teleconference is part of a regular meeting of the Code Revision Commission which drafted SB 313/HB437. This meeting will be an informational meeting only.

I am sure you or your staff will find this teleconference informative as to the purpose and content of the bills on nonprofit corporations.

# NUGEN'S RANCH

Alaska Alcoholism Rehabilitation  
Services, Inc.

February 6, 1984

Senator Richard I. Eliason  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 99811

RE: Senate Bill 313  
"An Act revising the nonprofit corporation code; and providing  
for an effective date."

Dear Senator Eliason:

This bill is lacking, it is absolutely incredible that anybody would think to even propose these kind of regulations for revising the non-profit corporations code. It appears to us that they have decided nonprofits should now be profit making organizations and should be run as general businesses are run, to a certain extent I can see this, but if we wanted to be a for profit organization we would have started as one many years ago when we first went into the rehabilitation business. We want to work at rehabilitating alcoholics, as you are aware we are striving to acquire funds other than tax revenue to support our program, we are not proposing to become a for profit business, all monies that we make go right back into the program. There is no way that we can even become half way self sufficient if this type of bill is allowed to pass.

It is our sincere hope that you will oppose this bill and that you will either put it in the paper shredder or through the garbage disposal or drown it, but for heavens sake, if you are going to revise the nonprofit code, then do it in a way that is liveable and do it in a way that distinguishes between profits and nonprofits, because obviously whoever is doing this does not know the difference. Again, it appears that we have contracted with a professor from California who feels that we should operate under the codes used in California and New York, we are not California or New York and where we can learn from other states we also must consider the uniqueness of Alaska.

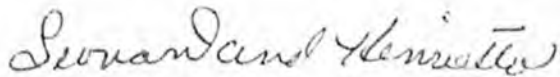


February 6, 1984

Page 2

We have been on our soap box long enough, and all we're asking is to please review this bill and if you have any questions please get them answered, if we can we will, if our attorney can he will. We need to either have this bill thrown out or completely rewritten and we're willing to help rewrite it, we're willing to help in any way. Yes, we want to be self sufficient, but please don't stop us with revisions and bills of this sort.

Sincerely,

A handwritten signature in cursive script that reads "Leonard and Henrietta Nugen".

Leonard and Henrietta Nugen

HN:mc



## ALASKA PUBLIC INTEREST RESEARCH GROUP

Post Office Box 1093/Anchorage, Alaska 99510/(907) 278-3661

January 21st, 1984

Alaska Code Revision Commission  
Pouch Y, State Capitol  
Juneau, AK 99811

Dear Commissioner:

This letter follows up comments I made during the teleconference meeting of the Commission on January 20th.

As I said at the meeting, we think that Alaskan non-profits can certainly accommodate increased oversight by the state, although we are not sure additional monitoring is necessary. I would guess that few non-profits would complain if a more extensive annual financial report were required or if the filing fee were increased somewhat from the nominal \$5 every two years.

AKPIRG is strongly opposed to the passage of a revised non-profit code as outlined in SB 313, however. We see three major problems with it: passage would require non-profits to divert scarce resources to non-program requirements, the bill as introduced is difficult to understand and confusing, and the results of the changes may not be what the Commission intended.

I estimate that passage of SB 313 will cost our organization at least \$4500 a year:

- \$82--notice to members of annual meeting
- 82--notice to members of proposed changes to the articles of incorporation as we make legal changes necessary to comply with SB 313
- 200--mailing of annual report to members
- 1850--publication of annual report
- 1850--penalty for late filing of annual report (the one month allowed to produce the report is unworkable); or increased professional accounting services needed to prepare the report on time
- 500--conservative estimate of attorney's fees to decipher the law (@ \$100/ hour)

This figure does not include staff time required to mail Board nominees' background information to members or to supervise compliance with other portions of the complicated law. Of this sum, we ordinarily would spend \$82 to notify members of the annual meeting (we also offer Board candidates a limited amount of space to explain their background and qualifications).

To give you a little perspective, \$4500 is equivalent to the \$25 membership donations of 180 of our members, and constitutes nearly 3% of our budget. We expect that our members would not agree that their contributions should be used to satisfy government requirements rather than the goals of the organization. Other non-profits with large memberships, no staff and low budgets would have an even harder time paying for the substantial baseline requirements.

The bill is confusing. For example, Section 10.21.170 appears to be quite straightforward in allowing incidental profit in the sales of services or products. We sell consumer guidebooks and research reports and there is a remote possibility that one day we may make a small incidental profit from those sales. So far, so good. Yet the comments clearly state that the intentions of this sections were to prohibit profits made from activities not within the stated purposes of the organization. After careful study of the bill and comments, an attorney on our Board believes that 170 would have prohibited AkPIRG from having the Monte Carlo night fundraiser we plan for early March, since gambling is not a purpose of our organization. You may respond that we can change our articles of incorporation to include fundraising, but that logic cannot be expected of non-profit managers unless assisted by an attorney.

The bill is hard to understand. The third sentence of Section 10.21.235 is a good example: "If a record date is not fixed, a member at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, is entitled to notice of a meeting of members." Only an attorney could decipher the significance of "(t)he doctrines of de jure compliance, de facto corporation, and corporations by estoppel are abolished (page 17)."

The bill is unnecessarily complex. Staff and officers will be intimidated by the bill's half-inch thickness, and puzzled that the bill includes sections covering such unlikely events as the receipt of a proxy of a person deceased after filling out a proxy statement but before the vote is actually taken. Quorum requirements and voting requirements vary dramatically throughout the bill and do not reflect the reality of non-profits. Many non-profits would have difficulty getting the quorum required in certain portions of the bill, and I'd wager that AkPIRG has never had an election at which more than half those eligible to vote did so (though we value member participation and pay the postage for returned ballots).

I understand that the Commission intended to simplify and organize the code so laypeople could USE it. Unfortunately, we feel the proposed bill, if adopted, would have the opposite effect. As non-profit staff struggle with the complexities of the law, they will be forced to spend scarce resources on attorneys and accountants to help them interpret and satisfy the law. We think the money, time and resources could be better spent fulfilling the stated goals of the organization.

Overall, we believe the bill will lead non-profits to drop the membership structure (and accompanying donations), to avoid extra expense and complications under the bill. Section 170 would make legitimate fundraising more difficult, and donors who do not want their names divulged under any circumstances may be less likely give. In past years, as much as \$20,000 has been donated to AkPIRG under this arrangement. And finally, board members aware of the details of the bill may be less likely to serve if they know they would

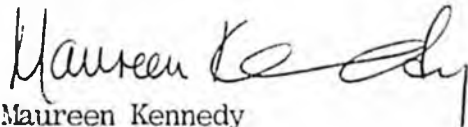
page three

be personally liable if incorporation were defective in any way.

State public policy should be encouraging membership structures for organizations, encouraging well-planned and -justified fundraising, and encouraging citizen involvement in the control of non-profits. Again, we feel SB 313 takes us in the opposite direction on all three counts.

While the time I have available to devote to this issue is limited, I would be happy to work with the several attorneys on our Board in suggesting specific changes to the bill, if you wish.

Sincerely,



Maureen Kennedy  
Director

cc: Jim Gottstein, Esq., Chair  
Phil Volland, Esq., Sec'y.  
Chancy Croft, Esq., Treas.  
Hugh Fleischer, Esq., Director  
Sen. Vic Fischer  
Sen. Bill Ray  
Sen. Richard Eliason

MSG 84-00007975 F-T-1 1/27/84 15:05:50 ORIG: SOLB INT-0099 OUT-0070  
FROM: HILLIE / SMCOTWA TO: JUREAU INFO.  
TARGET: LHRK SUBJ: P.O.M.

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TO: SENATOR ELIASON

FR: PHYLLIS RUCKEL  
818 COOK AVE.  
KENAI, AK. 99611

RE: SB313 ( REVISING THE NONPROFIT CORPORATIONS CODE )

WE ARE CONCERNED ABOUT SB313. COULD YOU PLEASE SEND SOME CLARIFICATION  
ON THIS BILL AND WHAT ARE IT'S LEGAL RAMIFICATION.

sent explanation 1/30/84

Southern Region  
**EMERGENCY**  
Medical Services Council, Inc.

January 21, 1984

John W. Abbott, Chairman  
Alaska Code Revision Commission  
Pouch Y  
Juneau, AK 99811

Dear Chairman Abbott:

I attended the teleconference on the proposed revisions in the nonprofit corporation code for the State. I have reviewed the proposed bill (SB 313/HB 437) from several perspectives. First, I examined it from the perspective of this organization which in our fiscal year ending June 30, 1983 derived 88% of our \$1.3 million income from state grants, 7% from client fees and 5% from interest income (money market investments). Second, I looked at it from the perspective of the Turnagain Elementary School PTA of which I am the immediate Past President. Third, I evaluated it from the standpoint of the nonprofit volunteer ambulance services which provide the majority of emergency medical care outside our major cities and receive the bulk of their miniscule funds from government contracts and fee-for-service. As a person with somewhat of a penchant for the preciseness of the law I can appreciate the guidance that the new code will give to the new nonprofits in terms of the rights and responsibilities of members and directors. At the same time I have some major concerns about the advisability of the scope of the code as proposed. I have comments at two levels, the specific and the conceptual.

My specific concerns were pretty much covered by the testimony of the others at the teleconference. I believe there should be a separate category for those who receive the bulk of their funds from government sources and therefore already operate with a high degree of accountability. I also believe that nonprofit organizations that do not employ or contract for full-time paid administrative staff should be exempt from all but the most minimal requirements.

On the annual report filing date issue, I believe that in this modern age of computers that the Department could easily keep track of differing filing dates for those organizations with differing fiscal years. The initial application would specify the fiscal year. Subsequent annual reporting forms would ask if the fiscal year had changed. And, as the bill gives a corporation 120 days to submit an annual report to its members (Sec. 10.21.310(a)), I would ask that the Department grant a similar period for filing the annual report.

Instead of codifying policy and procedure issues to "help" nonprofits set up organizations that meet a minimum standard of accountability, I think you should consider including a section that would require the Department to publish a Handbook for Nonprofit Organizations in Alaska that would include guidelines on organization and operation. This would be written and published in a form that, unlike a statute, most people could understand. It would really meet your goal, as stated by Professor Fessler, that you want to minimize the need for an attorney in setting up nonprofits. It is something that we would all readily seek and follow, because there is not that much other assistance out there.

I have other concerns about specific issues that I would like to comment on, but I wish to consult with my Board of Directors first. Those comments will follow.

At the conceptual level, my main comment is more of a rhetorical question. I wonder what the overriding public need is that could possibly justify the expense of both rewriting the code and imposing stricter operating and reporting requirements on nonprofit corporations in Alaska. I have read your cover letter which was published in the Senate and House Journal Supplement of June 9, 1983. I have no doubt that there are occasions where nonprofits have abused their status here in Alaska. However, Alaska is a very small state. Unlike some of our larger neighbors to the South, it is very hard for someone to fool a substantial portion of the public for very long, or at least long enough to really make any money at it, especially in the solicitation of charitable donations. I also find it hard to believe that there are any nonprofits that are "making a profit" that meet the criteria of Sec. 10.21.175 of the proposed act. Therefore, I cannot believe that the actual dollar loss associated with said abuses could possibly equal the cost of implementing the proposed requirements.

In light of these comments, I would like to suggest that the Commission undertake a cost/benefit analysis of the proposed changes in the law. The federal government has been doing this with proposed regulations for some time now. I think that because the majority of the organizations that these new rules will affect exist to serve the public and not themselves that you have a moral obligation to undertake such an analysis.

The cost-benefit analysis would include the following:

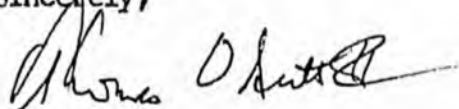
- Identify the various categories of nonprofits in the state and estimate the numbers of each type. It seems to me that for the purposes of this analysis the categories should be broken down further than the bill suggests. This should be a matrix that represents primary function by major funding source. For example, health and welfare "public benefit" organizations are of three basic types, those funded by donations (Heart Association), those funded by fee for services (hospitals), and those funded by government grants/contracts (native nonprofits). You may also want to further distinguish the categories using the real and personal assets reported on the current Nonprofit Biennial Report.
- Identify the various abuses/problems by each category of nonprofit and assigning an annual cost figure to each of the problems. Please use Alaska data for this analysis. You cannot extrapolate from California's experience.

- Identify the cost of implementing the various sections of the bill by the various categories of the organizations. These costs should be broken into transition costs and annual costs.
- All of these should be projected over time.

If you can look at the problem using this method you will then have the information to make a truly informed decision. You will also have the full support of the vast majority of the existing nonprofits for whatever you do, even if the study finds the need for tighter controls than are being proposed. At the same time, should you find that the magnitude of the problem is not as great as you presently imagine you will be able develop a code that attacks the problems without undue burdens on the vast majority of organizations that put their money into service to the public, organizations that are typified by a lot of donated hours by volunteers and employees alike.

Thank you for your continuing work in getting the Alaska statutes reorganized into a more coherent form. I would like to offer my encouragement that you take the suggestion of the attorney for the Tanana Chiefs Conference and look at the granting/contracting procedures of the State. Every department has something different it seems and the accountability varies from near zero to the ridiculous. If you have any questions, please don't hesitate to contact me.

Sincerely,



Thomas D. Scott II  
Executive Director

cc: Vince Walker, Alaska Fund Raising and  
Development Council  
House Labor & Commerce and Judiciary Committees  
Senate Labor & Commerce and Judiciary and  
Finance Committees

# TELEGRAM

ALASCOM, INC.  
PHONE: 586-5806  
JUNEAU, AK 99802

02053 PON ANCHORAGE AK 15 01-22 1984 YST

PMS SEN RICHARD I ELIASON

JUNEAU AK

WE DO NOT FAVOR CODE REVISION FOR NON-PROFIT ORGANIZATIONS  
UNLESS CHURCHES ARE SPECIFICALLY EXCLUDED.

PASTOR THEODORE A. MOORE, LEAK TEMPLE A.M.E. ZION CHURCH

430 NORTH HOYT

ANCHORAGE AK 99504

1984 JAN 22 PM 7 13

SB 313

Please notify the following:  
(when bill is scheduled)

Liz Illg, Tundra Women's Coalition  
543-3444

Gene Doogan, Arts Alaska  
272-3428