

H B

1 6 8

Bannister
2/21/85 ✓ ✓

Original sponsors: Sund and Taylor

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 168 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to construction contractors; and
7 providing for an effective date."

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

9 * Section 1. AS 08.18.011 is amended by adding a new subsection to
10 read:

11 (b) A general contractor may not allow a person required to be
12 registered under this chapter to work for the general contractor as a
13 specialty contractor unless the person is registered under this chap-
14 ter.

15 * Sec. 2. AS 08.18.031 is amended by adding a new subsection to read:

16 (b) The commissioner may not issue a certificate of registration
17 or renew the registration of an applicant whose registration has been
18 revoked or suspended or against whom a fine has been imposed under
19 this chapter until the period of revocation or suspension has expired
20 and any fine has been paid.

21 * Sec. 3. AS 08.18.051 is amended to read:

22 Sec. 08.18.051. IDENTIFICATION REQUIREMENTS [REGISTERED NAME].

23 (a) Except as provided otherwise by [STATE] law, a [NO] person who
24 has registered under one name as required by this chapter may not act
25 in the capacity of a contractor under any other name unless that name
26 also is registered.

27 (b) All advertising, contracts, correspondence, cards, signs,
28 posters, papers and documents prepared by a contractor for the con-
29 tracting business shall [WHICH] show the contractor's name, mailing

1 [AND] address, and address of the contractor's principal place of
2 business. Advertising and contracts shall also include the contrac-
3 tor's registration number [SHALL SHOW THE NAME AND ADDRESS AS REGIS-
4 TERED UNDER THIS CHAPTER].

5 (c) Individual contractors and partners, associates, agents,
6 salesmen, solicitors, officers and employees of contractors shall use
7 their true names and addresses and the true name of the contractor
8 firm at all times while acting in the capacity of a contractor or
9 performing related activities.

10 * Sec. 4. AS 08.18.071(b) is amended to read:

11 (b) If the applicant is a general contractor the amount of the
12 bond shall be \$10,000 [\$5,000]; if the applicant is a specialty con-
13 tractor the amount of the bond shall be \$5,000 [\$2,000]. In lieu of
14 the surety bond the applicant may file with the commissioner a cash
15 deposit or other negotiable security acceptable to the commissioner
16 [OF COMMERCE,] in the amount specified for bonds.

17 * Sec. 5. AS 08.18 is amended by adding new sections to article 3 to
18 read:

19 Sec. 08.18.116. INVESTIGATIONS. Either the Department of Com-
20 merce and Economic Development or the Department of Labor may investi-
21 gate alleged or apparent violations of this chapter. These depart-
22 ments, upon showing proper credentials, may enter, during regular
23 hours of work, a construction site at which it appears that contract-
24 ing work is being done. The departments may make inquiries about the
25 identity of the contractor or the person acting in the capacity of a
26 contractor. Upon demand, a contractor or person acting in the capac-
27 ity of a contractor, or that person's representative, shall produce
28 evidence of current registration.

29 Sec. 08.18.117. ISSUANCE OF CITATIONS. Either the Department of

1 Commerce and Economic Development or the Department of Labor may issue
2 a citation for a violation if there is probable cause to believe a
3 person has violated this chapter. Each day a violation continues
4 after a citation for the violation has been issued constitutes a
5 separate violation.

6 Sec. 08.18.118. PROCEDURE AND FORM OF CITATION ISSUANCE AND
7 PROCEDURE. (a) A citation issued under this chapter shall be in
8 writing. A person receiving the citation is not required to sign a
9 notice to appear in court.

10 (b) The time specified in the notice to appear on a citation
11 issued under this chapter shall be at least five days, not including
12 weekends and holidays, after the issuance of the citation, unless the
13 person cited requests an earlier hearing.

14 (c) The Department of Commerce and Economic Development and the
15 Department of Labor are responsible for the issuance of books contain-
16 ing appropriate citations, and each shall maintain a record of each
17 book issued and each citation contained in it. Each department shall
18 require and retain a receipt for every book issued to an employee of
19 the department designated by the commissioner to provide investigative
20 services to enforce provisions of this chapter.

21 (d) An employee who issues a citation under this chapter shall
22 deposit the original or a copy of the citation with a court having
23 jurisdiction over the alleged offense. Upon its deposit with the
24 court, the citation may be disposed of only by trial in the court or
25 other official action taken by the magistrate, judge, or prosecutor.
26 The employee who issued the citation may not dispose of it or copies
27 of it or of the record of its issuance except as required under this
28 subsection and (e) of this section.

29 (e) The Department of Commerce and Economic Development and the

1 Department of Labor shall require the return of a copy of every cita-
2 tion issued by an employee of the respective department under this
3 chapter, and of all copies of every citation that has been spoiled or
4 upon which an entry has been made and not issued to an alleged viola-
5 tor. The departments shall also maintain, in connection with every
6 citation issued by an employee of the respective department, a record
7 of the disposition of the charge by the court where the original or
8 copy of the citation was deposited.

9 (f) If the form of citation issued under this chapter includes
10 the essential facts constituting the offense charged, and if the
11 citation is sworn to as required under the laws of this state for a
12 complaint charging commission of the offense alleged in the citation,
13 then the citation when filed with a court having jurisdiction is
14 considered to be a lawful complaint for the purpose of prosecution.

15 Sec. 08.18.119. FAILURE TO OBEY CITATION. Unless the citation
16 has been voided or otherwise dismissed by the magistrate, judge, or
17 prosecutor, a person who fails to appear in court to answer a citation
18 issued under this chapter, regardless of the disposition of the charge
19 for which the citation was issued, is guilty of a class B misdemeanor.

20 * Sec. 6. AS 08.18.121(f) is amended to read:

21 (f) If the Department [COMMISSIONER] of Labor or the Department
22 of Commerce and Economic Development [LABOR] determines that a con-
23 tractor or a person [IS] acting in the capacity of [AS] a contractor,
24 is in violation of this chapter, that department may [THE COMMISSIONER
25 SHALL] give written notice to the person prohibiting further action by
26 the person as a contractor. The prohibition continues until the
27 person has submitted evidence acceptable to that department [THE
28 COMMISSIONER OF LABOR] showing that the violation has been corrected.

29 * Sec. 7. AS 08.18.121(g) is amended to read:

1 (g) A person affected by an order issued under this chapter may
2 seek equitable relief preventing the Department of Labor or the
3 Department of Commerce and Economic Development [COMMISSIONER OF
4 LABOR] from enforcing the order.

5 * Sec. 8. AS 08.18.131 is amended to read:

6 Sec. 08.18.131. INJUNCTION. In an action instituted in the
7 superior court by the commissioner [OF LABOR OR THE COMMISSIONER'S
8 REPRESENTATIVE], a person may be enjoined from acting in the capacity
9 of a contractor in violation of this chapter [MAY BE ENJOINED FROM
10 DOING SO]. In addition to other relief, a civil penalty not to exceed
11 \$250 may be imposed for each violation. Each day that an unlawful act
12 continues constitutes a separate violation.

13 * Sec. 9. AS 08.18.141 is amended to read:

14 Sec. 08.18.141. MISDEMEANOR. (a) A contractor or a person
15 acting in the capacity of a contractor in violation of AS 08.18.011
16 [THIS CHAPTER] is guilty of a class B misdemeanor. A person who
17 violates another provision of this chapter is guilty of a violation
18 punishable under AS 12.

19 (b) Criminal prosecution for a violation of this chapter does
20 not preclude the Department of Commerce and Economic Development or
21 the Department of Labor from seeking available civil remedies.

22 * Sec. 10. AS 08.18.171 is amended by adding a new paragraph to read:

23 (4) "department" means the Department of Commerce and
24 Economic Development, unless the context indicates otherwise.

25 * Sec. 11. Sections 1, 2 and 4 - 10 of this Act take effect July 1,
26 1985.

27 * Sec. 12. Section 3 of this Act takes effect July 1, 1986.

28 * Sec. 13. Section 4 of this Act applies to general contractor and
29 specialty contractor licenses that are issued or renewed by the Department

1 of Commerce and Economic Development after July 1, 1985.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 168
 Title: An Act relating to
Construction Contractors
 Sponsor: Rep. Sund
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 Program Category Affected: _____
Consumer Protection
 BRU, Program or Subprogram(s) Affected: _____
Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		151.8	159.4	167.4	175.8	184.6
200 TRAVEL		40.8	42.8	45.0	47.2	49.6
300 CONTRACTUAL		31.8	33.4	35.1	36.8	38.7
400 SUPPLIES		3.6	3.8	4.0	4.2	4.4
500 EQUIPMENT		13.1	0	0	0	0
600 LAND & STRUCTURES		12.2	0	0	0	0
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		253.3	239.4	251.5	264.0	277.3

CAPITAL						
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REVENUE		0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND		253.3	239.4	251.5	264.0	277.3
FEDERAL FUNDS						
OTHER						
TOTAL		253.3	239.4	251.5	264.0	277.3

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill will enhance the enforcement of unlicensed construction contractors by implementing a citation procedure. The positions requested would provide additional support to the joint enforcement efforts of the Department of Labor and the Department of Commerce and Economic Development. The bill also requires violators to be answerable to a court of law, and makes unlicensed activity a "Class B" misdemeanor.

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144

Division: Occupational Licensing Date: 2-21-85

Approved by Commissioner: Loren H. Lounsbury Date: 2/21/85

Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

1.	POSITION TITLE INVESTIGATOR III - Juneau				RANGE/STEP 18A	DEPT. UNIT GGU	PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	37.4								
6.	Benefits	6.0								
7.	Supplemental Benefits	2.3								
8.	Fired Benefits	2.7								
9.	TOTAL PERSONAL SERVICES	01		48.4						
10.	Travel	02		12.5						
11.	Contractual	03		10.2						
12.	Commodities	04		1.2						
13.	Equipment	05		4.7						
14.	Other			4.1						
15.	TOTAL COST			81.1						
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					C.F. Hatch 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR BSM USE ONLY										
KEY NUMBER _____										

This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.

Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the investigations and enforcement in the many other licensing and inspection areas.

This position would conduct investigations into violations of AS 08.18, throughout the Southeast area of the State.

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Consumer Protection

BRU Occupational Licensing

COMPONENT Investigations

FY 86

Page 1 of 3

Revised Date _____

1.	POSITION TITLE INVESTIGATOR III - Fairbanks				RANGE/STEP 18A	BARG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	Type of Expenditure				Amount					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		42.8							
6.	Benefits		6.9							
7.	Supplemental Benefits		2.6							
8.	Fixed Benefits		2.7							
9.	TOTAL PERSONAL SERVICES		01		55.0					
10.	Travel		02		15.8					
11.	Contractual		03		11.6					
12.	Commodities		04		1.2					
13.	Equipment		05		4.2					
14.	Other				4.5					
15.	TOTAL COST				92.3					
JUSTIFICATION										
<p>This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been by increased investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violations of AS 08.18, throughout the Northern Interior of the State.</p>										
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		92.3						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR BSM USE ONLY										
KEY NUMBER _____										

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Consumer Protection

BRU Occupational Licensing

COMPONENT Investigations

Page 2 of 3

Revised Date _____

FY 86

1.	POSITION TITLE INVESTIGATOR III - Anchorage				RANGE/STEP 18A	BARG. UNIT GCU	PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				ALLOTTED					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		37.4							
6.	Benefits		6.0							
7.	Supplemental Benefits		2.3							
8.	Fixed Benefits		2.7							
9.	TOTAL PERSONAL SERVICES		01		48.4					
10.	Travel		02		12.5					
11.	Contractual		03		10.0					
12.	Commodities		04		1.2					
13.	Equipment		05		4.2					
14.	Other				3.6					
15.	TOTAL COST				79.9					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Hatch 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR BSM USE ONLY KEY NUMBER _____										

This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.

Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been caused by increased investigations and enforcement in the many other licensing and inspection areas.

This position would conduct investigations into violations of AS 08.18, throughout the South Central and Western areas of the State.

REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

FY 86

Page 3 of 3
Revised Date _____

CSHB 168

Amendments to House Bill 168

Page 2: Amend beginning on line 7

their true names and addresses and the true name of the contractor firm, at all times while acting in the capacity of a contractor or performing related activities.

Page 2: Substitute Sec. 08.18.117 with HB151's Sec. 08.18.116 and 08.18.117.

Page 2: Amend beginning on line 28 to read:

writing. A person receiving the citation may not be required to sign a notice to appear in court.

Page 3: Amend beginning on line 3 to read

weekends and holidays after the issuance of the citation unless the person cited requests an earlier hearing.

Page 3: Amend beginning on line 6 to read:

(c) The Department of Commerce and Economic Development and the Department of Labor are each responsible for the issuance of books.

Page 3: Beginning line 20, substitute section (e) with HB151's section (e) on page 4, line 1.

Page 4: Beginning on line 10, substitute (f) with HB151's (f) beginning on page 4, line 22.

Page 4: Amend beginning on line 21 to read:

seek equitable relief preventing the Department [COMMISSIONER] of Labor [LABOR] or the Department of Commerce and Economic Development from enforcing the order.

Page 5: Beginning on line 3, substitute Sec. 08.18.141 with HB151's Sec. 08.18.141, beginning on page 5, line 19.

Page 5: Remove Section 10, beginning on line 6, in its entirety.

Page 5: Amend beginning on line 14 to read:

(4) "department" means, unless the text reads otherwise, the Department of Commerce and Economic Development.

Page 5: Amend AS 08.18.171 beginning on line 16 to read:

Sec. 12. Sections 1, 2 and 5-11 of this act take effect July 1, 1985.

Sec. 13. Section 3 of this act takes effect July 1, 1986.

Sec. 14. Section 4 of this act takes effect for all new and renewal licenses July 1, 1985.

February 20, 1985 Wednesday 1:15 pm 104 Capitol

LABOR AND COMMERCE AGENDA

- 1) CALL MEETING TO ORDER
- 2) NOTE TIME/DAY/HOUR
- 3) NOTE MEMBERS PRESENT AND MEMBERS ABSENT; plus LATE ARRIVALS
- 4) RECOGNIZE ANY VIP'S OR GUESTS PRESENT
- 5) REMIND EVERYONE PRESENT TO SIGN IN AS EITHER A WITNESS OR AS AN OBSERVER
- 6) EXPLAIN THE ORDER OF BILLS BEFORE THE COMMITTEE
 - a. HB 155
 - b. HB 151
 - c. HB 168
- 7) ANNOUNCE FIRST BILL BEFORE THE COMMITTEE, THEN SECOND, ETC.
--- progress of the meeting---
- 8) MAKE SURE ALL MEMBERS SIGN ANY BILL THAT IS PASSED OUT OF COMMITTEE
- 9) ANNOUNCE TIME OF ADJOURNMENT

Note: As each witness comes forth, please request that they state their name and who they represent for the record, and if they are not speaking loudly enough, ask them to speak up.

To: Mike
From: Roger

February 20 Meeting HB 151, HB 168

I checked with Marilyn Twitchell in the Governor's Office; they have no trouble with letting the committee go with Rep. Sund's HB 168 as long as it is amended to include enforcement activity for both the Dept of Labor and the Dept. of Commerce, instead of just Commerce with Sund's bill. I understand from Kitty Rodriguez, Sund's aide, that they will be submitting a proposed draft CS that will do this.

There should be a fair amount of activity on this bill: it happens that the Alaska Homebuilder's Association is having their annual meeting in town and will have people here to testify, including perhaps two of your own constituents that you have a meeting with on Thursday, Mark Passe and Mitch Robinson (it was set up after your conversation with Clark Gruening). I met with some of the AHA people and they seem to be supportive of the bill, and want to see enforcement increased. They even mentioned raising their own licensing fees to help pay for it. (Keep in mind that it is contractors license fee revenues that is currently paying most of the way for support of all the other Occupational Lic. activity. If HB 78 on Occupational Licensing fees is passed, the Dept. of Commerce would be bringing in a huge surplus of extra revenues in contractor's license fees, so there will hardly be a need to raise them). They also wanted some amendments added into the bill, and they are being included in with the amendments proposed by Rep. Sund, whom they met with already on this.

Also, the Associated General Contractors are having their annual Board Meeting in Juneau this week, and so some input from them will be expected, since there are some punitive aspects to these bills in regard to contractors. They will probably be opposed to either bill.

There is a letter we received asking that the bonds required of contractors be raised not to just \$5,000 and \$10,000, but to \$25,000. It seems to me that this is an attempt by larger contractors to cut out the smaller ones from the competitive bid process, so this whole requirement area may be unfair, though the intent is to protect the consumer.

You should resolve what is happening with the Fiscal Note from the Dept. of Commerce: I am hearing two different versions of what is going on with it: a) that Labor will pick up the investigative tab for Commerce so that Commerce will only have a small fiscal note of some \$2,000 to develop and print additional forms for the licensing activities required; and b) that Commerce really needs the extra manpower in the FN of \$253,300 to provide enforcement activities because they are enforcing standards and licensing activities generated from complaints while the Dept. of Labor is enforcing on-site compliance. I think the resolution is simply to establish thru questions to Harry Traeger what would be the appropriate level of enforcement for the Dept. of Commerce—he's afraid that a high fiscal note would kill the bill, so that is why he is pushing for a zero note; it's a policy question that he should not be deciding.

Latest update: I found out that last year this bill as HB 611 went through some 25 hours of committee hearings, so the AGC had a lot of time to massage it into an acceptable shape for them, so they will not be hear in force; though Resa King will be here. Basically, it is a Homebuilders bill, and they will be here in froce.

I also just found out this morning from Kitty that Rep. Sund is not coming in with an amendment to HB 168 to change it to HB 151 language--he wants to introduce the concept, but not the specific wording--a tactical error I think. In any event, the Dept. of Labor in their fiscal note has attached their proposed amendments which essentially change 168 to look like 151 (you might ask them, just to clarify this), so you can go with their wording if you like.

There was a misprint in the Chief Clerk's stating that today was a teleconference hearing, so I dont know what happened; it was a printing error.

· M E M O R A N D U M

TO: All Members, Labor and Commerce Committee

FROM: R. Poppe -- Committee Staff

DATE: February 19, 1985

SUBJECT: Overview; HB 151 & HB 168

On Wednesday, February 19, 1985, at 1:15-2:45 pm in Room 102 of the Capitol Building, the House Labor and Commerce Committee met on HB 151 and HB 168, both of which are titled "An Act relating to construction contractors."

Last year, HB 610 was introduced to the House as a means for creating a new Board of Builders. However, the Governor's Office generally opposes development of new Boards without substantial support, so the bill was greatly revised into a form that is similar to HB 151 and HB 168 which have been introduced this year. HB 610 passed the House last year by a vote of 34 yeas and 6 nays on May 8, 1984, and died in Senate Labor and Commerce Committee.

The thrust of both bills is to increase various enforcement activities of the State in order to protect the public from unlicensed and unbonded contractors who are unscrupulously taking advantage of them. The Governor's Letter of Transmittal gives a sectional analysis of the bill, spelling out the specific areas of increased enforcement activity.

In HB 151, the Governor's version, enforcement activities would be given to both the Dept. of Labor and the Dept. of Commerce to issue citations in the course of their activities. Currently, the Dept. of Commerce has no real enforcement activity in this area, and the Dept. of Labor has only the power of a cease-and-desist order, and then they have to go from there to a contempt order from the courts.

The basic difference between HB 151 and HB 168 by Rep. Sund is that in HB 168, only the Dept. of Commerce would have enforcement powers, a position that is opposed by the Dept. of Labor and the Administration, and should be resolved by amendments proposed by Rep. Sund for HB 168. A check with the Governor's Office indicates that if HB 168 is properly amended, the Governor would have no trouble supporting Rep. Sund's HB 168 instead of his own proposed HB 151.

The key thrust of both bills is that enforcement activity be increased in this problem area. The Dept. of Labor has a zero fiscal note because they already have inspectors on job sites, and so it would cause no extra expense for them to issue citations for violations and in general provide the other enforcement activities necessary. The Dept. of Commerce would need to develop these capabilities, since their current investigative activity is directed to other high priority areas, so they had a fiscal note of \$253,300 in HB 151. If they do not increase their activity, the fiscal note is zero. What needs to be established is the level of enforcement that the legislature desires to be enforced.

XX REPLY TO

POSTAL BOX 3011 110
ANCHORAGE ALASKA 99507
PHONE 1-907-263-2000

13 NATIONAL CENTER
100 CANTONMENT ROAD
ANCHORAGE ALASKA 99507
PHONE 1-907-263-2000

U.S. FEDERAL BUREAU OF INVESTIGATION
400 W. HARRIS STREET 214
ANCHORAGE
ANCHORAGE ALASKA 99501
PHONE 1-907-263-2000

STATE GOVERNMENT RECORDS
P.O. BOX 471
ANCHORAGE ALASKA 99507
PHONE 1-907-263-2000

**DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION SECTION**

February 15, 1985

The Honorable John Sund
Alaska State Legislature
Attn: Kitty Rodriguez
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Representative Sund:

Thank you for your interest in protecting consumers through considering increasing the bond requirements for contractors and specialty contractors.

As you know pursuant to AS 45.50.521 of Alaska's Unfair Trade Practices and Consumer Protection Act we cannot reveal the name of any businesses we are investigating or any respondent in a consumer complaint unless we file a lawsuit against that business. Your staff requested some statistical information concerning the numbers of consumer complaints we received in this office against contractors, however, and we can share that information with you.

We have summarized some of this information and it is attached to this letter. Our consumer complaint system is filed on an IBM word processing report pack. We are not computerized, thus the information we are providing is information that is fairly easy to compile. The information you requested, however, on the total dollar amount claimed by consumers as opposed to recovered by our efforts would require us to hand search numerous files to compute that amount. We have instead estimated the amount consumers filing complaints with this office claimed was due them based on comparisons with the amounts actually recovered.

We have also enclosed a copy of a complaint that was filed on behalf of the State of Alaska against John Jarrett d/b/a Kennelly and Associates, Inc. This complaint alleges that the defendant contractor failed to complete work promised Alaskan consumers on their homes or performed shoddy work on consumer homes, during the building season of 1984, then left the state with consumer deposits on work that was not completed or done in a shoddy way. This is the type of case in which a larger contractor's bond would be beneficial.

The honorable John Sund

February 19, 1985
Page 2

Thank you for your interest, if there is anything further we can do for you please let us know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:

Linda M. O'Bannon
Assistant Attorney General
Chief, Consumer Protection
Section

LMO/ssr

February 18, 1985

SUMMARY OF CONSUMER COMPLAINTS
INVOLVING CONTRACTOR DISPUTES
Received by the Consumer Protection Section
Department of Law

Fiscal year 1984

We received a total of 136 consumer complaints in FY 84 that involved a contractor or specialty contractor. Six of those consumer complaint files are still pending in our section.

We recovered a total of \$15,423.30 for consumers on these complaints. We estimate that we recover only about 10% to 20% of the money consumers claim is due them in these types of complaints, so that the amount actually claimed as consumer loss is estimated to have been approximately \$75,000 - \$150,000. Because of our questionable jurisdiction over real property transactions we believe many consumers do not file complaints with our office who otherwise would. Our overall recovery rate on all types of consumer complaints is near 50%.

Fiscal year 1985

To date in FY 85 we have received 114 consumer complaints and have recovered \$15,448.31 for consumers. Of the 114 complaints filed in FY 85, 41 are still pending. We estimate the total value of these 114 claims is \$60,000 - \$100,000 on the same basis as explained in the FY 84 summary.

February 14, 1985

MEMO

TO: Roger Poppe ^{KP}
Rep. Navarre's Office

FROM: Kitty Rodriguez ^{KR}
Rep. John Sund's Office

RE: HB 158

Attached are materials for the upcoming Labor and Commerce Committee hearing of HB168. The packet includes:

1. a copy of the bill
2. a copy of the pertinent statute
3. a briefing paper, which includes the history, purpose and sectional analysis of the bill
4. a 1984 research request, which describes licensing and bonding requirements for contractors in other states (I have asked for an update on this material)
5. a 1982 stat sheet from the Consumer Protection Office regarding complaints against contractors (I have asked for an update on this, along with figures on the size of damage claims, if available)

On the 20th, Rep. Sund will lead off the testimony in favor of the bill. We expect to have representatives of the Alaska Homebuilders Association and the Ketchikan Homebuilders Association to testify as well. I will provide you with their names and those of others who wish to testify, as soon as available.

Thanks for all your help. I'll be available next week to review some of this and to pull together our information.

February 13, 1985

BRIEFING PAPER

HB168

An act relating to construction contractors and providing for an effective date.

HISTORY

All entities wishing to work as contractor must have a license. General contractors must have a \$5,000 bond and specialty contractors must have a \$2,000 bond.

No protection is provided to the consumer who receives shoddy work from an unlicensed contractor. He is likely to find that the contractor has left the state and did not post a bond. Also, an unlicensed contractor who does not comply with the law can operate more cheaply and is likely to outbid a licensed contractor.

Enforcement is the job of the Department of Commerce and Economic Development. However, enforcement has been lax for two reasons:

- 1) a lack of enforcement powers. Cease and desist orders can be issued to a contractor who does not have proper bonding or a license, but criminal prosecution is rare.
- 2) a lack of personnel. Once a cease and desist order has been issued, the investigator might not return to the site until work has been completed and the contractor has left. The department is not able to effectively monitor contractors at their current staffing level.

HB610, introduced in 1984, began as a vehicle for creating a Board of Builders and, as CSHP 10, focused on changes which were substantially similar to HB168. HB610 passed the House with a vote of 34 yeas and 6 nays and was left in the Senate upon adjournment.

PURPOSE

To work as a contractor, the individual or company must be licensed. A general contractor must post a \$10,000 bond and a specialty contractor must post a \$5,000 bond. This essentially doubles the current level required and will assure more adequate compensation for unacceptable work, since the licensing procedure in itself does not guarantee competency.

A contractor must show his registration number in all ads. This is intended to heighten consumer awareness of licensing and bonding requirements when choosing a contractor.

The Department of Commerce and Economic Development will have citation authority. Working without a license will carry a set civil penalty. A \$253,000 fiscal note provide 3 Investigator III positions, in Juneau, Anchorage and Fairbanks, to enforce contractor requirements. These provisions will strengthen the enforcement of current regulations.

SECTIONAL ANALYSIS

Section 1 makes it unlawful for a general contractor to authorize a specialty contractor to begin work for him, unless that specialty contractor is licensed.

Section 2 prohibits the Commissioner of Commerce and Economic Development from issuing a new or renewal registration to a contractor whose registration is currently revoked or suspended or who has an outstanding fine imposed under this chapter.

Section 3, subsection (a) involves grammatical changes only. Subsection (b) adds the principal place of business and the contractor's registration number to the items required in all advertising and contracts.

Section 4 raises the amount of bonds to \$10,000 for general contractors and to \$5,000 for specialty contractors.

Section 5 adds provisions which require the Department of Commerce and Economic Development to provide investigative services to enforce 08.18. An investigator appointed by the department may issue citations for violation of 08.18 for each day a violation continues. It requires that appropriate records of citations be maintained by the commissioner and that there be at least five days between the issuance of the citation and the notice to appear. A person who fails to appear is guilty of a class B misdemeanor.

Section 6 directs the Commissioner of Labor to notify the Department of Commerce and Economic Development of violations of 08.18.

Section 7 identifies the Commissioner of Commerce and Economic Development, not the Commissioner of Labor, as the person enforcing an order issued under this chapter.

Section 8 allows the Commissioner of Commerce and Economic Development to impose a civil penalty not to exceed \$250 for each violation of this chapter.

Section 9 specifies that a contractor violating 08.18 is guilty of a class A misdemeanor. (A class A misdemeanor is punishable by a term of imprisonment of not more than one year and a fine of not more than \$5,000.)

Section 10 prohibits a state agency, corporation or authority from lending money to a project whose contractors are not in accordance with this chapter.

Section 11 adds a definition of department for purposes of this chapter.

Sections 12 and 13 provide for effective dates.

Proposed Amendment to House Bill 168

Page 5: Amend AS 08.18.141 to read:

Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity of a contractor in violation of this chapter is guilty of a class B [CLASS A] misdemeanor.

Proposed Amendment to House Bill 168

Page 5: Amend AS 08.18.171 beginning on line 16 to read:

Sec. 12. Sections 1, 2 and 5-11 [4-11] of this act take effect July 1, 1985.

Sec. 13. Sections 3 and 4 of this act take effect July 1, 1986.

Proposed Amendments to
House Bill No. 168

Page 2: Amend AS 08.18.117 beginning on line 18 to read:

Sec. 08.18.117. ISSUANCE OF CITATIONS. Either the Department of Commerce and Economic Development or the Department of Labor may issue a citation for a violation if there is probable cause to believe a person has violated this chapter. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation.

Page 3: Amend line 6 to read:

(c) The Department of Commerce and Economic Development and the Department of Labor are each responsible for the issuance of books

Page 4: Amend AS 08.13.121(f), beginning on line 10, to read:

(f) If the Department [COMMISSIONER] of Labor [LABOR] or the Department of Commerce and Economic Development determines that a contractor or a person [IS] acting in the capacity of [AS] a contractor, is in violation of this chapter, that department may, [THE COMMISSIONER SHALL] give written notice prohibiting further action by the person as a contractor. The prohibition continues until the person has submitted evidence acceptable to that department [THE COMMISSIONER OF LABOR] showing that the violation has been corrected.

Page 4: Amend lines 21 and 22 to read:

Seek equitable relief preventing the Department [COMMISSIONER] of Labor [LABOR] or the Department of Commerce and Economic Development from enforcing the order.

Page 4: Amend line 25 to read:

District [SUPERIOR] court by the Department of Commerce and Economic Development or the Department [COMMISSIONER] of Labor [LABOR OR THE COMMISSIONER'S REPRESENTATIVE].

Page 5: Amend line 14 to read:

(4) "department" means, unless the text reads otherwise, the Department of Commerce

Sum
AB 168
PS 1 min 2-5

17 SECTION.

18 * Sec. 9. AS 08.18.141 is amended to read:

19 Sec. 08.18.141. MISDEMEANOR. (a) A contractor or a person
20 acting in the capacity of a contractor in violation of AS 08.18.011 is
21 guilty of a class B misdemeanor. A person who violates any other
22 provision of this chapter is guilty of a violation punishable under
23 AS 12.

24 (b) Criminal prosecution for a violation of this chapter does
25 not preclude the Department of Commerce and Economic Development or
26 the Department of Labor from seeking any available civil remedies.

Bill No. House Bill No. 168
Title "An Act relating to construction
contractors; and providing for
an effective date."

Date February 20, 1985
Contact: Robert J. Bacolas
465-4870
Eileen Plate
465-2700


House Bill No. 168 attempts to strengthen Alaska's contractor licensing laws by imposing more stringent sanctions against unlicensed contractors; and the Department of Labor supports this effort.

However, the bill also seeks to place enforcement authority in only one state agency, the Department of Commerce; with the Department of Labor retaining responsibility only for monitoring contractor licensing during its on-site inspections and investigations. Any violations found would then be referred to the Department of Commerce and Economic Development for enforcement. Not only would this procedure delay enforcement of the contractor licensing laws, but it would also result in duplicative visits to the job site where the unlicensed contractor is working. It would, therefore, be more expeditious and cost effective for the Department of Labor to retain enforcement authority.

Accordingly, the Department would recommend amendments to House Bill No. 168, as listed on the attached, to effect this.

House Bill No. 168 will not have a fiscal impact on the Department.

APPROVED



Jim Robison, Commissioner
Department of Labor

Proposed Amendments to
House Bill No. 168

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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 168
 Title: "An Act relating to construction contractors..."
 Sponsor: Sund and Taylor
 Requestor: House Labor and Commerce
 Date of Request: 2/15/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards and Safety
Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ^{RS} Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards and Safety Date: 2/19/85
 Approved by Commissioner: ^{MS} Jim Robison Date: 2/19/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

HB 168 File Contents

- 1) Bill Summary -- Legislative Reporting Service
- 2) Overview -- Briefing Paper by Rep. Sund's staff
- 3) Sectional Analysis -- Rep. Sund's staff
- 4) Alaska Statutes 08.18.021-171
- 5) Fiscal Note -- Dept. of Commerce & Econ. Development
(same as for HB 151)
- 6) House Research Agency -- Response to January 10, 1984 request
- 7) 1982 Statistical Sheets -- Consumer Protection Office,
regarding complaints against contractors
- 8) Fiscal Note, Position Statement, Proposed Amendments - Dept.
of Labor

INTRODUCTION OF BILLS (House)(cont'd)

HB 163 (cont'd)

found to outweigh aggravating factors.

Requires the Commissioner of Corrections to establish a procedure for carrying out a death sentence. Requires punishment be inflicted either by hanging or intravenous lethal dose of sodium thiopental. Death sentence to be carried out within a state correctional facility. No effective date (takes effect 90 days after Governor signs bill).

Introduced February 1 and referred to Health, Education & Social Services, Judiciary, Finance.

Pretrial
Agreements
(judicial
approval)

HOUSE BILL NO. 164, by Reps. Taylor and Sund. Amends Criminal Code by adding a new section prohibiting a person who is charged in a criminal case from being placed into a pretrial intervention program that requires a continuation of the trial date beyond the 120-day limitation established in the Alaska Rules of Criminal Procedure, unless a program agreement between the prosecution and the defendant is made a part of the court record and is approved by the court. Does not provide for an effective date (takes effect 90 days after Governor signs bill).

Introduced February 1 and referred to Judiciary, Finance.

Elk
(transplanting)

HOUSE BILL NO. 165, by Reps. Taylor and Sund. Requires the Department of Fish and Game to transplant 150 elk from Afognak Island to Zarembo Island. States the department shall transplant 50 elk a year for three years. Does not provide for an effective date (takes effect 90 days after Governor signs bill).

Introduced February 1 and referred to Resources, then Finance.

Appropriation
(special)
(elk transpl.)

HOUSE BILL NO. 166, by Reps. Taylor and Sund. Makes a special appropriation in the amount of \$50,000 to the Dept. of Fish and Game for the transplantation of elk from Afognak Island to Zarembo Island. The unexpended and unobligated portion of the appropriation lapses into the general fund June 30, 1986. Provides Act takes effect on effective date of HB 165.

Introduced February 1 and referred to Resources, then Finance.

Seine Vessels
(maximum
length)

HOUSE BILL NO. 167, by Reps. Sund, M. M. Miller and Taylor. Repeals AS 16.05.835 (states that salmon seine vessels may not be longer than 50 feet, official Coast Guard register length, and 58 feet overall length, except vessels that have fished for salmon with seines in waters of the state before 1/1/62, as 50-foot, official Coast Guard register length vessels). Provides Act takes effect immediately.

Introduced February 1 and referred to the House Special Committee on Fisheries, then Resources.

Construction
Contractors
page 209

HOUSE BILL NO. 168, by Reps. Sund and Taylor. Tightens up laws relating to construction contractors:

INTRODUCTION OF BILLS (House)(cont'd)

HB 168 (cont'd)

--a general contractor could not allow a specialty contractor to work for him unless the specialty contractor is registered;

--would not allow issuance or renewal of certificate of registration to an applicant whose registration has been revoked or suspended, or against whom a fine has been imposed until period of revocation or suspension has expired or fine has been paid;

--all advertising contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor would have to show contractor's mailing address and registration number;

--raises amount of bond for general contractor to \$10,000 (now \$5,000), and specialty contractor to \$5,000 (now \$2,000);

--the Department of Commerce and Economic Development would be required to provide investigative services to enforce contracting provisions, and investigator could issue citations for violations;

--outlines procedure for issuance of citations;

--outlines civil and criminal penalties for violations of citations;

--prohibits state loans to construction projects that violate registration requirements.

Provides varying effective dates.

Introduced February 1 and referred to Labor & Commerce, Judiciary, Finance.

Avalanche &
Fire Weather
Forecasting

HOUSE BILL NO. 169, by the Rules Committee by Request of the Governor. See HB 46, page 51, identical. Provides Act takes immediately.

Introduced February 1 and referred to State Affairs, Resources, then Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will transfer the responsibility for administering Alaska's avalanche warning system from the Department of Public Safety (DPS) to the Department of Natural Resources (DNR). The bill also broadens the "warning" system by changing it to a "forecasting" system and adding fire weather responsibilities.

This change is recommended because DNR personnel have the scientific training and practical experience needed to supervise the collection, analysis, and dissemination of the physical and scientific data involved, in order to maintain an effective avalanche warning system. In fact, money appropriated to DPS to administer the program has, in the past, been transferred to DNR, other state agencies, and the University of Alaska. This bill would place direct responsibility for the administration of the warning system in the agency that is in essence already performing the

The figures available for 1982 reflect that 8 complaints have already been filed with the Consumer Protection Section. Projected over the course of the year the 1982 total could be 48 complaints, a 33% increase over the next highest year, 1980. This would seem to be a conservative projection, as there will be approximately 4,500 housing starts in Anchorage alone this year. With this increased building activity it is likely that there will be a substantial increase over the year.

A breakdown by area is as follows:

Anchorage	76
Outlying areas (Willow, Wasilla, Palmer)	8
Kenai area	8
Bush	4
Fairbanks	1
<hr/>	
Total	97

The following is a list of dwelling unit starts in Anchorage for 1980 and 1981. Also listed is the projected number of starts for 1982.

Dwelling Unit Starts

1980	1,071
1981	2,601
1982 (projected)	4,000-4,500

The figures almost speak for themselves. The projected growth in dwelling unit starts for the Anchorage area will be between 35% and 43%.

The impact of this increased activity upon the consumer is obvious. More contractors will be competing for this new business and our experience with the oil pipeline boom indicates that many of these new contractors will be "take the money and run" types.

Protection Office can intervene legally on the consumer's behalf. Often when the consumer finds out this is not the case, he/she may file directly in court or go to Occupational Licensing or the Department of Labor without filing a written complaint with Consumer Protection. In fact, the more serious or legally urgent the contractor complaint, the more strongly we urge seeing a private attorney and then we often do not get a written consumer complaint on those cases.

In reviewing our phone logs, our information officer estimates that at least 55-60 additional contractor complaints were received by the Consumer Protection Office in 1981. These complaints are not reflected in the previously discussed charts because written complaints were not formally processed in these phone-in cases. Total estimated contractor complaints (not including plumbers, electricians, etc.) for 1981 alone could be 87-92.

There is a high percentage of contracting businesses which shut down, enter bankruptcy, or simply disappear after a consumer complaint is filed, making any kind of resolution of a complaint pretty impossible.

Complaints About Quality of Contractor's Work
(1979-1982 sample from 97 total
number of written complaints)

Major delays	12
*Deviation from Original Plan	6
*Extra Charge/Cost Overruns	5
*Defective Work/Major/ Structural	35
*Defective Work/Finish/ Cosmetic	22
*Defective Work/Code Violation	6
*Defective Work/Operational	11
*Incomplete Work/Major	9
*Incomplete Work/Finish/ Cosmetic	26
*incomplete Work/Operational	4
*Clean-Up	4
<hr/>	
Total	140



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 10, 1984

MEMORANDUM

TO: Representative Jack McBride

FROM: Nancy Pease
Legislative Analyst

RE: Licensing and Bonding of Contractors in Other States
Research Request 83-251

Rena Bukovich of your staff requested information on the licensing and bonding of contractors in other states. Specifically, she asked how certain contractors--plumbers, electricians, builders and specialty contractors--are licensed and regulated in the following states: California, Colorado, Idaho, Michigan, Montana, Ohio, Oregon, and Washington.

Regulation of Contractors in the Eight States

Licensing. Altogether, 28 states license contractors. The licensing and bonding requirements for contractors in the eight states about which you inquired are summarized in the attached chart (see Attachment A). Of these states, Ohio is the only state which does not license contractors in any of the trades you specified (electrical work, plumbing, or general or specialty contracting). Colorado does not license general or specialty construction contractors, and Idaho and Montana require licenses of construction contractors only if they wish to bid on public works. With these exceptions, the states generally require contractors to be licensed.

Bonding. California, like Alaska, requires that all contractors post bonds with the state as a prerequisite for license approval. Washington and Michigan require bonding for electricians; the other states do not require electricians or plumbers to post bonds in order to obtain a license. Four of the eight states--California, Michigan, Oregon, and Washington--require general or specialty construction contractors to post bonds with the state. The largest bonds are required by Michigan, where a residential building contractor must post a bond of \$10,000 to obtain a license.

Regulations. As requested, we are providing copies of the other states' statutes for the trades of electrical work, plumbing, and general and specialty contracting.

Representative McBride
January 10, 1984
Page 2

In some instances, we have included license applications and printed regulations supplied by the states' trade boards. Please let us know if you require further analysis of the statutes and regulations; we will be happy to summarize and compare them if needed.

Requirements for a Contractor's License

Licensing requirements for contractors vary from trade to trade and from state to state. The procedure for obtaining a license may require the applicant to complete some of the following steps:

- pass a written or oral examination;
- submit a financial statement;
- submit references from material suppliers and/or bank;
- attest to ownership of equipment and/or experience related to the given field;
- report an in-state business address;
- report personal or corporate bankruptcies;
- obtain bonding; or
- obtain insurance covering public liability, property damage, and workers' compensation.

Exemptions. Some states exempt from licensing those contractors whose contracts do not exceed a specified dollar amount. Other states waive the license requirement if a person intends to work only on his personal property. For example, Alaska does not require a person to license himself to repair his own property, while Arizona requires that work on personal property be performed by a licensed and bonded contractor if the building is to be rented or sold within one year of completion of the work. Two states, Kansas and Nebraska, license only nonresident contractors, and Delaware licenses contractors for revenue purposes only.

Limited and reciprocal licenses. In skilled trades such as plumbing and electrical work, states frequently issue licenses that limit the licensee to working at a particular skill level for which he has demonstrated competency or proven his experience. For example, Colorado licenses electrical workers at four skill levels: trainee, residential wireman, journeyman electrician, and master electrician.

Representative McBride
January 10, 1984
Page 3

In granting a license to a contractor, some licensing boards also: (1) determine the construction classification at which the contractor may work (i.e. industrial, commercial, residential, public works); and (2) set a contract bid limit based on the contractor's working capital, i.e., he may not bid over \$200,000 on a single contract or over \$500,000 on separate, concurrent bids.

A few states have agreed to reciprocally recognize other states contractors' licenses; for example, Michigan and Indiana permit plumbers licensed in either state to do contract work in both states.

Licensing Boards

In states which thoroughly review the qualifications of contractor applicants, the licensing procedure is usually handled by a licensing board. Typically, this board is composed of licensed, experienced contractors who are appointed by the governor or the state legislature and who convene intermittently throughout the year. Recently, many states have included members of the general public on regulatory boards so that the boards are not composed exclusively of representatives of the regulated industry or profession.¹

Bonding Requirements

Of the 28 states that license contractors, eleven states require the contractor to be bonded as a condition of license approval.²

As you may know, Alaska requires a surety bond of \$5,000 for a general contractor and \$2,000 for a specialty contractor, or an equivalent cash deposit.³ The surety bond, also termed a "license bond", is intended to assure payment of (1) taxes, (2) employees and suppliers, and (3) any judgments against the contractor for negligent or improper work, breach of contract, or damage to public facilities.

The bonds that some states require before they will license contractors are independent from the bonds that construction clients may require before they will accept a contractor's bid. Construction clients may

¹State of Tennessee "Program Evaluation on the Board for Licensing Contractors", Division of State Audit, July 1973.

²Ibid

³AS 08.18.071.

Representative McBride
January 10, 1984
Page 4

require (1) performance bonds to guarantee that the work will be completed on time and according to specifications; (2) payment bonds to guarantee that suppliers and employees will be paid; and (3) bid bonds to guarantee the sincerity of the bid.

Penalties and Enforcement

Penalties. AS 08.18.141 states that "a person acting in the capacity of a contractor in violation of this chapter is guilty of a misdemeanor." The contractor is usually given a hearing before the trade or licensing board, and if found guilty, he may be fined in addition to having his license revoked. This same penalty appears to be common among states that require contractors to be licensed.

The method of recovering damages from bonded contractors in Alaska also appears to be normal procedure in other states. The surety bond issuer is not liable for claims in excess of the amount of the bond, and claims for breach of contract are assigned a lower priority than claims for labor costs and taxes which may be owed to government units.

Enforcement. Most states share with local governments the responsibility for monitoring contractors. For example, Colorado plumbing laws prescribe that cities with populations of over 70,000 must appoint inspectors of plumbing to their local boards of health to help report violations of plumbing laws to the State Examining Board of Plumbers. In addition, Colorado's State Examining Board of Plumbers is authorized to hire its own plumbing inspectors.

In states which have a single board of licensing for contractors in all trades, enforcement duties may be divided among state agencies as well as between state and local agencies. For example, in Tennessee, the Board for Licensing Contractors only investigates complaints about licensing, while violations of the technical rules of a particular trade are dealt with by the appropriate trade board or by state health and safety agencies.

* * *

I hope you find this information useful. If we can be of further assistance, please let us know.

NP

Attachments

Attachment A
Table 1

LICENSING AND BONDING OF CONTRACTORS IN EIGHT STATES

	<u>Electrical work</u>	<u>Plumbing</u>	<u>General Building Contracting¹</u>	<u>Speciality Contracting</u>
California ^{2,3}	license bond (\$5,000)	license bond (\$5,000)	license bond (\$5,000)	license bond (\$5,000)
Colorado	license ---	license ---	--- ---	--- ---
Idaho	license ---	license ---	license for public works ---	license for public works
Michigan	license bond ⁴	license ---	license for residential builders ---	license ⁵ bond (\$2,000-\$10,000)
Montana	license ---	license ---	license for public works ---	license for public works ---
Ohio ⁶	--- ---	--- ---	--- ---	--- ---
Oregon	license ---	license ---	license for bldg. construction bond (\$6,000)	license bond (\$4,000)
Washington	license bond (\$3,000)	license ---	license bond (\$4,000)	license bond (\$2,000)

Footnotes: See Next Page

FOOTNOTES TO TABLE 1

- 1 AS 8.18.171 defines "general contractor" as a contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor". Contractors are persons who undertake or bid for projects to construct, alter, repair, move or demolish a building, highway, road, railroad, or a type of fixed structure, including excavation, site development and erection of scaffolds.
- 2 A bond of three to ten times this amount is required for the licensing of applicants who have been a party to business infractions resulting in the revocation of their own or other contractors' licenses (CRS 7071.8). Swimming pool contractors must post a bond of \$10,000.
- 3 The co-owner of a licensed firm, or the subsidiary or joint venture partner of a licensed firm, may in some circumstances be required to post an additional bond of \$2,500. CRS.7068 and CRS.7071.9.
- 4 The bond takes the form of a deposit to the Homeowners Construction Lien Recovery Fund. The required amount of the bond varies. MCL 338.883.
- 5 Contractors in the fields of residential building, maintenance, or alteration must post bonds of \$2,000 for each trade for which they are licensed, not to exceed a total of \$10,000. MCL.338.1504.
- 6 ORC 3781.102 delegates the licensing of contractors in Ohio to local governments. However, legislation is now pending before the Ohio General Assembly to establish requirements for state licensing of electrical contractors.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

9/5/89
Date