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353

STATE OF ALASKA
THE LEGISLATURE

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 353

House State Affairs

2/13/90

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 353

Practice of Public Accountancy

Received May 6, 1989
by Rep. Boyer and Boucher

Heard February 13, 1990
Heard March 22, 1990

Adopted CSHB 353 (SA) March 22, 1990

Passed Out of Committee March 22, 1990
1 Do Pass
3 No Recommendation

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HB 353: Practice of Public Accountancy

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CSHB 353 (SA)
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Commerce & Economic Development
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March 22, 1990

HOUSE COMMITTEE REPORT

(7)

Date Referred: May 6, 1989

FURTHER REFERRALS: LABOR & COMMERCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 353

HOUSE BILL NO. 353

[PRACTICE OF PUBLIC ACCOUNTANCY]

"An Act relating to public accountancy; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSHB 353(SA) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact LED
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO/PASS:

[Signature]

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u>		X	
<u>[Signature]</u>		X	
<u>[Signature]</u>		X	

[Signature]
Chairman's Signature

Item 3

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
Title: An Act relating to public BRU: Occupational Licensing
accountancy; and providing for an effective date
Sponsor: Representatives Boyer and Boucher Components: _____
Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	9.0	9.0	9.0	9.0	9.0	9.0
CONTRACTUAL	4.0	4.0	4.0	4.0	4.0	4.0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	13.0	13.0	13.0	13.0	13.0	13.0
CAPITAL	0	0	0	0	0	0
REVENUE	62.0	62.0		62.0		62.0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (GF/PR)	13.0	13.0	13.0	13.0	13.0	13.0
TOTAL	13.0	13.0	13.0	13.0	13.0	13.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

The bill makes a number of amendments to the public accountancy licensing statutes. The fiscal impact of this bill stems from: (1) requiring a minimum of four board meetings each year; and (2) the need to adopt regulations concerning education and experience requirements, and to establish criteria for the quality review program. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 2/12/90

Approved by Commissioner: Larry Mercurieff Date: 2/12/90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

**CONTINUATION OF FISCAL NOTE
FOR HB 353**

The operating budget request of the department already provides for two meetings of the Board of Public Accountancy. Travel funds provided in this fiscal note will fund two additional meetings to fulfill the minimum requirement of four meetings as required in Section 3.

The funding in contractual services will cover costs to provide public notices of meetings and regulations, teleconferences for public hearings, printing needs, and other communications costs.

Revenues: Currently, expenditures of the board exceed revenues generated from licensing fees. In the past, at least three board meetings were held each year although revenues did not cover its expenses. Therefore, the mandate of four meetings each year will require an increase in licensing fees to support the board's activities.

This fiscal note reflects a license fee increase of \$120 (\$60 per year) paid by 500 active licensees and \$10 (\$5 per year) paid by 200 inactive licensees. Although the fee increase will be recommended to the board in FY 90, it is conceivable that the increase will not take effect until FY 91 and each renewal thereafter. The increase will be sufficient to cover the \$13.0 identified in this fiscal note and to cover the current deficit by bringing fees closer to covering board costs.

S E C T I O N A L A N A L Y S I S

CS HB353 (STA)

Sec. 1. Adds a policy statement to AS 08.04, relating to public accountancy.

Sec. 2. Amends membership appointments and qualifications of the board. Instead of 5 certified public accountants or public accountants and two non public members, the board will consist of 5 certified public accountants or public accountants, one accountant who is not certified, and one public member.

Sec. 3. Requires that the board of public accountancy to hold at least four meeting per year.

Sec. 4. Effective April 26, 1991, (according to sec. 16), establishes educational and experience requirements for licensure. Requires a four year degree and 2 or 3 years of experience, depending on concentration of studies.

Sec. 5. Effective April 25, 2004, (according to sec. 17), establishes new educational and experience requirements for licensure. Phases in additional post-baccalaureate study so the total educational program includes at least 150 hours.

Sec. 6. Allows an applicant to take an examination before completing educational requirements.

Sec. 7. Effective April 26, 1994, (according to sec. 18), establishes a minimum requirement related to retesting.

Sec. 8. Sets new requirements related to retesting and allows board waiver in particular cases. Also, effective April 26, 1994, (according to sec. 18), establishes a minimum passing requirement for testing.

Sec. 9. Allows the board to establish a quality review program.

Sec. 10. Allows the board to impose sanctions for failure to satisfactorily pass a quality review.

Sec. 11. With exceptions, prohibits an unlicensed person from

issuing a report on financial statements of another person, firm, organization, or governmental unit. Requires board to adopt a form of acceptable language for compilation reports for use by unlicensed persons or firms under this section.

Sec. 12. Sets new requirements related to partnership posing as accountants or auditors.

Sec. 13. Sets new requirements related to use of title with corporate name.

Sec. 14. Sets parameters for confidentiality of communications with a public accountant.

Sec. 15. Adds new definitions related to other sections of the bill.

Secs. 16 - 18. Special effective dates.



UNIVERSITY OF ALASKA FAIRBANKS

School of Management
Fairbanks, Alaska 99775-1070

RECEIVED

FEB 20 1990

Item 4

February 15, 1990

The Honorable Red Boucher
The Honorable Mark Boyer
Alaska House of Representatives
Juneau, Alaska

Dear Messrs. Boucher and Boyer:

I regret to report that we have been unable to reach a consensus within Alaska's accounting community on House Bill 353. The State Board has engaged in discussion with both the Alaska Society of Independent Accountants and the Alaska Society of Certified Public Accountants since the teleconference committee hearing on Tuesday, but to no avail. Neither side will budge from their positions on the composition of the Board. I don't see how any compromise on this issue could satisfy both groups. As a matter of fact, the positions seem to be hardening as now both sides have engaged lobbyists to "protect their interest."

I believe the State Board of Accountancy speaks for the public interest in this matter. We view this Board composition question as a relatively minor issue especially when examined in the context of the entire bill. Allow me to elaborate on the Board's view of the important provisions of this bill.

1. The bill brings our statute up to date. Our Accountancy Act was written 1960. At that time public accountants issued only audit reports or unaudited reports. Now public accountants issue review and compilation reports as well as audit reports. This bill would specifically reserve review reports (which offer some limited assurance) to licensed accountants while allowing non-licensed accountants to issue compilation reports (which offer no level of assurance.) This would bring Alaska into conformity with most other states, while protecting the livelihood of non-licensed accountants. More importantly, the bill would explicitly reserve to licensed individuals the right to offer assurance on the fair presentation of financial statements. Such individuals have exhibited through the licensing process the professional expertise to offer assurance.

The bill would also bring our statute up to date in other sections such as the purpose language which was adopted from the American Institute of Certified Public Accountants (AICPA)/National Association of State Boards of Accountancy (NASBA) model act.

2. Quality Review has been the principal NASBA concern over the last several years. Now the AICPA has a requirement for mandatory quality review, but all licensed CPAs are not members of the AICPA. The provisions of this legislation tie closely to the AICPA program to insure that AICPA members are not burdened with a duplication of programs, and insures that all licensees are subject to a quality review program. The legislation mandates a level playing field for all CPAs and protects the public interest by insuring that all CPA firms engage in quality review programs.

3. Alaska is one of a very few states that does not require a baccalaureate degree for licensure. I think it's well past the time that a baccalaureate degree be required. Following the AICPA/NASBA lead, this bill also provides for a post-baccalaureate requirement (150 university credits) in 2004. I feel that these increased educational requirements will be beneficial to our state in several respects.

A. As the technical requirements of generally accepted accounting principles and generally accepted auditing standards have proliferated in recent years it has become obvious that a baccalaureate degree is necessary for entrance into the profession. An increase in the educational requirements assures the level of professionalism the public has a right to expect from licensed individuals.

B. The 150 hour requirement would increase the educational effectiveness of the accounting programs within our universities. For example, each unit within the University of Alaska system would be obliged to review its accounting curriculum to organize a 150 hour program. A change in statute would give each unit the political authority necessary to engage in such an exercise. I think the result would be a significant improvement in accounting education in our state.

C. Hopefully, each unit of our university system would draw upon the expertise and experience of the accounting community as their accounting curricula are revamped. Such a process would strengthen the link between academe and the accounting profession in our state.

The question we now face is whether to give up on all these positive aspects of the bill because of the disagreement over the composition of Board membership. I understand the legislature's reluctance to become involved in controversy. You will not receive much public appreciation from passing this legislation and you may well incur the wrath of individuals who could cause you considerable political damage. I would still urge you to pass a bill in this session of the Legislature. Perhaps the Board Composition section could be taken from this bill and inserted in a new bill. That would allow the State Board's bill to be considered on its merits, while allowing the Board Composition question to be considered separately. Another alternative might be to have your State Affairs Committee vote the Board Composition question up or down after listening to the arguments from both sides. However the bill might proceed from this point forward, I want to thank both of you and your staffs, specifically Christine Underwood and Dennis Burns, for the time, energy, and interest you devoted to the bill.

At the February 1, 1990 meeting of the State Board of Accountancy, the Board did unanimously vote to endorse the Committee Substitute to HB 353. This week two members of the Board were replaced by new Governor appointees. No vote has been taken by the revised Board membership on any position we might take on the current impasse. The thoughts in this letter represent my position on these matters though I do believe they represent the feelings of a majority of the current Board. They should be viewed from that perspective and not as the official position of the State Board of Accountancy.

If I can be of any additional assistance, please do not hesitate to call on me.

Sincerely,



Tom Bartlett, CPA
Associate Professor of Accounting
Chair, Alaska State Board of Accountancy

cc: Members, Alaska State Board of Accountancy
Brian Tinker, Alaska Society of CPAs
Dave Stephenson, Alaska Society of Independent Accountants

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

VICE-CHAIRMAN, HOUSE
HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

MEMBER, HOUSE LABOR AND
COMMERCE COMMITTEE

CHAIR, CHILDREN'S CAUCUS



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE
FAIRBANKS, ALASKA 99701
(907) 456-6473

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3466

February 22, 1990

Mr. Tom Bartlett, CPA
Chair, Alaska State Board of Accountancy
UAF, School of Management
Fairbanks, Alaska 99775-1070

Dear Tom:

Thank you for your letter dated February 15, 1990. I am sorry to hear that no consensus has been reached relating to composition of the Board members. At the time of the hearing, I understood that the State Board was in support of our proposed committee substitute; this is even stated in your letter. It is unfortunate that only the negative aspects perceived of the bill were brought up in the committee hearing.

I understand the implications of not reaching a compromise that is acceptable to the both the Alaska Society of Independent Accountants and the Alaska Society of Certified Public Accountants. Perhaps the best solution is to let the State Affairs Committee vote on the legislation after it hears both sides' arguments relating to the bill.

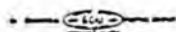
I will contact you when CSHB 353 (STA) is scheduled for its next hearing. Your opinions are appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Mark Boyer".

Mark Boyer
Representative

FAIRBANKS 20B





Representative H.A. "Red" Boucher

Chairman House Committee on State Affairs • Special Committee on Telecommunications
Member Labor & Commerce Committee • Chairman Commission on the Future of the Permanent Fund

February 24, 1990

Mr. Brian Tinker, President
Alaska Society of CPA's
1300 E. 68th, Suite 210
Anchorage, Alaska 99518

Dear Mr. Tinker:

I recently received a letter (attached) from Tom Bartlett which indicated that a consensus has not been reached within Alaska's accounting community regarding HB 353. That disagreement appears related to the Board composition issue.

Mr Bartlett indicated in his letter that, while the disagreements over the Board structure appeared to be at an impasse, he believed that to be a minor issue relative to the importance of the overall proposed law.

It would be very helpful to know how your members feel about HB 353. For example, have you polled all of your members regarding their support of HB 353 excluding the issue of the Board seat? If a poll was taken, would you be willing to provide the results of that poll to the State Affairs Committee for their consideration?

Thank you for your help in this matter, and I will look forward to hearing from you soon.

Sincerely,

H. A. "Red" Boucher
Representative

cc: Kevin Walsh, Legislative Committee, CPA Society
Members, State Board of Accountancy
Dave Stephenson, Ak. Society of Independent Accountants
Representative Mark Boyer

ASCPA

Alaska Society of Certified Public Accountants

March 20, 1990

The Honorable H.A. "Red" Boucher
Chairman House Committee on State Affairs
Room 102 Capitol
Box V
Juneau, Alaska 99811

Dear Mr. Boucher:

Thank you for your letter requesting information about our member's feelings about HB 353.

I am sorry that we caught you off guard during the February testimony on this bill. Our office was not notified about the hearing until 3pm on Monday prior to the Tuesday morning hearing.

The Alaska Society of CPAs (ASCPA) had worked very hard with the Alaska State Board of Accountancy (ASBA) during the summer and fall of 1989 to draft a committee substitute bill that we both could support. As part of this process, the ASCPA formally surveyed its membership in August 1989 to determine what the legislative issues were and what they would support and what they would not. This draft was completed December 18, 1989 and reflects the results of that survey. It was my understanding that it had been submitted to your committee. I now believe that you may not have seen it and therefore I have faxed your office a copy. Apparently, at the ASBA in Juneau on February 2-3, 1990, the Alaska State Board was informed by members of the Alaska Society of Independent Accountants (ASIA) that they would fight to defeat this legislation unless two changes were made. The ASBA negotiated those changes at that meeting without our consent and submitted the committee substitute dated 2/3/90. The ASBA informed us they had done this because the bill would otherwise not pass and they felt these were minor changes. Our survey clearly indicated that our members would not be in support of the two changes. We informally resurveyed our members by phone and found that upon reflection and after our having gone through the joint drafting process with the ASBA, our members were even more adamantly against these two changes than the original survey had indicated.

Immediately after the hearing, at the request of the ASBA, we agreed to a teleconference meeting with the ASBA, ASIA, and ourselves to try and come to an agreement. Just prior to the meeting an ASIA representative informed the ASBA that they would not participate in the teleconference as they felt it would be a

waste of their time since they were not willing to compromise on these two issues.

The two issues are:

1. The designation of a seat on the ASBA solely for an "unlicensed accountant".
2. The requirement that the ASBA have a regulations project and provide regulatory language for use by "unlicensed and unregulated accountants" for use in issuing compiled financial statements.

The ASCPA opposes the designation of a seat on the ASBA solely for an unregulated class of accountants. We believe that they should be able to fulfill any of the public designated seats. We understand that an AG ruling exists indicating that current statutory language precludes their appointment to such a seat. Accordingly, we agreed to the correction of this by adding Section 08.04.021 on page two of the 12/18/89 draft indicating that ANY person not licensed under this chapter shall be eligible for appointment as a public member.

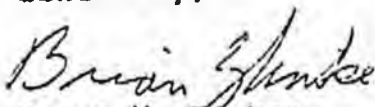
The statutory requirement that a regulations project provide regulatory language for what they have termed, but not defined, as "unlicensed accountants" would create a second class of accountants. These accountants would be totally unregulated but would be able to cite statutes and regulatory authority for their financial statement cover letters. This issue has arisen in many states over the years across the nation. For the most part it has been defeated. We have informally surveyed those states where such a statute has been passed and they tell us that they wish there was some way they could change it back because it has really caused them problems.

Other than these two changes, made without our consent, the ASCPA still supports the 12/18/89 joint draft with the ASBA.

I have tried to briefly summarize the critical issues and events. I have available for detailed background and support for the issues and events.

If I can be of any further assistance, please give me a call. I will participate in the teleconference hearing 3/22/90.

Sincerely,


Brian M. Tinker
President

CC: Representative Mark Boyer

Enclosures: 12/18/89 CS HB 353 draft.



March 20, 1990

The Honorable Mark Boyer
Box V
Juneau, Ak. 99811

Dear Mr. Boyer:

On behalf of the Alaska Society of CPAs I would like to apologize for any inconvenience brought about by our unexpected testimony on the hearing on CS HB 353. I have also written Representative Boucher regarding this matter and have enclosed a copy of that letter for your reference. It explains in more detail the chain of unfortunate events which led to the testimony the day of the hearing.

Please be assured that the Alaska Society of CPAs is desirous of having good laws and regulations concerning the licensure and practice of CPAs. We worked long and hard with the Alaska State Board of Accountancy to arrive at the joint 12/18/89 committee substitute draft. We will still support that draft under your sponsorship as we originally agreed. We do not feel that the 12/18/89 version in any way restricts the practice or endangers the livelihood beyond the current statutes of any nonregulated or unlicensed accountant. It does in fact, as outlined in the letter to Representative Boucher, attempt to clarify that the Governor can appoint any person not licensed to the public seats on the Alaska State Board of Accountancy. This would include unlicensed accountants

We remain open to discussion and working towards positive legislation concerning licensees. If I can be of any assistance, please call or write.

Sincerely,

Brian M. Tinker
President

CC: Representative Boucher

Enclosures: Letter to Representative Boucher
12/18/89 joint draft with ASBA

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

SOLDOTNA

312 TYEE STREET
SOLDOTNA, ALASKA 99699
(907) 262-7841

JUNEAU

BOX V
JUNEAU, ALASKA 99811
(907) 485-2689

March 1, 1990

James A. Arness, CPA
P.O. Box 1061
Kenai, AK 99611

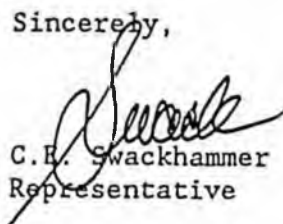
Dear Mr. Arness:

Thank you very much for your letter stating your opposition to House Bill 353, practice of public accountancy.

I understand the bill is experiencing some difficulty in the House State Affairs Committee concerning composition of the board. I will follow the bill's progress. I will also share a copy of your letter with the State Affairs Committee for their review as they work on this bill.

Thank you, again, for relaying your concerns regarding this legislation.

Sincerely,


C.E. Swackhammer
Representative

cc: State Affairs Committee w/encl.
CES/lsg

Item 4

Alaska State Legislature

WHILE IN SESSION
PO BOX V
UNEAU ALASKA 99811
907 465-3779
HOUSE MAJORITY LEADER



HOME ADDRESS
PO BOX 169
KENAI ALASKA 99811
907 232-9366
DISTRICT 5

Representative Mike Navarre

MEMORANDUM

TO: Representative "Red" Boucher, Chairman
State Affairs Committee

From: Representative Mike Navarre

Date: March 13, 1990

Subject: House Bill 353, An act relating to the practice of public accountancy

I have enclosed a letter from a long-time CPA and friend from the city of Kenai. I found his comments relative to House Bill 353 interesting and thought you and your committee might find them useful.

If you or your committee wish any additional information regarding the comments of these letter please feel free to contact me.

JAMES A. ARNESS
CERTIFIED PUBLIC ACCOUNTANT
P. O. BOX 1061
KENAI, ALASKA 99611
907 283-4700

RECEIVED

FEB 25 1990
February 22, 1990

Mike Navarre
Alaska State Legislature
PO Box V
Juneau, Ak 99811

Dear Mike:

The purpose of this letter is to express my concern with house bill number 353. As I understand HB353, all self employed certified public accountants operating within the State of Alaska as a proprietorship, partnership or corporation would be required to periodically undergo a peer review by an authorized certified public accounting firm.

I would like to list the results of such legislation that I feel to be contrary not only to members of the profession but also to the general public.

First, I have not been able to find evidence that there have been a significant number of complaints by the general public, business community or third party users of information prepared by my profession to indicate a need for this legislation. These types of problems are most prevalent during difficult economic times. As Alaska has experienced severe economic hardship in the last several years, it would seem that this has been a period in which such problems, if they exist, would have been large in number and easy to identify.

Second, this legislation would require all firms to contract with these firms qualified to provide peer reviews and pay for the service. As this is a new program, it is difficult to determine the cost per unit. I would expect fees for small firms, such as mine, to incur cost somewhere in the neighborhood of \$5,000. per review. Such a cost is inflationary and difficult for

the smaller firms to absorb. In addition, it appears that if this bill became law the individual practice units would still be responsible for any problem which may arise, not the State Board of Public Accountancy.

Third, the results of such a review is that the practicing firm will be allowed to continue to practice or would be precluded from the preparation of audited or reviewed financial statements. Such a legislated authority provides the reviewer with the arbitrary authority to deprive the CPA from his or her ability to produce an income. Such an arbitrary authority could lead to the willful elimination of practice units. The effect of such a restraint of trade would be to restrict the number of practice units allowed to provide this type of work. This would make the process of selection of an accounting firm less competitive and probably increase the fees by the remaining practicing units.

Fourth, the concept of peer review has been in affect for some time. As I understand, most large firms are already involved in having their firms reviewed in some form by an outside firm. Therefore, this legislation is directed at the smaller practicing units. I would estimate that the effect of this legislation would apply to no more than fifty practice units currently operating within the state.

The concept of peer review was first presented by the American Institute of Certified Public Accountants several years ago. The program was not successful as only the larger firms who are involved in the type of work which provided a need for this service and can properly amortize such a cost participated. The AICPA is now making peer reviews mandatory for membership in their organization. Throughout the nation, they are attempting to require such reviews by legislation such as HB353.

As I understand other states, such as Colorado, have rejected the idea of legislating the peer review concept and have left the decision to the individual practice units.

From my perspective, I am already controlled by a variety of factors. First, I had to pass the CPA exam and meet the required education and experience requirements in order to become a CPA.

Second, if my work is considered substandard, my clients would not return and third party users (such as banks and investors) of the financial statements I prepare would require that my clients use the services of another firm. Third, the type of work we all are involved in is limited by our size and the needs of prospective clients. Fourth, I, as well as all other CPA's, already participate in continuing education programs required to renew our certificates.

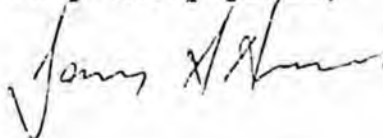
To legislate the ability of one firm (in this case a competing firm) to jeopardize or destroy the livelihood of another firm sets a dangerous concept. As stated earlier, this bill has the ability to restrict the right of individuals to do business today and in the future. This bill is inflationary and burdensome, particularly to smaller firms such as mine.

I have been a practicing CPA in Alaska since 1970. I have had my own practice in Kenai since 1973. As I believe is the case with all CPA's, I am constantly concerned with the level of my work and the financial well being of my clients. We constantly try to improve our firms as we are well aware that if we don't problems from clients, third party users of our work and other outside interest (such as the Department of Revenue or Internal Revenue Service) would destroy our practices. In my opinion, this legislation will not improve our concern to provide as good a service as we are capable of doing.

In closing, it would seem that if the legislature of the State of Alaska wishes to require a need for peer review in the accounting profession that such a requirement should be expanded to apply to all business organizations providing goods or services within the State.

In my opinion HB353 should not become law. I appreciate the opportunity to present my view and ask that this legislation not become law.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James A. Arness".

James A. Arness

Item 5

STATE OF ALASKA THE LEGISLATURE

ALASKA STATE CAPITOL
GENERAL ASSEMBLY
407 4th Street
Juneau, Alaska 99801


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1990

SUBJECT: Interpretation of "Public Member"
(CSHB 353(State Affairs))

TO: Representative Mark Boyer

FROM: Terri Lauterbach 
Legislative Counsel

You have asked for an opinion as to whether an accountant who is not licensed under AS 08.04 would be eligible to be a "public member" of the Board of Public Accountancy established under AS 08.04.010.

In my opinion, an accountant would not be eligible to be a public member of the Board of Public Accountancy because an accountant is engaged in "the occupation that the board regulates." AS 08.01.025

The restrictions on public members of boards and commissions are contained in AS 08.01.025, which reads:

Sec. 08.01.025. PUBLIC MEMBERS, A public member of a board may not:

- (1) be engaged in the occupation that the board regulates;
- (2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation that the board regulates.

In my opinion, the Board of Public Accountancy regulates the occupation of accountancy, not merely the occupation of public accountancy. If a person practices a particular type of accountancy, the board requires that the person be licensed. If a person does not have a license, the statutes administered by the board, and the regulations the board may adopt, prohibit the person from practicing the types of accountancy that require licensure. Whether licensed or

Representative Mark Boyer
Page 2
March 22, 1990

not, an accountant's practice of accountancy is regulated by the board.

See, for instance, secs. 11 - 13 of CSHB 353(State Affairs). They prohibit certain actions by unlicensed persons. So does AS 08.04.560, which is not in the bill. Under the authority of AS 08.04.630, the Board of Public Accountancy may apply to a court for an injunction against a person who violates any of these sections. That clearly involves regulation of accountants other than accountants actually licensed by the board.

The purpose behind having public members supports my interpretation of AS 08.01.025, as well as the literal language. The purpose is to ensure that persons who are not necessarily qualified technically in a particular field have a hand in regulating persons who are providing services to the public in that field. Public members provide a consumer perspective on the various boards and commissions. If AS 08.01.025 were interpreted to allow members of an occupation who were not licensed to be on the board regulating that occupation, there would not necessarily be a consumer, nontechnical perspective represented on the board; in the worst of possible situations, it could mean that a board was made up entirely of accountants (licensed and unlicensed) who merely had "turf battles" and no concern for the interests of consumers of accountancy services.

AS 08.01.025 could have been written to say that public members may not be licensed by the board they serve on; but AS 08.01.025 does not say that. While there may be plausible counterarguments, I think the better view is that "occupation" is a broader term than "licensees" and its use in AS 08.-01.025 was intentional. In the context of AS 08.04 and CSHB 353(State Affairs), the broader term "occupation" includes all accountants, regardless of whether they are licensees.

In summary, accountants are members of the occupation regulated by the Board of Public Accountancy, regardless of whether they obtain licenses issued by the board, because the practice of their occupation is restricted by laws enforced by the board and because the purpose and language of AS 08.01.025 support that interpretation. As such, they would not be eligible to be public members of the board.

Please let me know if I can be of further assistance.

TML:lmb
L10/022

TWO ISSUES

DESIGN SEAT FOR NONCERT -
UNLICENSED PERSON (ACCOUNTANT)
TWO PUBLIC MEMBERS

1. BOARD COMP

REMOVE PUBLIC MEMBERS - UNL. + UNL.

NONCERT SEAT COULD A MEMBER (EMPLOY
BY

2. COMPILATION ISSUE

ARRIVED AT COMPUD - PLU O NOW

FORWARD SET LANGUAGE IN REQ

CS - SUPPORTIVE BY BOARD / NONCERT

CPA NOT IN AGREEMENT

DAVID STEVENSON ASIC

HAULEY - ED REQ? FOR CPA

A. NOT CERT - ? GROUP UNL

NOT REQUIREMENTS, NOT IN

THE BILL

Def. NOW + CPA

Dist: CIA extensive training - TCIS/STOR

Reliable - DECISION MAKING

Advocate

NOW - PROVIDE INFO - ACCRIT

PROD FIN STATEMENT - BUT

NO MORE - TWO FUNDED USE

to CPA

NON NATURALLY
EXCLUDED

Douley

EXISTING STATUS: REQUIRES QUART
LEVEL? WHAT IF

SHOULD BE NOT IN REGULATION? BOARD
LANGUAGE - NOT A GOOD DRAFTING;
REQUIREMENT: WHAT IF THING CHANGE?
E.G. 70 MAY BE SAFER THAN 5000
#.

JIM ARNESS CPA

CONCERN

SEC. 9, PAGE 4 - PEER REVIEW PROBABLY
LEGISLATE NEED FOR PEER REVIEW

PTS:

1) LG FIRM ALREADY DO THIS

SMALLER FIRMS REPORTED DOING THIS -
TO RETAIN MEMBERSHIP HAVE TO
COMPLY - ~~WACT~~. NSPA

Q: HAVE THERE BEEN PROBLEMS?

IMPROPER REPORTS?

- PROBLEM OF RESTRAINT OF TRADE PROBLEMS?
- WHO BECOMES LIABLE IF THERE IS
A PROBLEM - PROBLEM OF BOARD, PEER,
STATE?

TINKER

- ① 1/2000
- ② COM
- ③ ED REQUIREMENTS...

Tiuten

② CONTINUING ED - under reg, license
 CPA Accountants have to have CONTINU ED
 but not about NON-CERT'S -

③ compilation

1. Amendment #1

2. shall - "MAY" COMPILATION
 page 8

3. REMOVE ISSUE. A to get...

ASCPA's -

"SECOND CLASS OF ACCOUNTING" ANOTHER
 CLASS OF ACCOUNTANT - UNDER
 CLASS THAT HAS REPRESENTATION -
 HAS A DESIGNATED -"

NOT ISSUE OF VOTER -

Rob Board CPA's

Majority of Bill deals with clients -
enhance protection of public -
quality is secured

Agrees with Tinker area of concern -
suggest modify these areas -
can go forward -

OPPORTUNITY MEMBER

? serve public interest to have
CONCERT? - Perception of public -
have a competition report by
non licensed 5 - contribution on
public type of work - 2nd class
update the Watch's - ident
CPA has req. group should
clarify

Branson CPA

All society CPA - ... issues -
controversy -

is that confusion

TOM Martlett

Important issues:

- bring statute up to date (1960)
- Reserve CPA's to have final word
- Adopting "purpose" language
- Provisions - quality Review

- Ed Requirements - need BA degree
- 2004 Regs' outline # has
allow University system to make
adjusting

- Rep. } minor issues
- Cooper
- "

"NON-VOTING SEAT?"
MEMBER

MIKE COOK

MODEL - AUTHORIZED - DIS OCCUPATIONS
LICENSING

"MINOR GRAD" "PASSING GRADE"

UNLICENSED - PUBLIC MEMBER -



Kirk's Accounting & Tax Service
Ed Kirk, Accountant

*Dennis
referred*

March 19, 1990

Representative H. A. Boucher
P. O. Box V
Juneau, Alaska 99811

Dear Representative Boucher:

A committee substitute for HB 353 (State Affairs) has been considered by the House State Affairs Committee. This CS represents revised language submitted by the State Board of Accountancy, the State Society for CPA's, and the unlicensed accountants of this state.

In its present form, the CS contains important legislation that will modernize statutes relating to the practice of public accountancy in Alaska. Provisions for quality reviews of licensees, extended educational requirements and increased required performance in testing for certification will insure an improved level of service to the public. In addition, the licensees of our state will now meet the minimum standards of other states in which they may desire to practice.

A negotiated agreement between the State Board of Accountancy and the unlicensed accountants included language regarding the composition of the State Board of Accountancy. Currently, unlicensed accountants are prohibited from holding a seat on the seven member board. An agreement was reached to require that one of the seven seats be filled by an unlicensed accountant.

Unfortunately for this important piece of legislation, there are those who strongly oppose the idea of an unlicensed accountant having Board representation. Therefore, opposition to the legislation based on that singular issue has impeded the passage of what many accountants feel is substantive legislation attempting to add significant value to the profession of accountancy in Alaska. The issue of the board seat seems minor by comparison as indicated through the compromise between the State Board and the independent accountants.

Therefore, I would request that you assist in all necessary actions toward expeditious adoption of CSHB 353 (State Affairs).

Please call on me if I can be of any assistance in this matter.

Sincerely,

Ed Kirk
Accountant