

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 177, HB 178 289 289

HB

177

HOUSE COMMITTEE REPORT

(11)

Date referred: 4/27/87

FURTHER REFERRALS:

DATE: 4/29/87

The Finance Committee has considered HB 177

"An Act relating to workers' compensation law concerning the second injury fund; and providing for an effective date."

RECOMMENDS:

- replace with CS HB 177 (Jud) the same title
- 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):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS Al Adams

POURCHOT Fred Pourchot

LARSON Ronald J. Larson

GOLL Greg Goll

SWACK-HAMMER Cliff Swack-Hammer

BOYER Mark Boyer

FRANK Frank

WALLIS Ray Wallis

SIGNING OTHER RECOMMENDATIONS:

RIEGER Steve Rieger

BROWN Fair Brown - No Rec

DAVIS Mike Davis

Albert P. Adams
Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: CS HB 177 (Jud.)
Publish Date: _____

REQUEST: _____

Revision Date: _____

Title: "An Act relating to ... the
second injury fund"

Sponsor: Governor

Requestor: House Labor and Commerce

Agency Affected: Labor

BRU: Workers' Compensation

Components: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		(123.3)	(123.3)	(123.3)	(123.3)	(123.3)
FEDERAL FUNDS						
OTHER. *		123.3	123.3	123.3	123.3	123.3
TOTAL		0	0	0	0	0

POSITIONS: * = Second Injury Fund

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Jaquelyn McClintock, Director Phone: 465-2790

Division: Workers' Compensation Date: 3/17/87

Approved by Commissioner: Jim Samson Date: 3/17/87

Agency: Labor

Distribution (by preparer):

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

RECEIVED

MAR 19 1987

page 1 of 2

LEGISLATIVE FINANCE

Continuation of Fiscal Note

HB 177

This legislation would allow the administrative expenses of operating the Second Injury Fund to be paid from the Fund itself rather than general funds. Thus, \$123.3 of Second Injury Fund dollars would be substituted for a like amount of general funds which are currently used to administer the Second Injury program.

The fund is supported by contributions from insurers and employers based on workers' compensation payments to injured workers and by certain penalties as provided by the Workers' Compensation Act.

The fund is used to reimburse insurers and employers who employ disabled workers under circumstances specified in the Workers' Compensation Act and for some rehabilitation costs. Adequate fund revenues are available to provide for administrative costs.

Approximate costs to administer the Second Injury Fund are as follows:

Personal Services		\$92.6
Management Analyst 75% of time	\$40.5	
Hearing Officer for approximately 12% of time	7.6	
Workers' Compensation Technician 100% of time	34.5	
Pro-rata share of clerical support	10.0	
Travel		2.7
Contractual		25.8
Communications	5.0	
Data Processing	16.6	
Printing	1.0	
Copier, postage machine, etc.	2.7	
Other (training, risk management)	.5	
Supplies		<u>2.2</u>
	Total	\$123.3

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 177 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the second injury fund; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 23.30.015(c) is repealed and reenacted to read:
10 (c) Payment of compensation into the second injury fund within
11 six months after the date of death operates as an assignment to the
12 employer, for a period of six months after payment, of all rights of
13 the deceased's representative to recover damages from the third per-
14 son. If payment is not made to the second injury fund within six
15 months after the death or if the employer does not file a lawsuit
16 against the third person within six months after making the payment to
17 the second injury fund, the employer shall be subrogated to the rights
18 of the deceased's representative in an action to recover damages
19 against a third party. Subrogation under this subsection is limited
20 to the amount paid by the employer into the second injury fund as a
21 result of the death.
22 * Sec. 2. AS 23.30.040(h) is amended to read:
23 (h) Administration expenses of the state under this section and
24 AS 23.30.205 must [SHALL] be paid from the second injury [GENERAL]
25 fund.
26 * Sec. 3. AS 23.30.015(c), as amended by sec. 1 of this Act, applies to
27 payments made as a result of deaths occurring on or after July 1, 1987.
28 * Sec. 4. This Act takes effect July 1, 1987.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB 177 (Jud)
Publish Date : _____

Revision Date: _____
Title : "An Act relating to ... the
second injury fund"

Agency Affected: Labor
BRU: Workers' Compensation
Workers' Compensation

Sponsor : Governor
Requestor : House Judiciary

Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		(123.3)	(123.3)	(123.3)	(123.3)	(123.3)
FEDERAL FUNDS						
OTHER. *		123.3	123.3	123.3	123.3	123.3
TOTAL		0	0	0	0	0

POSITIONS: * = Second Injury Fund

FULL-TIME						
PART-TIME						
TEMPORARY						

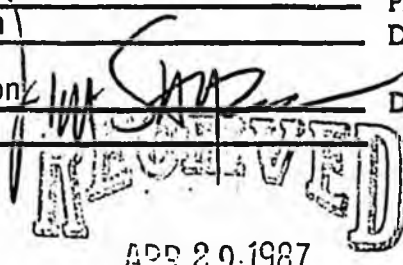
ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Jacquelyn McClintock, Director Phone: 465-2790
Division: Workers' Compensation Date: 04/28/87

Approved by Commissioner: Jim Sampson Date: 04/28/87
Agency: Labor

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary



LEGISLATIVE FINANCE

151477
R/O 4/29/87

Continuation of Fiscal Note

CSHB 177 (Jud)

This legislation would allow the administrative expenses of operating the Second Injury Fund to be paid from the Fund itself rather than general funds. Thus, \$123.3 of Second Injury Fund dollars would be substituted for a like amount of general funds which are currently used to administer the Second Injury program.

The fund is supported by contributions from insurers and employers based on workers' compensation payments to injured workers and by certain penalties as provided by the Workers' Compensation Act.

The fund is used to reimburse insurers and employers who employ disabled workers under circumstances specified in the Workers' Compensation Act and for some rehabilitation costs. Adequate fund revenues are available to provide for administrative costs.

Approximate costs to administer the Second Injury Fund are as follows:

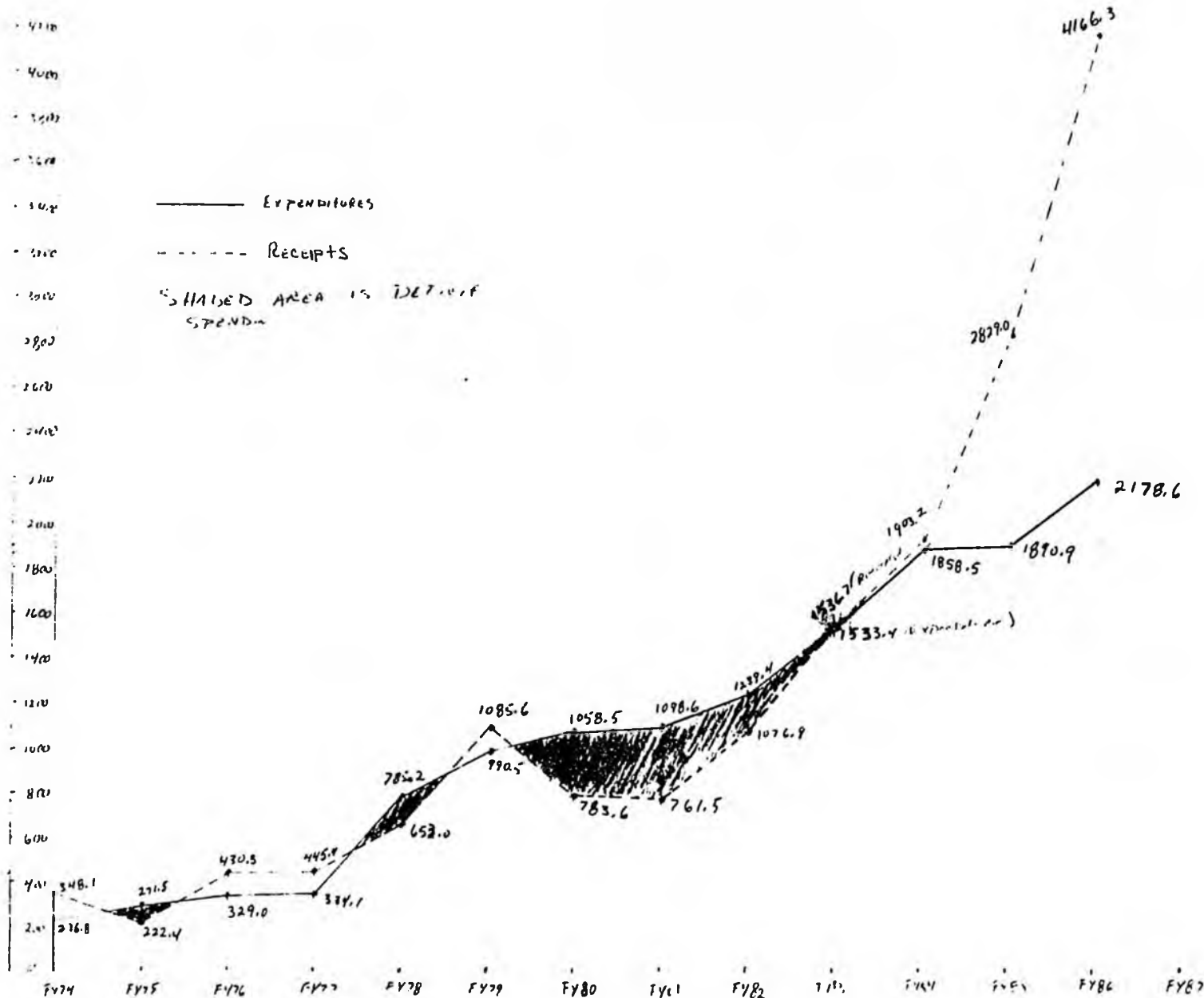
Personal Services		\$92.6
Management Analyst 75% of time	\$40.4	
Hearing Officer for approximately 15% of time	9.5	
Workers' Compensation Technician 100% of time	34.5	
Pro-rata share of clerical support	8.2	
Travel		2.7
Contractual		25.8
Communications	5.0	
Data Processing	16.6	
Printing	1.0	
Copier, postage machine, etc.	2.7	
Other (training, risk management)	.5	
Supplies		<u>2.2</u>
	Total	\$123.3

4000
3800
3600
3400
3200
3000
2800
2600
2400
2200
2000
1800
1600
1400
1200
1000
800
600
400
200
0

————— Expenditures

- - - - - Receipts

SHADED AREA IS DEFICIT
SPENDING



86 - 3091.4
85 - 1103.7
84 - 165.6
83 - 120.9
82 - 117.6
81 - 280.1



FY81 Surpl.
2600.0

SECOND INJURY FUND

Taylor's amend-
ment

Briefing Paper on Section 1 of
CS FOR HOUSE BILL NO. 177 (Judiciary)

Under the third-party provisions¹ of current Alaska workers' compensation law, there are distinctly different assignment rules for the beneficiaries of employees who die without statutory dependents and the beneficiaries of those who die with statutory dependents. AS 23.30.015(c) provides that when the employers of employees who die without statutory dependents make payment to the Second Injury Fund,² all rights to recover damages from third parties are assigned to the employers. This precludes a beneficiary not dependent on the deceased employee from suing a third party even though the employer/insurer has no intention of commencing a third-party action. An injured employee or the dependent beneficiary of a deceased employee, however, has one year from an award of compensation to file a lawsuit against a third party to recover damages before assignment passes on to the employer.

The ultimate goal of any third-party subrogation procedure is reimbursement of the payor of compensation, with any excess going to the employee or beneficiary, with both the employee/beneficiary and the employer/insurer afforded a fair opportunity to press a damage suit in case the other neglects to do so. This amendment would give beneficiaries of the deceased employee, although not

¹The workers' compensation remedy is exclusive of all other remedies by the employee or the employee's dependents against the employer and insurer for an injury or illness falling within the coverage of the Act. However, when a compensable injury or illness is the result of a third person's tortious conduct, most workers' compensation statutes contain provisions that preserve a right of action by both parties against the third party.

²AS 23.30.040(c): If an employee suffers a compensable injury that results in death and the employee is not survived by a widow, widower, child, or dependent relative eligible to receive death benefits under AS 23.30.215, the employer or insurance carrier shall pay \$10,000 to the Second Injury Fund.

necessarily dependent as defined under AS 23.30.265, equal standing to file a lawsuit for wrongful death against the third party if the employer fails to make payment to the Fund within six months after death or does not file a lawsuit against the third party within six months after making payment to the Second Injury Fund. Further, subrogation under this amendment would be limited to the amount the employer pays into the Second Injury Fund for non-dependent death cases, which is currently \$10,000.

In Croxton v. Puget Sound Tug and Barge, AWCB No. 860311 at 4 (November 25, 1986) the Alaska Workers' Compensation Board took particular notice of the distinctly different assignment rule for the beneficiaries of employees who die without statutory dependents stating "(A)s much as we would like to find a way in this case to undo the assignment and thereby permit Applicant to pursue his third-party suit unhindered, we are powerless to do so."

The assignment or subrogation rule for non-dependent beneficiaries of deceased employees is in need of change to make it consistent with the rights afforded dependent beneficiaries to recover damages from a third party.

Example

While in the course of employment two employees - one with statutory dependents the other without - are killed in an airplane accident, the cause of which is linked to a defective piece of equipment.

The beneficiaries of any passengers on the plane, of course, have a direct right of action to recover damages from the manufacturer of the defective piece of equipment.

The beneficiaries of the employee with statutory dependents have the right to file a third-party action against the manufacturer, with any compensation paid by the employer to the beneficiaries reimbursed to the employer out of the third-party award.

The beneficiaries of the employee with no statutory dependents have no right to file a third-party action against the manufacturer because they are precluded from doing so by the employer's payment to the Second Injury Fund and the immediate assignment of rights under AS 23.30.015(c).

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE
COMMITTEE ON OIL AND GAS



ANCHORAGE
P.O. BOX 104836
ANCHORAGE, AK 99510
(W) (907) 276-6818
(H) (907) 338-2425

JUNEAU
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

House of Representatives

MEMORANDUM

DATE: April 2, 1987

TO: Representative Sund, Chair
House Judiciary Committee

FROM: Representative Pat Pourchot, Chair *Pat*
House Finance Subcommittee - Department of Labor

SUBJECT: HB 177, Second Injury Fund

HB 177, an Act relating to the workers' compensation law concerning the second injury fund, has recently been referred to the House Judiciary Committee. It addresses an issue with which the House Finance Subcommittee on the Department of Labor has been dealing. We see this bill as a much needed piece of legislation to address operating budget shortfalls.

As you may know, the second injury fund is an integral part of the Workers' Compensation Act. It serves to encourage the employment of physically impaired persons by reimbursing employers for additional compensation that may be due when a second injury combines with a prior impairment to cause greater disability. The fund is supported by contributions from employers and insurers. It is responsible for both the statewide administration of the workers' compensation rehabilitation program and employer reimbursement of benefits paid to workers for subsequent injury claims.

HB 177 would return the fund to its pre-1981 method of paying administrative expenses from the fund itself, rather than from the general fund. The funding formula enacted in 1981 has improved the financial condition of the fund. In the Department's determination, the fund is now in a position to pay for its own administration without jeopardizing the payment of benefits for which the fund was created.

Passage of HB 177 will result in a general fund savings of \$123,300. I would encourage you to pursue passage of the bill by scheduling a hearing on it at your earliest convenience.

Thank you for your consideration.

We are opposed to H.B. 177 because its administrative expenses are paid out of S.I.F. It would drastically reduce the amount of money available for care of injured workers.

Sitka Central Labor Council

Vice-President - Glen Harriman

by George Nicholas

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

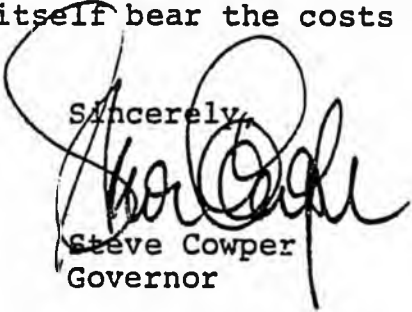
Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the workers' compensation law regarding the second injury fund.

The bill provides that expenses incurred in the administration of the second injury fund be paid from the fund itself instead of from the general fund of the state. This approach returns to the pre-1981 method of paying fund expenses. The financial condition of the fund has improved considerably in the past two years because of the funding formula enacted in 1981. The second injury fund is now in a position to pay for its own administration without jeopardizing the integrity of the fund and without jeopardizing the payment of the benefits for which the fund was created. Since the money in the fund is held in trust (i.e., it is not "state money"), the statute may specify this use of it without violating the dedicated-fund prohibition of art. IX, sec. 7 of the Alaska Constitution. Expenditures from the second injury fund will be authorized by annual appropriation.

Given the financial integrity of the fund, I think it is proper and prudent that the fund itself bear the costs of its administration.

Sincerely,


Steve Cowper
Governor

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 177 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the second injury fund; and
7 providing for an effective date."

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

9 * Section 1. AS 23.30.015(c) is repealed and reenacted to read:

10 (c) Payment of compensation into the second injury fund within
11 six months after the date of death operates as an assignment to the
12 employer, for a period of six months after payment, of all rights of
13 the deceased's representative to recover damages from the third per-
14 son. If payment is not made to the second injury fund within six
15 months after the death or if the employer does not file a lawsuit
16 against the third person within six months after making the payment to
17 the second injury fund, the employer shall be subrogated to the rights
18 of the deceased's representative in an action to recover damages
19 against a third party. Subrogation under this subsection is limited
20 to the amount paid by the employer into the second injury fund as a
21 result of the death.

22 * Sec. 2. AS 23.30.040(h) is amended to read:

23 (h) Administration expenses of the state under this section and
24 AS 23.30.205 must [SHALL] be paid from the second injury [GENERAL]
25 fund.

26 * Sec. 3. AS 23.30.015(c), as amended by sec. 1 of this Act, applies to
27 payments made as a result of deaths occurring on or after July 1, 1987.

28 * Sec. 4. This Act takes effect July 1, 1987.

Introduced: 3/11/87
Referred: Labor & Commerce,
Judiciary and Finance

wo0157h

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 177

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the workers' compensation law
7 concerning the second injury fund; and providing for
8 an effective date."

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

10 * Section 1. AS 23.30.040(h) is amended to read:

11 (h) Administration expenses of the state under this section and
12 AS 23.30.205 must [SHALL] be paid from the second injury [GENERAL]
13 fund.

14 * Sec. 2. This Act takes effect July 1, 1987.

HB

178

HOUSE COMMITTEE REPORT

1)

Date referred: 3/20/87

FURTHER REFERRALS:

DATE: 4/9/87

The Finance Committee has considered HB 178

"An Act extending the termination date of the Board of Nursing; and providing for an effective date."

RECOMMENDS:

replace with CS HB 178 (LEC) [] the same title
[] 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):

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis
- [] same as previous fiscal note published _____
- same as previous zero fiscal note published 3/20/87

SIGNING DO PASS:

ADAMS [Signature]

DURCHOT [Signature]

LARSON [Signature]

SWACK-FARMER [Signature]

BOYER [Signature]

RUEGER [Signature]

WALLIS [Signature]

BROWN [Signature]

DAVIS [Signature]

SOLO [Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSHB 178(L&C)
Publish Date: HOUSE 3/20/87

Revision Date: _____

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensine

Title: An Act extending the termination date of the Board of Nursing:

Sponsor: Reps. Donley, Hanley, Gruenberg -
Requestor: Collins, Ellis & Koponen

Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Funding for continuation of the Board of Nursing is budgeted in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

Prepared by: Jennifer Strickler, Management Analyst
Division: Occupational Licensing

Phone: 465-2144

Date: 3/16/87

Approved by Commissioner: Anthony Smith
Agency: Commerce and Economic Development

Date: 3/17/87

Distribution (by preparer):

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

HB 178: An Act extending the termination date of the Board of Nursing and providing for an effective date.

The bill extends the Board of Nursing to June 30, 1991. A performance audit conducted on the board by the Budget and Audit Committee dated December 10, 1986 concluded that the Board of Nursing should be reestablished. The Department of Commerce and Economic Development concurs with the audit findings that reestablishment of the board is in the public's best interest.

The department recommends that the attached amendments to the nursing statutes be considered to be added to HB 178. The amendments were requested by the board and are primarily housekeeping proposals. Three new issues are proposed which: (1) establishes that a temporary permit holder must use the title TLPN or TRN; (2) establishes a section on disciplinary powers of the board which will increase and standardize the board's discipline authority; and (3) grant immunity from civil action to a board member, staff or any person reporting alleged incidents of incompetent, unprofessional or illegal conduct of a health care provider.

In summary, the Department of Commerce and Economic Development supports the reestablishment of the Board of Nursing. The board is essential to establish standards of nursing practices, evaluate and approve applicants for licensure, review and approve curriculum of nursing programs to maintain quality nursing education in Alaska, and to provide an avenue of disciplining incompetent or dishonest practitioners.



J. Anthony Smith, Commissioner
Department of Commerce and Economic
Development

Date: 3/17/87

Alaska State Legislature
House of Representatives



Labor and Commerce Committee

March 16, 1987

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed amendments to HB 178 - Board of Nursing

HB 178, extending the Board of Nursing, is before the House Labor and Commerce Committee on Tuesday, March 17.

The Board of Nursing has requested that the Committee amend HB 178 to include changes that 1) correct statutorily inconsistent language, 2) expand disciplinary powers of the Board, 3) clarify licensing and examination procedures and, 4) clean up various technical and procedural problems (proper use of particular nursing titles, transportation of patients by nurses not licensed in Alaska etc.)

The amendments requested by the Board are included in your Committee packet. There will be a representative from the Division of Occupational Licensing at tomorrow's meeting to answer any questions the Committee may have.

As prime sponsor of HB 178, I support the Board's request and ask that you adopt their recommended changes as a House Labor and Commerce Committee substitute.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF NURSING

December 10, 1986

Audit Control Number

08-1273-87-R

Commissioner, Department of
Commerce and Economic Development

J. Anthony Smith

Deputy Commissioners, Department of
Commerce and Economic Development

Greg Baker
Terry Elder

Members of the
Board of Nursing

Chairperson
Member
Member
Member
Member
Member
Member

Effie Graham
Janet Burness
Barbara Carberry
Anita Allen Farley
Linda Todd
Georgianna Waskey
Connie Bertholf

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

December 10, 1986

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
BOARD OF NURSING

December 10, 1986

Audit Control Number

08-1273-87-R



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Report	1
Organization and Function	3
Report Conclusion	5
Findings and Recommendation	7
Analysis of Public Need	9
Appendixes:	
A. Schedule of Revenues Compared with Expenditures	15
Notes to Appendix A	16
B. Examination Statistics	17
Agency Response:	
Department of Commerce and Economic Development	19
Legislative Audit's Additional Comments	23

PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the provisions of Alaska Statutes 24.20.271 and 44.66.050 (sunset legislation), an examination of the Board of Nursing was conducted to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Nursing should be reestablished. The law currently specifies that this Board will terminate on June 30, 1987.

The policy and audit approach utilized by the Division of Legislative Audit for performance reports can best be described as "audit by exception." This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well-run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

Scope

The major areas of our examination were the administration, licensing, and investigation functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and Board regulations.
2. Discussions with Board members.
3. Review of records and documents of the Board and the Division of Occupational Licensing.
4. Interviews with Division of Occupational Licensing employees.

ORGANIZATION AND FUNCTION

The role of nursing in Alaska has witnessed many changes to the scope of responsibilities for the practicing nurse. Responsibilities of the nurse have increased as physicians and patients rely more heavily on the assistance and guidance provided by the nursing profession.

To regulate the profession, under AS 08.68 the seven member Board of Nursing is charged the responsibility to determine the minimum quality of nursing care in the State by:

1. Establishing or amending rules and regulations necessary and desirable to enforce State statutes.
2. Approve curricula and adopt standards for basic education programs that prepare persons for licensure.
3. Examining and issuing licenses to qualified applicants.
4. Holding hearings in order to revoke, suspend, or take other action on the license of a person violating the nursing statutes and regulations.

To carry out its statutorily mandated responsibilities, the Board has support from the Division of Occupational Licensing. The Division employs an Executive Secretary who is responsible for performing administrative duties and assisting the Board in conducting examinations and educational programs. In addition, the Division processes applications, prepares license files, provides investigative services in the event of consumer or other professional complaints, and provides other administrative assistance to the Board.

Most licensing requirements are established by statute. Nurses are either licensed by examination or endorsement. Examinations are administered according to a contract with the National Council State Boards of Nursing which endorses this national exam. Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the Board.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendation presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Nursing should continue to regulate the practice of nursing. This regulation is necessary to protect the public's health, safety, and welfare.

In the public's best interest, the Board has developed regulations that will require practitioners to maintain a level of competency and has composed formal regulations which define license violations. However, to better serve the public, the Department of Commerce and Economic Development should ensure that public notices are advertised well in advance of nursing exam dates (see Recommendation No. 1).

FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Department of Commerce and Economic Development (DCED) in conjunction with the Board of Nursing should comply with existing regulations.

12 AAC 44.290(b) provides, in part, that applications and fees must be postmarked no later than 60 days before the examination except that applications postmarked after that date may be accepted on a showing of good cause. In addition, all supporting documents required must be on file with the Department no later than 21 days before the date of the examination. The intent of this regulation is to provide adequate time for the Department to ensure that applicants have met State requirements for licensure.

To ensure applicants are notified of the examination date and to allow adequate time for submission of applications with supporting documentation, DCED publicly notices examination dates. However, DCED has not consistently allowed sufficient timely notice. In a review of advertisements for eleven test dates from February 1984 through October 1986, we found that six (54%) did not provide for adequate notification. The six notifications were published an average of only 39 days before the examinations.

As with other State regulated professions, most candidates are aware of upcoming examination dates. However, to ensure that all potential candidates are notified of exam dates in a timely manner and that the Board has sufficient time to determine that candidates meet State requirements for licensure by examination, advertisements should be publicly noticed in excess of sixty days prior to an exam. This was also reported in the Board's previous 1978 and 1982 sunset reviews.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the provisions of Alaska Statutes 24.20.271 and 44.66.050 (sunset legislation), an examination of the Board of Nursing was conducted to determine if the Board has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Nursing should be reestablished. The law currently specifies that this Board will terminate on June 30, 1987.

The policy and audit approach utilized by the Division of Legislative Audit for performance reports can best be described as "audit by exception." This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well-run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

Scope

The major areas of our examination were the administration, licensing, and investigation functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and Board regulations.
2. Discussions with Board members.
3. Review of records and documents of the Board and the Division of Occupational Licensing.
4. Interviews with Division of Occupational Licensing employees.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

The role of nursing in Alaska has witnessed many changes to the scope of responsibilities for the practicing nurse. Responsibilities of the nurse have increased as physicians and patients rely more heavily on the assistance and guidance provided by the nursing profession.

To regulate the profession, under AS 08.68 the seven member Board of Nursing is charged the responsibility to determine the minimum quality of nursing care in the State by:

1. Establishing or amending rules and regulations necessary and desirable to enforce State statutes.
2. Approve curricula and adopt standards for basic education programs that prepare persons for licensure.
3. Examining and issuing licenses to qualified applicants.
4. Holding hearings in order to revoke, suspend, or take other action on the license of a person violating the nursing statutes and regulations.

To carry out its statutorily mandated responsibilities, the Board has support from the Division of Occupational Licensing. The Division employs an Executive Secretary who is responsible for performing administrative duties and assisting the Board in conducting examinations and educational programs. In addition, the Division processes applications, prepares license files, provides investigative services in the event of consumer or other professional complaints, and provides other administrative assistance to the Board.

Most licensing requirements are established by statute. Nurses are either licensed by examination or endorsement. Examinations are administered according to a contract with the National Council State Boards of Nursing which endorses this national exam. Licenses by endorsement are issued to nurses licensed in other states that have licensing requirements acceptable to the Board.

(Intentionally left blank)

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendation presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Nursing should continue to regulate the practice of nursing. This regulation is necessary to protect the public's health, safety, and welfare.

In the public's best interest, the Board has developed regulations that will require practitioners to maintain a level of competency and has composed formal regulations which define license violations. However, to better serve the public, the Department of Commerce and Economic Development should ensure that public notices are advertised well in advance of nursing exam dates (see Recommendation No. 1).

(Intentionally left blank)

FINDINGS AND RECOMMENDATION

Recommendation No. 1

The Department of Commerce and Economic Development (DCED) in conjunction with the Board of Nursing should comply with existing regulations.

12 AAC 44.290(b) provides, in part, that applications and fees must be postmarked no later than 60 days before the examination except that applications postmarked after that date may be accepted on a showing of good cause. In addition, all supporting documents required must be on file with the Department no later than 21 days before the date of the examination. The intent of this regulation is to provide adequate time for the Department to ensure that applicants have met State requirements for licensure.

To ensure applicants are notified of the examination date and to allow adequate time for submission of applications with supporting documentation, DCED publicly notices examination dates. However, DCED has not consistently allowed sufficient timely notice. In a review of advertisements for eleven test dates from February 1984 through October 1986, we found that six (54%) did not provide for adequate notification. The six notifications were published an average of only 39 days before the examinations.

As with other State regulated professions, most candidates are aware of upcoming examination dates. However, to ensure that all potential candidates are notified of exam dates in a timely manner and that the Board has sufficient time to determine that candidates meet State requirements for licensure by examination, advertisements should be publicly noticed in excess of sixty days prior to an exam. This was also reported in the Board's previous 1978 and 1982 sunset reviews.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of Board activities indicate both positive and negative factors as they relate to the public need factors defined in AS 44.66.050. These analyses were not intended to be all-inclusive, but address those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission, or program has operated in the public interest.

The Board has been dedicated in its attempts to allow that only qualified applicants seek licensure and to regulate them in such a manner as to ensure adequate nursing services are provided to the general public. However, public notice of exams have not been advertised in a timely manner to ensure adequate time to submit applications and supporting documentation (see Recommendation No. 1).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The operation of the Board has been enhanced through the Department's employment of an Executive Secretary to handle the administration of over 6,000 licensed nurses and to assist the Board in licensing and regulating the profession.

The Office of the Governor has not appointed Board members in a timely manner. Vacancies have averaged over four months.

III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.

To serve the public's interests, the Board has successfully initiated statutory changes for the betterment of the nursing profession. Alaska Statute 08.68.276 approved by the 1982 Legislature requires that a license to practice nursing may not be renewed unless the nurse has complied with continuing competence requirements. Through regulations, the Board has developed the requirements for continuing competency which are effective January 1, 1987. In addition, the Board has developed formal regulations which define unprofessional conduct.

- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

All formal proceedings are properly and timely noticed and open to the public. The Board holds meetings in the major Alaska cities.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

All formal proceedings are noticed and open to the public. Interested persons may intervene to the benefit of the proceeding. The Executive Secretary also conducts seminars on subjects appropriate to the nursing community.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

During the last four years, two complaints were filed. One complaint concerned the lack of statutes and regulations. The second complaint concerned the lack of a refresher course outside of Anchorage. Both complaints were satisfactorily resolved.

- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

The Board, prior to granting a license to practice nursing, is required to determine that the applicant is qualified. The Board reviews all applications to make this determination. The Board has issued 2,985 licenses from FY 83 through FY 86.

- VIII. The extent to which State personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity of interest.

We found no evidence of problems in this area.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to the previous section, Findings and Recommendation.

(Intentionally left blank)

APPENDIXES

(Intentionally left blank)

APPENDIX A

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1986
(Unaudited)
(Note 1)

<u>Revenues</u> (Schedule 1 and Note 2)	<u>\$114,198</u>
<u>Expenditures</u> (Note 3)	
Personal Services	100,628
Travel	9,677
Contractual	9,825
Other	<u>5,319</u>
<u>Total Expenditures</u>	<u>125,449</u>
<u>Excess of Revenues over Expenditures</u>	<u>\$(11,251)</u>

Schedule 1
Types of Revenues

<u>Revenues</u>	Fee Rates Effective		<u>Collection Time</u>
	<u>7/2/82</u>	<u>3/31/86</u>	
<u>Registered Nurse</u>			
Application	\$30	\$30	With application
License by Examination	20	65	With application
License by Endorsement	20	65	With application
License Renewal	20	65	Biennially
Late Fee Fine	10	10	With late payment
Temporary Permit	-0-	20	With application
NCLEX	-0-	25	With application
<u>Advanced Nurse</u>			
Practitioner	25	25	With application
<u>Registered Nurse</u>			
Anesthetists	25	25	With application
Prescriptive Authority	-0-	10	With application
<u>Licensed Practical Nurse</u>			
Application Fee	20	30	With application
License by Examination	10	65	With application
License by Endorsement	10	65	With application
License Renewal	20	65	Biennially
Late Fee Fine	10	10	With late payment
NCLEX	-0-	25	With application

See the Notes to Appendix A.

NOTES TO APPENDIX A

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF NURSING
SCHEDULE OF REVENUES COMPARED WITH EXPENDITURES
For the Fiscal Year Ended June 30, 1986
(Unaudited)
(Note 1)

Note 1

The information included in this Schedule was obtained from the Board of Nursing's records. This information has not been audited by us and, accordingly, we express no opinion on it.

Note 2

A significant portion of revenues is composed of license renewal fees. Licenses are renewed biennially. The last renewal for registered nurses (RN) and licensed practical nurses (LPN) was June 30, 1984. Therefore, we averaged revenues collected in FY 85 and FY 86 in order to obtain a representative amount of average annual revenues collected.

In addition, the renewal period for RNs and LPNs was staggered for FY 86. RNs were required to renew their license by November 30, 1986 and LPNs by September 30, 1986. Therefore, average revenues reported are understated since the majority of license renewals scheduled for FY 86 will be collected during FY 87. Revenues should cover direct expenditures in future years.

Note 3

Expenditures consist of direct costs resulting from Board activities which includes travel, per diem, and miscellaneous contractual expenditures incurred by Board members. In addition, the Division of Occupational Licensing provides administrative support to the Board. This support includes an Executive Secretary and a percentage of a Licensing Examiner and an Investigator assigned to the Board. This amount does not include indirect administrative expenditures of the Division or expenditures for efforts of other departments assisting the Board.

APPENDIX B

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 BOARD OF NURSING
EXAMINATION STATISTICS
 For Fiscal Years 1984 through 1986
 (Note 1)

	Fiscal Year			Total
	1984	1985	1986	
<u>Registered Nurses Exam</u>				
<u>Alaska Graduates</u>				
Passed	63	60	61	184
Failed	5	12	4	21
<u>Total Alaska Graduates</u>	<u>68</u>	<u>72</u>	<u>65</u>	<u>205</u>
<u>Percentage Passing</u>	<u>92%</u>	<u>83%</u>	<u>93%</u>	<u>89%</u>
<u>Other Graduates</u>				
Passed	33	47	38	118
Failed	23	18	34	75
<u>Total Other Graduates</u>	<u>56</u>	<u>65</u>	<u>72</u>	<u>193</u>
<u>Percentage Passing</u>	<u>58%</u>	<u>72%</u>	<u>52%</u>	<u>61%</u>
<u>Licensed Practical Nurse Exam</u>				
<u>Alaska Graduates</u>				
Passed	9	15	6	30
Failed	3	0	0	3
<u>Total Alaska Graduates</u>	<u>12</u>	<u>15</u>	<u>6</u>	<u>33</u>
<u>Percentage Passing</u>	<u>75%</u>	<u>100%</u>	<u>100%</u>	<u>90%</u>
<u>Other Graduates</u>				
Passed	29	21	16	66
Failed	8	1	8	17
<u>Total Other Graduates</u>	<u>37</u>	<u>22</u>	<u>24</u>	<u>83</u>
<u>Percentage Passing</u>	<u>78%</u>	<u>95%</u>	<u>66%</u>	<u>79%</u>

Note 1: The information included in this schedule was obtained from the Board of Nursing's records. Examinations are administered according to a contract with the National Council of State Boards of Nursing which endorses the national exam.

(Intentionally left blank)

STEVE COWPER, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

February 4, 1987

FEB 17 1987

Mr. Gerald Wilkerson
Legislative Auditor
Division of Legislative Audit
P.O. Box W
Juneau, AK 99811-3300

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the Board of Nursing. The Department of Commerce and Economic Development agrees with your audit findings and conclusion that the Board of Nursing should continue to regulate the practice of nursing for the protection of the public's health, safety and welfare. The department offers the following comments on the findings contained in your report.

Recommendation No. 1

The Department of Commerce and Economic Development in conjunction with the Board of Nursing should comply with existing regulations.

One of the department's administrative functions for the Board of Nursing is to public notice examinations. Regulations of the board, 12 AAC 44.290(b), provide deadlines for making application and completion of files for license by examination. The purpose of the regulation is to allow for the ordering of exam supplies from the test service and to allow enough time for processing and reviewing applications prior to the exam.

The Board of Nursing utilizes national exams for testing knowledge of registered and practical nurse applicants. On behalf of the board, the department contracts with the National Council State Boards of Nursing (NCSBN) for the NCLEX-RN and NCLEX-PN exams. The dates for administration of the exam are set by NCSBN ten years in advance. The RN exams are administered in February and July and the PN exams are administered in April and October. Since the national exam is administered on standard dates nationally, the dates are well known in advance by candidates who are recent graduates of schools of nursing.

Use of newspaper advertisements is the most widely accepted method of notifying the public. The department acknowledges the importance of public notices but does not believe the public has been harmed by the lack of timeliness of the newspaper advertisements.

Other methods which are used to notify the target group of the exam dates and deadline dates for submission of materials include direct discussion with applicants. The Executive Secretary meets with the graduating classes and faculty to provide applications and information on the exam. Candidates who fail an exam are notified by letter at the time of failure when the next scheduled exam is and the required deadline dates. In addition, exam application information pages include the deadline dates.

A review of past applicants for the exam did not reveal candidates who were not allowed to sit for the exam for failure to meet the deadlines. The board policy on this regulation (12 AAC 44.290(b)) is to be liberal in its interpretation of "a showing of good cause." Candidates have been, on occasion, allowed to complete their files up to the day prior to the exam. This has occurred for candidates who have transcripts being sent from foreign countries or schools in other states.

The department will make every effort to assure timely notice to the public of the Board of Nursing exams. The licensing examiners are the staff responsible for this activity. Each examiner provides assistance to several boards. Due to the complex nature of the examiner's responsibilities, the public notice process experiences a higher rate of tardiness than we would like. Efforts will be made to make public noticing a higher priority by a method such as institution of a master calendar system for each examiner which identifies the date public notice should be made to exams.

Analysis of Public Need

The analysis of public need section of the performance report indicates that Board of Nursing vacancies averaged over four months.

The board had three members who resigned from their appointed positions between 1982 and 1984 in addition to those whose terms expired. Two resigned due to moves out of state and one due to personal reasons. This latter person was in her third year of her second term. While it is certainly most desirable that a full complement of the board be available for meetings, at no time while there were vacancies did the board experience difficulty in obtaining a quorum.

Mr. Gerald Wilkerson

-3-

February 4, 1987

In addition, the department would like to bring to your attention several errors in Fee Schedule 1 contained in Appendix A. The fee rates for Advanced Nurse Practitioner and Registered Nurse Anesthetists were \$25.00 each effective July 2, 1982. The fee rates for license by examination, license by endorsement, for both RN's and LPN's effective March 31, 1986 should be \$65.00 instead of \$25.00.

If the department can provide you with any additional information, please do not hesitate to contact me.

Sincerely,


J. Anthony Smith
Commissioner

JAS/KM/wfs5323W
2487a

(Intentionally left blank)

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811-3300

February 17, 1987

Members of the Legislative Budget
and Audit Committee:

We have reviewed the Department of Commerce and Economic
Development's response to our preliminary report. Our
comments follow:

Appendix A

The Department has identified corrections necessary to the
Fee Schedule. We have made the adjustments to the appendix
for the final report, and we appreciate the Department's
assistance.



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

Original sponsors: Donley, Hanley,
Gruenberg, et al.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 178 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the practice of nursing; extending the termination date of the Board of Nursing; and providing for an effective date."

8

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

10 * Section 1. AS 08.03.010(c)(1) is amended to read:

11 (1) Board of Nursing (AS 08.68.010) -- June 30, 1991
12 [1987].

13 * Sec. 2. AS 08.68.100(a) is amended to read:

14 (a) The board shall

15 (1) adopt regulations necessary to implement this chapter,
16 including regulations pertaining to practice as an advanced nurse
17 practitioner and a nurse anesthetist;

18 (2) approve curricula and adopt standards for basic educa-
19 tion programs that prepare persons for licensing under AS 08.68.190;

20 (3) provide for surveys of the basic nursing education
21 programs in the state at the times it considers necessary;

22 (4) approve [ACCREDIT] education programs that meet the
23 requirements of this chapter and of the board, and deny, revoke, or
24 suspend approval [ACCREDITATION] of education programs for failure to
25 meet the requirements;

26 (5) examine, license, and renew the licenses of qualified
27 applicants;

28 (6) prescribe requirements for competence before a former
29 nurse may resume the practice of nursing under this chapter;

1 (7) keep a record of its proceedings, and submit annual
2 reports to the governor and legislature;

3 (8) define by regulation the qualifications and duties of
4 the executive secretary and delegate authority to the executive secre-
5 tary that is necessary to conduct board business;

6 (9) develop reasonable and uniform standards for nursing
7 practice;

8 (10) publish advisory opinions regarding whether nursing
9 practice procedures or policies comply with acceptable standards of
10 nursing practice as defined under this chapter.

11 * Sec. 3. AS 08.68.190 is amended to read:

12 Sec. 08.68.190. LICENSE BY EXAMINATION. The applicant shall
13 pass a written examination as prescribed by the board. The board
14 shall issue a license to an applicant who passes the examination to
15 practice registered or practical nursing provided the other qualifica-
16 tions outlined in AS 08.68.170 and 08.68.180 are also met. The board
17 shall conduct examinations annually and as often as it considers
18 necessary at locations designated by the board [IN EACH REGION OF THE
19 STATE].

20 * Sec. 4. AS 08.68.200 is amended to read:

21 Sec. 08.68.200. LICENSE BY ENDORSEMENT. The board may issue a
22 license by endorsement to practice as a registered or practical nurse,
23 whichever is appropriate, to an applicant who

24 (1) is licensed as either a registered or practical nurse
25 under the laws of another state [OR TERRITORY], if in the opinion of
26 the board the applicant meets the qualifications required for licens-
27 ing in the state, and meets the requirements of AS 08.68.170; [OR]

28 (2) meets the requirements of AS 08.68.170 and has success-
29 fully completed the Canadian Nurses' Association Testing Service

1 examination if the board determines it is comparable to the examina-
2 tion administered by this state; or

3 (3) has not worked as a nurse within the last five years,
4 if the applicant meets the continuing competency requirements of the
5 board or completes a course of study approved by the board.

6 * Sec. 5. AS 08.68.210(a) is amended to read:

7 (a) The board may issue a temporary permit, nonrenewable and
8 valid for a period not exceeding four months, to an applicant for a
9 license by endorsement if the applicant

10 (1) submits proof satisfactory to the board that the appli-
11 cant is currently licensed in another state or Canadian province that
12 administers an examination approved by the board under AS 08.68.200(2)
13 [TERRITORY],

14 (2) meets the requirements of AS 08.68.170, and

15 (3) pays the required fee.

16 * Sec. 6. AS 03.68.210(b) is amended to read:

17 (b) The board may issue a nonrenewable permit to an applicant
18 for license by examination if [(1)] the applicant (1) meets the quali-
19 fications of AS 08.68.170; or (2) [THE APPLICANT] is a graduate of a
20 foreign school of nursing and has successfully completed the examina-
21 tion administered by the Commission on Graduates of Foreign Nursing
22 Schools. The permit will be valid for a period not extending beyond
23 the time when the results are published of the first examination the
24 applicant is eligible to take after the permit is issued, however, if
25 the applicant does not take the examination for which the applicant is
26 scheduled, the permit lapses on the day of the examination.

27 * Sec. 7. AS 08.68.230 is amended by adding new subsections to read:

28 (c) A person who holds a temporary permit to practice as a
29 registered nurse shall use the title "Temporary Registered Nurse" and

1 the abbreviation "TRN."

2 (d) A person who holds a temporary permit to practice as a
3 licensed practical nurse shall use the title "Temporary Licensed
4 Practical Nurse" and the abbreviation "TLPN."

5 * Sec. 8. AS 08.68.251 is amended to read:

6 Sec. 08.68.251. LAPSED LICENSES. (a) A lapsed license may be
7 reinstated if it has not remained lapsed for more than five years by
8 payment of the license fees for the current renewal period and the
9 penalty fee. The person seeking reinstatement shall meet the continu-
10 ing competency requirements of the board [DURING WHICH THE LICENSE HAS
11 LAPSED].

12 (b) If a license is lapsed for more than five years,

13 (1) the board shall require the applicant to complete a
14 course of study approved by the board or to pass an examination pre-
15 scribed by the board, and to pay the fees prescribed by this chapter;
16 or

17 (2) if the board determines that the person applying for
18 reinstatement was actively employed in nursing in another state during
19 the time that the license has lapsed in this state, the license that
20 has lapsed may be reinstated by payment of fees as required by (a) of
21 this section [AS 08.01.100(b)].

22 * Sec. 9. AS 08.68.270 is amended to read:

23 Sec. 08.68.270. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION.
24 The board may deny, suspend, or revoke the license of a person who

25 (1) has obtained or attempted to obtain a license to prac-
26 tice nursing by fraud or deceit;

27 (2) has been convicted of a felony or other crime if the
28 felony or other crime is substantially related to the qualifications,
29 functions or duties of the licensee;

- 1 (3) [Repealed
- 2 (4)] habitually abuses alcoholic beverages, or illegally
- 3 uses controlled substances [AS DEFINED BY AS 11.71.900(4)];
- 4 (4) [(5)] has impersonated a registered or practical nurse;
- 5 (5) [(6)] has intentionally or negligently engaged in
- 6 conduct that has resulted in a significant risk to the health or
- 7 safety of a client or in injury to a client;
- 8 (6) [(7)] practices or attempts to practice nursing while
- 9 afflicted with physical or mental illness, deterioration, or disabil-
- 10 ity which interferes with the individual's performance of nursing
- 11 functions;
- 12 (7) [(8)] is guilty of unprofessional conduct as defined by
- 13 regulations adopted by the board;
- 14 (8) [(9)] has wilfully or repeatedly violated a provision
- 15 [ANY OF THE PROVISIONS] of this chapter or regulations adopted under
- 16 it;
- 17 (9) [(10)] is professionally incompetent;
- 18 (10) [(11)] denies care or treatment to a patient or person
- 19 seeking assistance if the sole reason for the denial is the failure or
- 20 refusal of the patient or person seeking assistance to agree to arbi-
- 21 trate as provided in AS 09.55.535(a).
- 22 * Sec. 10. AS 08.68.275 is repealed and reenacted to read:
- 23 Sec. 08.68.275. DISCIPLINARY SANCTIONS. (a) The board may take
- 24 the following disciplinary actions singly or in combination:
- 25 (1) permanently revoke a license or permit to practice;
- 26 (2) suspend a license for a stated period of time;
- 27 (3) censure a licensee;
- 28 (4) issue a letter of reprimand;
- 29 (5) impose limitations or conditions on the professional

1 practice of a licensee;

2 (6) impose peer review;

3 (7) impose professional education requirements until a
4 satisfactory degree of skill has been attained in those aspects of
5 professional practice determined by the board to need improvement;

6 (8) impose probation and require the licensee to report
7 regularly to the board upon matters involving the basis for the pro-
8 bation;

9 (9) accept a voluntary surrender of a license.

10 (b) The board may withdraw probation status if it finds that the
11 deficiencies that required the sanction have been remedied.

12 (c) The board may summarily suspend a license before final
13 hearing or during the appeals process if the board finds that the
14 licensee poses a clear and immediate danger to the public health and
15 safety. A person whose license is suspended under this section is
16 entitled to a hearing by the board within seven days after the effec-
17 tive date of the order. If, after a hearing, the board upholds the
18 suspension, the licensee may appeal the suspension to a court of
19 competent jurisdiction.

20 (d) The board may reinstate a license that has been suspended or
21 revoked if the board finds, after a hearing, that the applicant is
22 able to practice with skill and safety.

23 (e) The board may return a license that has been voluntarily
24 surrendered if the board determines that the licensee is competent to
25 resume practice and that the applicable renewal fees are paid.

26 (f) The board shall seek consistency in the application of
27 disciplinary sanctions. A significant departure from prior decisions
28 involving similar situations shall be explained in the findings of
29 fact or order.

1 * Sec. 11. AS 08.68 is amended by adding a new section to article 2 to
2 read:

3 Sec. 08.68.278. IMMUNITY FOR CERTAIN REPORTS TO THE BOARD. A
4 person who, under oath and in good faith, reports information to the
5 board relating to alleged incidents of incompetent, unprofessional, or
6 unlawful conduct of a nurse is not liable in a civil action for
7 damages resulting from the reporting of the information.

8 * Sec. 12. AS 08.68.280 is amended to read:

9 Sec. 08.68.280. NURSING EDUCATION PROGRAM PROHIBITED UNLESS
10 APPROVED [ACCREDITED]. A [NO] person, institution, or agency may not
11 conduct a nursing education program that prepares persons for examina-
12 tion or [,] licensing [, AUTHORIZATION FOR SPECIALIZED PRACTICE, OR A
13 GRADUATE DEGREE] unless the program is approved [ACCREDITED] by the
14 board. A program may be approved [ACCREDITED] by the board only if it
15 is established through an approved [ACCREDITED] postsecondary educa-
16 tional institution.

17 * Sec. 13. AS 08.68.330 is amended to read:

18 Sec. 08.68.330. LIST OF APPROVED [ACCREDITED] PROGRAMS. The
19 board shall prepare, maintain, and from time to time publish a list of
20 approved [ACCREDITED] nursing education programs in the state.

21 * Sec. 14. AS 08.68.400(a) is amended to read:

22 (a) This chapter does not apply to

23 (1) a qualified nurse licensed in another state employed by
24 the United States Government or a bureau, or agency, or division of
25 the United States Government while in the discharge of official
26 duties;

27 (2) nursing service given temporarily in the event of a
28 public emergency, epidemic, or disaster;

29 (3) the practice of nursing by a student enrolled in a

1 nursing education program accredited by the board when the practice is
2 in connection with the student's course of study;

3 (4) the practice of nursing by an individual enrolled in an
4 approved program or course of study approved by the board to satisfy
5 the requirements of AS 08.68.251; [OR]

6 (5) the practice of nursing by a nurse licensed in another
7 state who engages in nursing education or nursing consultation activ-
8 ities, if these activities and contact with clients do not exceed 20
9 working days within a licensing period; or

10 (6) the practice of nursing by a nurse licensed in another
11 state whose employment responsibilities include transporting patients
12 into, out of, or through this state; however, this exception is valid
13 for a period not to exceed 48 hours for each transport.

14 * Sec. 15. This Act takes effect immediately under AS 01.10.070(c).

1 * Sec. 11. AS 08.68 is amended by adding a new section to article 2 to
2 read:

3 Sec. 08.68.278. IMMUNITY FOR CERTAIN REPORTS TO THE BOARD. A
4 person who, under oath and in good faith, reports information to the
5 board relating to alleged incidents of incompetent, unprofessional, or
6 unlawful conduct of a nurse is not liable in a civil action for
7 damages resulting from the reporting of the information.

8 * Sec. 12. AS 08.68.280 is amended to read:

9 Sec. 08.68.280. NURSING EDUCATION PROGRAM PROHIBITED UNLESS
10 APPROVED [ACCREDITED]. A [NO] person, institution, or agency may not
11 conduct a nursing education program that prepares persons for examina-
12 tion or [,] licensing [, AUTHORIZATION FOR SPECIALIZED PRACTICE, OR A
13 GRADUATE DEGREE] unless the program is approved [ACCREDITED] by the
14 board. A program may be approved [ACCREDITED] by the board only if it
15 is established through an approved [ACCREDITED] postsecondary educa-
16 tional institution.

17 * Sec. 13. AS 08.68.330 is amended to read:

18 Sec. 08.68.330. LIST OF APPROVED [ACCREDITED] PROGRAMS. The
19 board shall prepare, maintain, and from time to time publish a list of
20 approved [ACCREDITED] nursing education programs in the state.

21 * Sec. 14. AS 08.68.400(a) is amended to read:

22 (a) This chapter does not apply to

23 (1) a qualified nurse licensed in another state employed by
24 the United States Government or a bureau, or agency, or division of
25 the United States Government while in the discharge of official
26 duties;

27 (2) nursing service given temporarily in the event of a
28 public emergency, epidemic, or disaster;

29 (3) the practice of nursing by a student enrolled in a

1 IN THE HOUSE

BY DONLEY, HANLEY, GRUENBERG,
COLLINS, ELLIS AND KOPONEN

2

HOUSE BILL NO. 178

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act extending the termination date of the Board
7 of Nursing; and providing for an effective date."

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

9 * Section 1. AS 08.03.010(c)(1) is amended to read:

10 (1) Board of Nursing (AS 08.68.010) -- June 30, 1991

11 [1987].

12 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).