

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 472 cont., CSHB 472 382

Original sponsors: Boyer, Boucher
and Ellis

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 472 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

11 (28) Board of Mechanical Examiners (AS 08.40.220).

12 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:

13 (21) Board of Mechanical Examiners (AS 08.40.220) --

14 June 30, 1992.

15 * Sec. 3. AS 08.18 is amended by adding a new section to read:

16 Sec. 08.18.028. MECHANICAL CONTRACTORS. (a) The department may
17 not issue a certificate of registration as a mechanical contractor to
18 an applicant unless the applicant is, or employs, a person currently
19 licensed as a mechanical administrator under AS 08.40.

20 (b) Each applicant for a mechanical contractor's certificate of
21 registration may employ more than one mechanical administrator.

22 (c) If the relationship of the only mechanical administrator
23 with a registered mechanical contractor is terminated, the registra-
24 tion is void 30 days after the next regularly scheduled mechanical
25 administrator's examination unless the mechanical contractor has hired
26 a licensed mechanical administrator in the interim.

27 * Sec. 4. AS 08.18.041 is amended to read:

28 Sec. 08.18.041. FEES. The department [DEPARTMENT OF COMMERCE
29 AND ECONOMIC DEVELOPMENT] shall set registration and renewal fees

1 under AS 08.01.065 for the following:

- 2 (1) general contractor;
3 (2) specialty contractor;
4 (3) mechanical contractor.

5 * Sec. 5. AS 08.18.071(b) is amended to read:

6 (b) If the applicant is a general contractor, the amount of the
7 bond shall be \$10,000; if the applicant is a mechanical contractor,
8 the amount of the bond shall be \$7,500; if the applicant is a special-
9 ty contractor, the amount of the bond shall be \$5,000. In lieu of the
10 surety bond the applicant may file with the commissioner a cash depos-
11 it or other negotiable security acceptable to the commissioner in the
12 amount specified for bonds.

13 * Sec. 6. AS 08.18.171(3) is repealed and reenacted to read:

14 (3) "contractor" means a person who, in the pursuit of an
15 independent business, undertakes or offers to perform, or claims to
16 have the capacity to perform, or submits a bid for a project to con-
17 struct, alter, repair, move, or demolish a building, highway, road,
18 railroad, or any type of fixed structure, including excavation and
19 site development and erection of scaffolding; "contractor" includes a
20 general contractor, builder, mechanical contractor, speciality con-
21 tractor, and subcontractor;

22 * Sec. 7. AS 08.18.171 is amended by adding a new paragraph to read:

23 (5) "trade" means a skill used in the field of construc-
24 tion, as defined by regulation by the department.

25 * Sec. 8. AS 08.18.171 is amended by adding new paragraphs to read:

26 (6) "builder" means general contractor;

27 (7) "general contractor" means a contractor whose business
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1 the supervision of the contractor;

2 (8) "mechanical contractor" means a contractor whose busi-
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9 Conference of Building Officials:

10 (A) Uniform Plumbing Code;

11 (B) Uniform Swimming Pool, Spa, and Hot Tub Code;

12 (C) Uniform Solar Energy Code; and

13 (D) Uniform Mechanical Code;

14 (9) "specialty contractor" means a contractor, other than a
15 mechanical contractor, whose business operations require the use of
16 not more than three trades.

17 * Sec. 9. AS 08.40 is amended by adding new sections to read:

18 ARTICLE 4. MECHANICAL ADMINISTRATORS.

19 Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-
20 490 is to protect the safety of people and property in the state from
21 the danger of improperly installed or modified mechanical systems by
22 providing a procedure to

23 (1) assure the public that persons responsible for making
24 mechanical installations in this state are qualified; and

25 (2) assure that a sufficient number of persons are so
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27 Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is
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29 Two members of the board shall be licensed mechanical administrators

1 and one member shall be a public member.

2 (b) The members of the board shall elect one of its members as
3 chair.

4 (c) The board shall meet at least annually. The board may hold
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20 (b) A person licensed under AS 08.40.210 - 08.40.490 may perform
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22 Sec. 08.40.270. EXAMINATION OF APPLICANT. (a) Each applicant
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27 (3) familiarity with the requirements of the Uniform Plumb-
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29 Energy Code, and the Uniform Mechanical Code currently in effect in

1 the state;

2 (4) familiarity with mechanical installation problems and
3 the usages of the trade peculiar to this state; and

4 (5) personal skill and ability.

5 (b) If an applicant for a license submits proof satisfactory to
6 the board that the applicant is licensed as a mechanical administrator
7 or the equivalent by another state or territory, meets qualifications
8 established by the board under AS 08.40.230, and has passed an ex-
9 amination equivalent to the test administered under (a) of this sec-
10 tion except insofar as that examination tests knowledge and skill
11 particularly required to meet the environment and usages of the trade
12 peculiar to this state, the board shall waive all of the examination
13 required under (a) of this section except those parts that test knowl-
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15 usages of the trade peculiar to this state.

16 Sec. 08.40.280. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-
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20 Sec. 08.40.290. RENEWAL AND REINSTATEMENT. (a) A license
21 issued under AS 08.40.210 - 08.40.490 is nontransferable and, unless
22 revoked or suspended, may be renewed on a date set by the department
23 upon proof of continued competency.

24 (b) A lapsed license may be reinstated upon proof of continued
25 competency by payment of all unpaid renewal fees and any penalty fee
26 established under AS 08.01.100(b), unless the license has been lapsed
27 for more than two years. If a person's license has been lapsed for
28 more than two years, the person is required to take an examination
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1 Sec. 08.40.300. ISSUANCE AND DISPLAY OF LICENSE. An applicant
2 who successfully passes the examination shall receive a certificate of
3 license. The licensee shall prominently display the certificate,
4 while in effect, in the licensee's principal place of business.

5 Sec. 08.40.310. FEES. Each applicant and each licensee shall
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7 Sec. 08.40.320. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.
8 (a) The board may take disciplinary action against a licensee or
9 applicant upon a finding that

10 (1) the application is fraudulent or misleading;

11 (2) the licensee has knowingly violated AS 08.40.210 -
12 08.40.490 or a lawful rule, order, or regulation of the board or the
13 department; or

14 (3) the licensee is incompetent or has engaged in fraudu-
15 lent practices.

16 (b) Notice of a proposed denial, suspension, or revocation of
17 license shall be in writing and shall state the grounds.

18 (c) Proceedings for the denial, suspension, or revocation of a
19 license shall be governed by the Administrative Procedure Act (AS 44.-
20 62).

21 Sec. 08.40.330. INVESTIGATIONS. Either the Department of Com-
22 merce and Economic Development or the Department of Labor may investi-
23 gate alleged or apparent violations of AS 08.40.210 - 08.40.490. A
24 department, upon showing proper credentials, may enter, during regular
25 hours of work, a construction site where it appears that mechanical
26 work is being done. A department may make inquiries about the identi-
27 ty of the mechanical administrator or the person acting in the capaci-
28 ty of a mechanical administrator. Upon demand, a mechanical adminis-
29 trator or person acting in the capacity of a mechanical administrator,

1 or that person's representative, shall produce evidence of current
2 licensure.

3 Sec. 08.40.340. ISSUANCE OF CITATIONS. Either the Department of
4 Commerce and Economic Development or the Department of Labor may issue
5 a citation for a violation if there is probable cause to believe a
6 person has violated AS 08.40.210 - 08.40.490. Each day a violation
7 continues after a citation for the violation has been issued consti-
8 tutes a separate violation.

9 Sec. 08.40.350. PROCEDURE AND FORM OF CITATION. (a) A citation
10 issued under AS 08.40.340 must be in writing. A person receiving the
11 citation is not required to sign a notice to appear in court.

12 (b) The time specified in the notice to appear on a citation
13 issued under AS 08.40.340 must be at least five days, not including
14 weekends and holidays, after the issuance of the citation, unless the
15 person cited requests an earlier hearing.

16 (c) The Department of Commerce and Economic Development and the
17 Department of Labor are responsible for the issuance of books contain-
18 ing appropriate citations, and each shall maintain a record of each
19 book issued and each citation contained in it. Each department shall
20 require and retain a receipt for every book issued to an employee of
21 that department.

22 (d) The department that issues a citation under AS 08.40.340
23 shall deposit the original or a copy of the citation with a court
24 having jurisdiction over the alleged offense. Upon its deposit with
25 the court, the citation may be disposed of only by trial in the court
26 or other official action taken by the magistrate, judge, or prosecu-
27 tor. The department that issued the citation may not dispose of it or
28 copies of it or of the record of its issuance except as required under
29 this subsection and (e) of this section.

1 (e) The Department of Commerce and Economic Development and the
2 Department of Labor shall require the return of a copy of every cita-
3 tion issued by the respective department under AS 08.40.340 and of all
4 copies of every citation that has been spoiled or upon which an entry
5 has been made and not issued to an alleged violator. The departments
6 shall also maintain, in connection with every citation issued by the
7 respective department, a record of the disposition of the charge by
8 the court where the original or copy of the citation was deposited.

9 (f) If the form of citation issued under AS 08.40.340 includes
10 the essential facts constituting the offense charged, and if the
11 citation is sworn to as required under the laws of this state for a
12 complaint charging commission of the offense alleged in the citation,
13 then the citation when filed with a court having jurisdiction is
14 considered to be a lawful complaint for the purpose of prosecution.

15 Sec. 08.40.360. CEASE AND DESIST ORDER. (a) If the commis-
16 sioner of commerce and economic development determines that a person
17 is acting as a mechanical administrator in violation of AS 08.40.210 -
18 08.40.490 the commissioner may issue a cease and desist order pro-
19 hibiting further action by the person as a mechanical administrator.
20 The cease and desist order remains in effect until the person has
21 submitted evidence acceptable to the commissioner showing that the
22 violation has been corrected.

23 (b) A person affected by an order issued under (a) of this
24 section may seek equitable relief preventing the commissioner of
25 commerce and economic development from enforcing the order.

26 Sec. 08.40.370. INJUNCTIVE RELIEF. The commissioner of commerce
27 and economic development may seek an injunction in the superior court
28 to enjoin a person from violating AS 08.40.210 - 08.40.490.

29 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates

1 AS 08.40.210 - 08.40.490, or who knowingly violates a valid rule,
2 regulation, or order of the board or the department, is guilty of a
3 misdemeanor, and upon conviction is punishable by a fine of not more
4 than \$300, or by imprisonment for not more than 60 days, or by both.

5 (b) Unless the citation has been voided or otherwise dismissed
6 by the magistrate, judge, or prosecutor, a person who without lawful
7 justification or excuse fails to appear in court to answer a citation
8 issued under AS 08.40.340, regardless of the disposition of the charge
9 for which the citation was issued, is guilty of a class B misdemeanor.

10 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do
11 not apply to a utility or municipality whose employees are engaged in
12 mechanical work on an integral part of a system owned and operated by
13 the utility or municipality.

14 (b) AS 08.40.210 - 08.40.490 do not apply to a person engaged in

15 (1) the manufacture or repair of mechanical apparatus or
16 equipment;

17 (2) mechanical work, the cost of which does not exceed
18 \$5,000, involving residences or small commercial establishments in
19 communities that

20 (A) have a population of under 500; or

21 (B) are over 50 miles by air or water transportation
22 from the business place of a mechanical administrator licensed
23 under AS 08.40.210 - 08.40.490;

24 (3) mechanical installation on a single family residence
25 that is owned by the installer or a member of the installer's immedi-
26 ate family and not intended for sale at the time of making the instal-
27 lation;

28 (4) installation outside of a building of water lines or
29 sanitary, storm, or drain sewer lines.

1 Sec. 08.40.400. PERSONAL SUPERVISION. A person licensed under
2 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
3 to install or modify mechanical piping and systems, devices, fixtures,
4 equipment, or other mechanical materials, shall personally inspect
5 those materials after installation and modification unless the instal-
6 lation or modification amounts to simple or highly standardized work
7 performed in less than 24 man-hours by personnel generally under the
8 supervision of the mechanical administrator.

9 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

10 (1) "department" means the Department of Commerce and
11 Economic Development except where the context otherwise requires;

12 (2) "manufacture" means fabrication or completion of a
13 product or mechanical apparatus exclusive of its completion or instal-
14 lation at a job site;

15 (3) "mechanical administrator" means a person engaged in
16 the business of, or purporting to be engaged in the business of,
17 installing or modifying, or contracting to install or modify, mechani-
18 cal piping and systems, devices, fixtures, equipment, or other mechani-
19 cal materials subject to the Uniform Plumbing Code, Uniform Swimming
20 Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and the Uni-
21 form Mechanical Code as published by the International Association of
22 Plumbing and Mechanical Officials and the International Conference of
23 Building Officials;

24 (4) "mechanical piping" includes piping fixtures, devices,
25 and equipment;

26 (5) "utility" means every public, cooperative, or other
27 corporation, company, individual, or association of individuals, their
28 lessees, trustees, or receivers appointed by a court, that owns,
29 operates, manages, or controls a plant or system for

1 (A) furnishing, by generation, transmission, or dis-
2 tribution, electrical service, fuel gas service, district heat-
3 ing, sewage disposal, or domestic water service to the public for
4 compensation;

5 (B) furnishing telecommunications service to the
6 public for compensation.

7 * Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for
8 an initial appointment to the Board of Mechanical Examiners, created under
9 sec. 9 of this Act, as a professional member of the board, if at the time
10 of the appointment the person

11 (1) understands plans, design specifications, and engineering
12 terms commonly used in mechanical installations and piping;

13 (2) is familiar with mechanical installations and piping and
14 with mechanical installation problems peculiar to this state; and

15 (3) is familiar with the requirements of the Uniform Plumbing
16 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy
17 Code, and Uniform Mechanical Code that are currently in effect in the
18 state.

19 * Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.-
20 230, 08.40.270, and 08.40.300, as added by sec. 9 of this Act, a person may
21 qualify for and receive without examination a license as a mechanical
22 administrator in those categories of mechanical administration for which
23 the person is qualified, if the person

24 (1) has functioned as a mechanical administrator in the state
25 during the two years before the effective date of this section;

26 (2) satisfies the minimum requirements for licensure based on
27 experience as adopted by regulation by the Board of Mechanical Examiners;
28 and

29 (3) applies for licensure before July 1, 1989.

1 (b) A person who applies for licensure under this section is exempt
2 from AS 08.40.260, as added by sec. 9 of this Act, until the person's
3 application has been accepted or rejected by the Board of Mechanical
4 Examiners.

5 (c) A license issued under this section is for all purposes a
6 license issued under AS 08.40.300, as added by sec. 9 of this Act.

7 * Sec. 12. TRANSITIONAL PROVISION. In addition to the requirements of
8 AS 08.18.028, added by sec. 3 of this Act, by July 1, 1989, the following
9 persons must be, or employ a person who is, a licensed mechanical adminis-
10 trator under AS 08.40, added by sec. 9 of this Act:

11 (1) a person who is a registered mechanical contractor on Ju-
12 ly 1, 1989;

13 (2) a person who applies before July 1, 1989, to be a registered
14 mechanical contractor and is issued a certificate of registration after
15 July 1, 1989.

16 * Sec. 13. Sections 1, 2, 7, and 9 - 11 of this Act take effect immedi-
17 ately under AS 01.10.070(c).

18 * Sec. 14. Sections 4 - 6, 8, and 12 of this Act take effect Decem-
19 ber 31, 1988.

20 * Sec. 15. Section 3 of this Act takes effect July 1, 1989.
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23 gate alleged or apparent violations of AS 08.40.210 - 08.40.490. A
24 department, upon showing proper credentials, may enter, during regular
25 hours of work, a construction site where it appears that mechanical
26 work is being done. A department may make inquiries about the identi-
27 ty of the mechanical administrator or the person acting in the capaci-
28 ty of a mechanical administrator. Upon demand, a mechanical adminis-
29 trator or person acting in the capacity of a mechanical administrator,

1 or that person's representative, shall produce evidence of current
2 licensure.

3 Sec. 08.40.340. ISSUANCE OF CITATIONS. Either the Department of
4 Commerce and Economic Development or the Department of Labor may issue
5 a citation for a violation if there is probable cause to believe a
6 person has violated AS 08.40.210 - 08.40.490. Each day a violation
7 continues after a citation for the violation has been issued consti-
8 tutes a separate violation.

9 Sec. 08.40.350. PROCEDURE AND FORM OF CITATION. (a) A citation
10 issued under AS 08.40.340 must be in writing. A person receiving the
11 citation is not required to sign a notice to appear in court.

12 (b) The time specified in the notice to appear on a citation
13 issued under AS 08.40.340 must be at least five days, not including
14 weekends and holidays, after the issuance of the citation, unless the
15 person cited requests an earlier hearing.

16 (c) The Department of Commerce and Economic Development and the
17 Department of Labor are responsible for the issuance of books contain-
18 ing appropriate citations, and each shall maintain a record of each
19 book issued and each citation contained in it. Each department shall
20 require and retain a receipt for every book issued to an employee of
21 that department.

22 (d) The department that issues a citation under AS 08.40.340
23 shall deposit the original or a copy of the citation with a court
24 having jurisdiction over the alleged offense. Upon its deposit with
25 the court, the citation may be disposed of only by trial in the court
26 or other official action taken by the magistrate, judge, or prosecu-
27 tor. The department that issued the citation may not dispose of it or
28 copies of it or of the record of its issuance except as required under
29 this subsection and (e) of this section.

1 (e) The Department of Commerce and Economic Development and the
2 Department of Labor shall require the return of a copy of every cita-
3 tion issued by the respective department under AS 08.40.340 and of all
4 copies of every citation that has been spoiled or upon which an entry
5 has been made and not issued to an alleged violator. The departments
6 shall also maintain, in connection with every citation issued by the
7 respective department, a record of the disposition of the charge by
8 the court where the original or copy of the citation was deposited.

9 (f) If the form of citation issued under AS 08.40.340 includes
10 the essential facts constituting the offense charged, and if the
11 citation is sworn to as required under the laws of this state for a
12 complaint charging commission of the offense alleged in the citation,
13 then the citation when filed with a court having jurisdiction is
14 considered to be a lawful complaint for the purpose of prosecution.

15 Sec. 08.40.360. CEASE AND DESIST ORDER. (a) If the
16 commissioner of commerce and economic development determines that a
17 person is acting as a mechanical administrator in violation of
18 AS 08.40.210 - 08.40.490 the commissioner may issue a cease and desist
19 order prohibiting further action by the person as a mechanical
20 administrator. The cease and desist order remains in effect until the
21 person has submitted evidence acceptable to the commissioner showing
22 that the violation has been corrected.

23 (b) A person affected by an order issued under (a) of this
24 section may seek equitable relief preventing the commissioner of
25 commerce and economic development from enforcing the order.

26 Sec. 08.40.370. INJUNCTIVE RELIEF. The commissioner of commerce
27 and economic development may seek an injunction in the superior court
28 to enjoin a person from violating AS 08.40.210 - 08.40.490.

29 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates

1 AS 08.40.210 - 08.40.490, or who knowingly violates a valid rule,
2 regulation, or order of the board or the department, is guilty of a
3 misdemeanor, and upon conviction is punishable by a fine of not more
4 than \$300, or by imprisonment for not more than 60 days, or by both.

5 (b) Unless the citation has been voided or otherwise dismissed
6 by the magistrate, judge, or prosecutor, a person who without lawful
7 justification or excuse fails to appear in court to answer a citation
8 issued under AS 08.40.340, regardless of the disposition of the charge
9 for which the citation was issued, is guilty of a class B misdemeanor.

10 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do
11 not apply to a utility or municipality engaged in

12 (1) mechanical construction and maintenance of mechanical
13 systems and equipment for the generation and distribution of elec-
14 trical current or generation and distribution of district heating when
15 the mechanical work is performed on an integral part of a system owned
16 and operated by that utility or municipal light and power department
17 and when the work is performed by employees of the utility or munici-
18 pality;

19 (2) mechanical construction and maintenance of mechanical
20 systems and equipment for the distribution of fuel gas when the me-
21 chanical work is performed on an integral part of the distribution
22 system owned and operated by the utility or municipality and when the
23 work is performed by employees of the utility or municipality.

24 (b) AS 08.40.210 - 08.40.490 do not apply to a person engaged in

25 (1) the manufacture or repair of mechanical apparatus or
26 equipment;

27 (2) mechanical work, the cost of which does not exceed
28 \$5,000, involving residences or small commercial establishments in
29 communities that

1 (A) have a population of under 500; or
2 (B) are over 50 miles by air or water transportation
3 from the business place of a mechanical administrator licensed
4 under AS 08.40.210 - 08.40.490;

5 (3) mechanical installation on a single family residence
6 that is owned by the installer or a member of the installer's immedi-
7 ate family and not intended for sale at the time of making the instal-
8 lation;

9 (4) installation outside of a building of water lines or
10 sanitary, storm, or drain sewer lines.

11 Sec. 08.40.400. PERSONAL SUPERVISION. A person licensed under
12 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
13 to install or modify mechanical piping and systems, devices, fixtures,
14 equipment, or other mechanical materials, shall personally inspect
15 those materials after installation and modification unless the
16 installation or modification amounts to simple or highly standardized
17 work performed in less than 24 man-hours by personnel generally under
18 the supervision of the mechanical administrator.

19 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

20 (1) "department" means the Department of Commerce and
21 Economic Development except where the context otherwise requires;

22 (2) "manufacture" means fabrication or completion of a
23 product or mechanical apparatus exclusive of its completion or instal-
24 lation at a job site;

25 (3) "mechanical administrator" means a person engaged in
26 the business of, or purporting to be engaged in the business of,
27 installing or modifying, or contracting to install or modify, mechani-
28 cal piping and systems, devices, fixtures, equipment, or other mechan-
29 ical materials subject to the Uniform Plumbing Code, Uniform Swimming

1 Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and the Uni-
2 form Mechanical Code as published by the International Association of
3 Plumbing and Mechanical Officials and the International Conference of
4 Building Officials;

5 (4) "mechanical piping" includes piping fixtures, devices,
6 and equipment;

7 (5) "utility" means every public, cooperative, or other
8 corporation, company, individual, or association of individuals, their
9 lessees, trustees, or receivers appointed by a court, that owns,
10 operates, manages, or controls a plant or system for

11 (A) furnishing, by generation, transmission, or dis-
12 tribution, electrical service, fuel gas service, district heat-
13 ing, sewage disposal, or domestic water service to the public for
14 compensation;

15 (B) furnishing telecommunications service to the
16 public for compensation.

17 * Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for
18 an initial appointment to the Board of Mechanical Examiners, created under
19 sec. 9 of this Act, as a professional member of the board, if at the time
20 of the appointment the person

21 (1) understands plans, design specifications, and engineering
22 terms commonly used in mechanical installations and piping;

23 (2) is familiar with mechanical installations and piping and
24 with mechanical installation problems peculiar to this state; and

25 (3) is familiar with the requirements of the Uniform Plumbing
26 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy
27 Code, and Uniform Mechanical Code that are currently in effect in the
28 state.

29 * Sec. 11. TRANSITIONAL PROVISION. In addition to the requirements of

1 AS 08.18.028, added by sec. 3 of this Act, by July 1, 1989, the following
2 persons must be, or employ a person who is, a licensed mechanical adminis-
3 trator under AS 08.40, added by sec. 9 of this Act:

4 (1) a person who is a registered mechanical contractor on
5 July 1, 1989;

6 (2) a person who applies before July 1, 1989, to be a registered
7 mechanical contractor and is issued a certificate of registration after
8 July 1, 1989.

9 * Sec. 12. Sections 1, 2, 7, 9, and 10 of this Act take effect immedi-
10 ately under AS 01.10.070(c).

11 * Sec. 13. Sections 4 - 6, 8 and 11 of this Act take effect Decem-
12 ber 31, 1988.

13 * Sec. 14. Section 3 of this Act takes effect July 1, 1989.

1 IN THE HOUSE

BY BOYER, BOUCHER AND
ELLIS

2

HOUSE BILL NO. 472

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mechanical administrators."

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

8 * Section 1. AS 08.40 is amended by adding new sections to read:

9

ARTICLE 4. MECHANICAL ADMINISTRATORS.

10

Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-

11

490 is to protect the safety of people and property in the state from

12

the danger of improperly installed or modified mechanical systems by

13

providing a procedure to

14

(1) assure the public that persons responsible for making

15

mechanical installations in this state are qualified; and

16

(2) assure that a sufficient number of persons are so

17

qualified.

18

Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is

19

created the Board of Mechanical Examiners consisting of three members.

20

Two members of the board shall be licensed mechanical administrators

21

and one member shall be a public member.

22

(b) The members of the board shall elect one of its members as

23

chair.

24

(c) The board shall meet at least annually. The board may hold

25

other meetings at the call of the chair.

26

Sec. 08.40.230. CATEGORIES OF LICENSES. The board may adopt

27

regulations establishing categories of mechanical administrators,

28

qualifications for those categories, and the content of examinations

29

for applicants for each category.

1 Sec. 08.40.240. REGULATIONS. The board shall adopt regulations
2 under AS 44.62 (Administrative Procedure Act), relating to the ex-
3 amination and licensing of mechanical administrators, the establishing
4 of the continued competency of licensees for license renewal and
5 reinstatement, and the suspension or revocation of licenses.

6 Sec. 08.40.250. EXAMINATIONS. The board shall conduct licensing
7 examinations at least twice each year at appropriate places in the
8 state.

9 Sec. 08.40.260. INSPECTION OR INVESTIGATION BY BOARD. The board
10 may

11 (1) make or have made a special inspection or investigation
12 into the work of a licensee that it considers necessary;

13 (2) issue subpoenas and process compelling the attendance
14 of a person and the production of papers or books, for the purpose of
15 the investigation and examination;

16 (3) administer oaths when required; and

17 (4) petition a court of the state to enforce subpoenas and
18 process or to compel testimony.

19 Sec. 08.40.270. LICENSE REQUIRED. (a) A person may not act as
20 a mechanical administrator without a license.

21 (b) A person licensed under AS 08.40.210 - 08.40.490 may perform
22 work only in a category for which the person is licensed.

23 Sec. 08.40.280. EXAMINATION OF APPLICANT. (a) Each applicant
24 shall be examined to determine the applicant's

25 (1) ability to understand plans, design specifications, and
26 engineering terms commonly used in the mechanical field;

27 (2) knowledge of mechanical installations and piping;

28 (3) familiarity with the requirements of the Uniform Plumb-
29 ing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar

1 Energy Code, and the Uniform Mechanical Code currently in effect in
2 the state;

3 (4) familiarity with mechanical installation problems and
4 the usages of the trade peculiar to this state; and

5 (5) personal skill and ability.

6 (b) If an applicant for a license submits proof satisfactory to
7 the board that the applicant is licensed as a mechanical administrator
8 or the equivalent by another state or territory, meets qualifications
9 established by the board under AS 08.40.230, and has passed an ex-
10 amination equivalent to the test administered under (a) of this sec-
11 tion except insofar as that examination tests knowledge and skill
12 particularly required to meet the environment and usages of the trade
13 peculiar to this state, the board shall waive all of the examination
14 required under (a) of this section except those parts that test knowl-
15 edge and skill particularly required to meet the environment and
16 usages of the trade peculiar to this state.

17 Sec. 08.40.290. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-
18 TOR. A person may not qualify or operate as a mechanical adminis-
19 trator for more than one registered contractor, corporation, joint
20 venture, or other business entity.

21 Sec. 08.40.300. RENEWAL AND REINSTATEMENT. (a) A license
22 issued under AS 08.40.210 - 08.40.490 is nontransferable and, unless
23 revoked or suspended, may be renewed upon proof of continued com-
24 petency.

25 (b) A lapsed license may be reinstated upon proof of continued
26 competency by payment of all unpaid renewal fees and any penalty fee
27 established under AS 08.01.100(b), unless the license has been lapsed
28 for more than two years. If a person's license has been lapsed for
29 more than two years, the person is required to take an examination

1 under AS 08.40.280.

2 Sec. 08.40.310. ISSUANCE AND DISPLAY OF LICENSE. An applicant
3 who successfully passes the examination shall receive a certificate of
4 license. The licensee shall prominently display the certificate,
5 while in effect, in the licensee's principal place of business.

6 Sec. 08.40.320. FEES. Each applicant and each licensee shall
7 pay application and renewal fees established under AS 08.01.065.

8 Sec. 08.40.330. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

9 (a) The board may take disciplinary action against a licensee or
10 applicant upon a finding that

11 (1) the application is fraudulent or misleading;

12 (2) the licensee has knowingly violated AS 08.40.210 -
13 08.40.490 or a lawful rule, order, or regulation of the board or the
14 department; or

15 (3) the licensee is incompetent or has engaged in fraudu-
16 lent practices.

17 (b) Notice of a proposed denial, suspension, or revocation of
18 license shall be in writing and shall state the grounds.

19 (c) Proceedings for the denial, suspension, or revocation of a
20 license shall be governed by AS 44.62 (Administrative Procedure Act).

21 Sec. 08.40.340. INVESTIGATIONS. Either the Department of
22 Commerce and Economic Development or the Department of Labor may
23 investigate alleged or apparent violations of AS 08.40.210 - 08.40.-
24 490. A department, upon showing proper credentials, may enter, during
25 regular hours of work, a construction site where it appears that
26 mechanical work is being done. A department may make inquiries about
27 the identity of the mechanical administrator or the person acting in
28 the capacity of a mechanical administrator. Upon demand, a mechanical
29 administrator or person acting in the capacity of a mechanical

1 administrator, or that person's representative, shall produce evidence
2 of current licensure.

3 Sec. 08.40.350. ISSUANCE OF CITATIONS. Either the Department of
4 Commerce and Economic Development or the Department of Labor may issue
5 a citation for a violation if there is probable cause to believe a
6 person has violated AS 08.40.210 - 08.40.490. Each day a violation
7 continues after a citation for the violation has been issued consti-
8 tutes a separate violation.

9 Sec. 08.40.360. PROCEDURE AND FORM OF CITATION. (a) A citation
10 issued under AS 08.40.350 must be in writing. A person receiving the
11 citation is not required to sign a notice to appear in court.

12 (b) The time specified in the notice to appear on a citation
13 issued under AS 08.40.350 must be at least five days, not including
14 weekends and holidays, after the issuance of the citation, unless the
15 person cited requests an earlier hearing.

16 (c) The Department of Commerce and Economic Development and the
17 Department of Labor are responsible for the issuance of books contain-
18 ing appropriate citations, and each shall maintain a record of each
19 book issued and each citation contained in it. Each department shall
20 require and retain a receipt for every book issued to an employee of
21 that department.

22 (d) The department that issues a citation under AS 08.40.350
23 shall deposit the original or a copy of the citation with a court
24 having jurisdiction over the alleged offense. Upon its deposit with
25 the court, the citation may be disposed of only by trial in the court
26 or other official action taken by the magistrate, judge, or prosecu-
27 tor. The department that issued the citation may not dispose of it or
28 copies of it or of the record of its issuance except as required under
29 this subsection and (e) of this section.

1 (e) The Department of Commerce and Economic Development and the
2 Department of Labor shall require the return of a copy of every cita-
3 tion issued by the respective department under AS 08.40.350 and of all
4 copies of every citation that has been spoiled or upon which an entry
5 has been made and not issued to an alleged violator. The departments
6 shall also maintain, in connection with every citation issued by the
7 respective department, a record of the disposition of the charge by
8 the court where the original or copy of the citation was deposited.

9 (f) If the form of citation issued under AS 08.40.350 includes
10 the essential facts constituting the offense charged, and if the
11 citation is sworn to as required under the laws of this state for a
12 complaint charging commission of the offense alleged in the citation,
13 then the citation when filed with a court having jurisdiction is
14 considered to be a lawful complaint for the purpose of prosecution.

15 Sec. 08.40.370. CEASE AND DESIST ORDER. (a) If the commis-
16 sioner of commerce and economic development determines that a person
17 is acting as a mechanical administrator in violation of AS 08.40.210 -
18 08.40.490 the commissioner may issue a cease and desist order pro-
19 hibiting further action by the person as a mechanical administrator.
20 The cease and desist order remains in effect until the person has
21 submitted evidence acceptable to the commissioner showing that the
22 violation has been corrected.

23 (b) A person affected by an order issued under (a) of this
24 section may seek equitable relief preventing the commissioner of
25 commerce and economic development from enforcing the order.

26 Sec. 08.40.380. INJUNCTIVE RELIEF. The commissioner of commerce
27 and economic development may seek an injunction in the superior court
28 to enjoin a person from violating AS 08.40.210 - 08.40.490.

29 Sec. 08.40.390. PENALTIES. (a) A person who knowingly violates

1 AS 08.40.210 - 08.40.490, or who knowingly violates a valid rule,
2 regulation, or order of the board or the department, is guilty of a
3 misdemeanor, and upon conviction is punishable by a fine of not more
4 than \$300, or by imprisonment for not more than 60 days, or by both.

5 (b) Unless the citation has been voided or otherwise dismissed
6 by the magistrate, judge, or prosecutor, a person who without lawful
7 justification or excuse fails to appear in court to answer a citation
8 issued under AS 08.40.350, regardless of the disposition of the charge
9 for which the citation was issued, is guilty of a class B misdemeanor.

10 Sec. 08.40.400. EXCLUSIONS. (a) Except for inspections au-
11 thorized under AS 08.40.260, 08.40.210 - 08.40.490 do not apply to a
12 utility or municipality engaged in

13 (1) mechanical construction and maintenance of mechanical
14 systems and equipment for the generation and distribution of elec-
15 trical current or generation and distribution of district heating when
16 the mechanical work is performed on an integral part of a system owned
17 and operated by that utility or municipal light and power department
18 and when the work is performed by employees of the utility or munici-
19 pality;

20 (2) mechanical construction and maintenance of mechanical
21 systems and equipment for the distribution of fuel gas when the
22 mechanical work is performed on an integral part of the distribution
23 system owned and operated by the utility or municipality and when the
24 work is performed by employees of the utility or municipality.

25 (b) Except for inspections authorized under AS 08.40.260,
26 08.40.210 - 08.40.490 do not apply to a person engaged in

27 (1) the manufacture or repair of mechanical apparatus or
28 equipment;

29 (2) mechanical work, the cost of which does not exceed

1 ~~§ 8.40.400~~, involving residences or small commercial establishments in
2 communities that

3 (A) have a population of under 500; or

4 (B) are over 50 miles by air or water transportation
5 from the business place of a mechanical administrator licensed
6 under AS 08.40.210 - 08.40.490;

7 (3) mechanical installation on a single family residence
8 that is owned by the installer or a member of the installer's immedi-
9 ate family and not intended for sale at the time of making the instal-
10 lation;

11 (4) installation outside of a building of water lines or
12 sanitary, storm, or drain sewer lines.

13 Sec. 08.40.410. PERSONAL SUPERVISION. A person licensed under
14 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
15 to install or modify mechanical piping and systems, devices, fixtures,
16 equipment, or other mechanical materials, shall personally inspect
17 those materials after installation and modification unless the instal-
18 lation or modification amounts to simple or highly standardized work
19 performed in less than 24 man-hours by personnel generally under the
20 supervision of the mechanical administrator.

21 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

22 (1) "department" means the Department of Commerce and
23 Economic Development except where the context otherwise requires;

24 (2) "manufacture" means fabrication or completion of a
25 product or mechanical apparatus exclusive of its completion or instal-
26 lation at a job site;

27 (3) "mechanical administrator" means a person engaged in
28 the business of, or purporting to be engaged in the business of,
29 installing or modifying, or contracting to install or modify,

1 mechanical piping and systems, devices, fixtures, equipment, or other
2 mechanical materials subject to the Uniform Plumbing Code, Uniform
3 Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and
4 the Uniform Mechanical Code as published by the International Associa-
5 tion of Plumbing and Mechanical Officials and the International Con-
6 ference of Building Officials;

7 (4) "mechanical piping" includes piping fixtures, devices,
8 and equipment;

9 (5) "utility" means every public, cooperative, or other
10 corporation, company, individual, or association of individuals, their
11 lessees, trustees, or receivers appointed by a court, that owns,
12 operates, manages, or controls a plant or system for

13 (A) furnishing, by generation, transmission, or dis-
14 tribution, electrical service, fuel gas service, district heat-
15 ing, sewage disposal, or domestic water service to the public for
16 compensation;

17 (B) furnishing telecommunications service to the
18 public for compensation.

19 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

20 (28) Board of Mechanical Examiners (AS 08.40.220).

21 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

22 (21) Board of Mechanical Examiners (AS 08.40.220) --

23 June 30, 1992.

24 * Sec. 4. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for
25 an initial appointment to the Board of Mechanical Examiners, created under
26 sec. 1 of this Act, as a professional member of the board, if at the time
27 of the appointment the person

28 (1) understands plans, design specifications, and engineering
29 terms commonly used in mechanical installations and piping;

1 (2) is familiar with mechanical installations and piping and
2 with mechanical installation problems peculiar to this state; and

3 (3) is familiar with the requirements of the Uniform Plumbing
4 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy
5 Code, and Uniform Mechanical Code that are currently in effect in the
6 state.

C S H B

4 7 2

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE 6/5/88

4/30/88
Mr. President:

Finance Committee considered CSHB 472 (FIN)

mechanical administrators and construction contractors; efd

and recommended

replace with SCS 0511B472 (FIN)) same title
 or adopt CS) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
SCS(FIN) zero fiscal impact 7.3

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

[Signature]

OTHER RECOMMENDATIONS

[Signature] No Rec

[Signature] do pass
Chairman signature and recommendation

Committee Backup attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SCSCSHB 472 (Fin)
PUBLISH DATE: HOUSE 4/26/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to mechanical administrators.
Sponsor: House Finance
Requestor: _____

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL		5.3	3.9	3.9	3.9	3.9
CONTRACTUAL SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		7.3	5.9	5.9	5.9	5.9

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

REVENUE		15.0	**			
---------	--	------	----	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR		7.3	5.9	5.9	5.9	5.9
TOTAL		7.3	5.9	5.9	5.9	5.9

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(SEE ATTACHED)

PPB Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
Division: Occupational Licensing Date: 4/25/88

Approved by Commissioner: J. Anthony Smith Date: 4/25/88
Agency: Commerce and Economic Development

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

No. 2

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No.

CSHB 472 (FIN)
HOUSE 4/26/88

TRAVEL: The bill establishes a Board of Mechanical Examiners consisting of three members. Section 08.40.220(c) also mandates the board to meet at least annually and to hold other meetings at the call of the chair. In addition, Section 08.40.250 requires the exam to be administered at least twice a year. It is anticipated that at least three meetings will be required during the first year as a result of the Board's new regulatory responsibilities. This fiscal note is therefore based on three members holding three board meetings and exams in conjunction with two of the meetings. Two meetings and exams are budgeted for subsequent years.

ANCHORAGE MEETING:

Member from:	<u>TRANSPORTATION</u>	<u>PER DIEM</u>	<u>TOTAL</u>
Anchorage	0	320.00	320.00
Nome	440.00	320.00	760.00
Fairbanks	232.00	340.00*	572.00
(*Two day meeting (@\$80 per day) in Anchorage, and two days of exams (@\$90 per day) in Fairbanks.)			
Sub-Total:	672.00	980.00	1,652.00

JUNEAU MEETING:

Anchorage	366.00	320.00	686.00
Nome	682.00	320.00	1,002.00
Fairbanks	436.00	160.00	596.00
Sub-Total:	1,484.00	800.00	2,284.00

FAIRBANKS MEETING:

Anchorage	232.00	180.00	412.00
Nome	470.00	270.00	740.00
Fairbanks	0	180.00	180.00
Sub-Total:	702.00	630.00	1,332.00
TOTAL:	<u>2,858.00</u>	<u>2,410.00</u>	<u>5,268.00</u>

CONTRACTUAL:

Printing of applications, statute booklets and other informational material; Advertising of meetings, exams and regulations; postage, telephone and other standard operating costs. \$2,000.00

****REVENUES:**

Revenues are contingent upon the number of mechanical administrator licensees. In the first year, it is anticipated that at least 150 individuals will seek licensure. Assuming the license fee is \$100, a total of \$15,000.00 would be generated in the first year. Depending on the actual number of licensees, the revenues generated from licensing fees may not cover the entire cost of the licensing program within central licensing at \$100 per licensee.

Adapted

Original sponsors: Boyer, Boucher
and Ellis

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 472 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

11 (28) Board of Mechanical Examiners (AS 08.40.220).

12 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:

13 (21) Board of Mechanical Examiners (AS 08.40.220) --

14 June 30, 1992.

15 * Sec. 3. AS 08.18 is amended by adding a new section to read:

16 Sec. 08.18.028. MECHANICAL CONTRACTORS. (a) The department may
17 not issue a certificate of registration as a mechanical contractor to
18 an applicant unless the applicant is, or employs, a person currently
19 licensed as a mechanical administrator under AS 08.40.

20 (b) Each applicant for a mechanical contractor's certificate of
21 registration may employ more than one mechanical administrator.

22 (c) If the relationship of the only mechanical administrator
23 with a registered mechanical contractor is terminated, the registra-
24 tion is void 30 days after the next regularly scheduled mechanical
25 administrator's examination unless the mechanical contractor has hired
26 a licensed mechanical administrator in the interim.

27 * Sec. 4. AS 08.18.041 is amended to read:

28 Sec. 08.18.041. FEES. The department [DEPARTMENT OF COMMERCE
29 AND ECONOMIC DEVELOPMENT] shall set registration and renewal fees

1 under AS 08.01.065 for the following:

- 2 (1) general contractor;
3 (2) specialty contractor;
4 (3) mechanical contractor.

5 * Sec. 5. AS 08.18.071(b) is amended to read:

6 (b) If the applicant is a general contractor, the amount of the
7 bond shall be \$10,000; if the applicant is a mechanical or specialty
8 contractor, the amount of the bond shall be \$5,000. In lieu of the
9 surety bond the applicant may file with the commissioner a cash depos-
10 it or other negotiable security acceptable to the commissioner in the
11 amount specified for bonds.

12 * Sec. 6. AS 08.18.171(3) is repealed and reenacted to read:

13 (3) "contractor" means a person who, in the pursuit of an
14 independent business, undertakes or offers to perform, or claims to
15 have the capacity to perform, or submits a bid for a project to con-
16 struct, alter, repair, move, or demolish a building, highway, road,
17 railroad, or any type of fixed structure, including excavation and
18 site development and erection of scaffolding; "contractor" includes a
19 general contractor, builder, mechanical contractor, speciality con-
20 tractor, and subcontractor;

21 * Sec. 7. AS 08.18.171 is amended by adding a new paragraph to read:

22 (5) "trade" means a skill used in the field of construc-
23 tion, as defined by regulation by the department.

24 * Sec. 8. AS 08.18.171 is amended by adding new paragraphs to read:

25 (6) "builder" means general contractor;

26 (7) "general contractor" means a contractor whose business
27 operations require the use of more than three trades or the use of
28 mechanical or specialty contractors and subcontractors who are under
29 the supervision of the contractor;

1 (8) "mechanical contractor" means a contractor whose busi-
2 ness operations involve plumbing, pipe fitting, sheet metal, heating,
3 air conditioning, ventilating, or sprinkler and dry chemical fire
4 protection trades in order to install or modify mechanical piping and
5 systems, devices, fixtures, and equipment or other mechanical mate-
6 rials subject to the following codes as published by the International
7 Association of Plumbing and Mechanical Officials or the International
8 Conference of Building Officials:

9 (A) Uniform Plumbing Code;

10 (B) Uniform Swimming Pool, Spa, and Hot Tub Code;

11 (C) Uniform Solar Energy Code; and

12 (D) Uniform Mechanical Code;

13 (9) "specialty contractor" means a contractor, other than a
14 mechanical contractor, whose business operations require the use of
15 not more than three trades.

16 * Sec. 9. AS 08.40 is amended by adding new sections to read:

17 ARTICLE 4. MECHANICAL ADMINISTRATORS.

18 Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-
19 490 is to protect the safety of people and property in the state from
20 the danger of improperly installed or modified mechanical systems by
21 providing a procedure to

22 (1) assure the public that persons responsible for making
23 mechanical installations in this state are qualified; and

24 (2) assure that a sufficient number of persons are so
25 qualified.

26 Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is
27 created the Board of Mechanical Examiners consisting of three members.
28 Each member of the board shall reside in a different judicial district
29 of the state. Two members of the board shall be licensed mechanical

1 administrators and one member shall be a public member. One of the
2 licensed mechanical administrator members of the board shall be a
3 resident of a community with a population of less than 5,000 persons.

4 (b) The members of the board shall elect one of its members as
5 chair.

6 (c) The board shall meet at least annually. The board may hold
7 other meetings at the call of the chair.

8 Sec. 08.40.230. CATEGORIES OF LICENSES. The board may adopt
9 regulations establishing categories of mechanical administrators,
10 qualifications for those categories, and the content of examinations
11 for applicants for each category.

12 Sec. 08.40.240. REGULATIONS. The board shall adopt regulations
13 under the Administrative Procedure Act (AS 44.62), relating to the ex-
14 amination and licensing of mechanical administrators, the establishing
15 of the continued competency of licensees for license renewal and
16 reinstatement, and the suspension or revocation of licenses.

17 Sec. 08.40.250. EXAMINATIONS. The board shall conduct licensing
18 examinations at least twice each year at appropriate places in the
19 state.

20 Sec. 08.40.260. LICENSE REQUIRED. (a) A person may not act as
21 a mechanical administrator without a license.

22 (b) A person licensed under AS 08.40.210 - 08.40.490 may perform
23 work only in a category for which the person is licensed.

24 Sec. 08.40.270. EXAMINATION OF APPLICANT. (a) Each applicant
25 shall be examined to determine the applicant's

26 (1) ability to understand plans, design specifications, and
27 engineering terms commonly used in the mechanical field;

28 (2) knowledge of mechanical installations and piping;

29 (3) familiarity with the requirements of the Uniform

1 Plumbing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform
2 Solar Energy Code, and the Uniform Mechanical Code currently in effect
3 in the state;

4 (4) familiarity with mechanical installation problems and
5 the usages of the trade peculiar to this state; and

6 (5) personal skill and ability.

7 (b) If an applicant for a license submits proof satisfactory to
8 the board that the applicant is licensed as a mechanical administrator
9 or the equivalent by another state or territory, meets qualifications
10 established by the board under AS 08.40.230, and has passed an ex-
11 amination equivalent to the test administered under (a) of this sec-
12 tion except insofar as that examination tests knowledge and skill
13 particularly required to meet the environment and usages of the trade
14 peculiar to this state, the board shall waive all of the examination
15 required under (a) of this section except those parts that test knowl-
16 edge and skill particularly required to meet the environment and
17 usages of the trade peculiar to this state.

18 Sec. 08.40.280. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-
19 TOR. A person may not qualify or operate as a mechanical adminis-
20 trator for more than one registered contractor, corporation, joint
21 venture, or other business entity, unless the municipality or communi-
22 ty where the person qualifies or operates as a mechanical administra-
23 tor is the principal place of business of fewer than three mechanical
24 administrators.

25 Sec. 08.40.290. RENEWAL AND REINSTATEMENT. (a) A license
26 issued under AS 08.40.210 - 08.40.490 is nontransferable and, unless
27 revoked or suspended, may be renewed on a date set by the department
28 upon proof of continued competency.

29 (b) A lapsed license may be reinstated upon proof of continued

1 competency by payment of all unpaid renewal fees and any penalty fee
2 established under AS 08.01.100(b), unless the license has been lapsed
3 for more than two years. If a person's license has been lapsed for
4 more than two years, the person is required to take an examination
5 under AS 08.40.270.

6 Sec. 08.40.300. ISSUANCE AND DISPLAY OF LICENSE. An applicant
7 who successfully passes the examination shall receive a certificate of
8 license. The licensee shall prominently display the certificate,
9 while in effect, in the licensee's principal place of business.

10 Sec. 08.40.310. FEES. Each applicant and each licensee shall
11 pay application and renewal fees established under AS 08.01.065.

12 Sec. 08.40.320. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

13 (a) The board may take disciplinary action against a licensee or
14 applicant upon a finding that

15 (1) the application is fraudulent or misleading;

16 (2) the licensee has knowingly violated AS 08.40.210 -
17 08.40.490 or an order or regulation of the board or the department; or

18 (3) the licensee is incompetent or has engaged in fraudu-
19 lent practices.

20 (b) Notice of a proposed denial, suspension, or revocation of
21 license shall be in writing and shall state the grounds.

22 (c) Proceedings for the denial, suspension, or revocation of a
23 license shall be governed by the Administrative Procedure Act (AS 44.-
24 62).

25 Sec. 08.40.330. INVESTIGATIONS. Either the Department of Com-
26 merce and Economic Development or the Department of Labor may investi-
27 gate alleged or apparent violations of AS 08.40.210 - 08.40.490. A
28 department, upon showing proper credentials, may enter, during regular
29 hours of work, a construction site where it appears that mechanical

1 work is being done. A department may make inquiries about the identi-
2 ty of the mechanical administrator or the person acting in the capaci-
3 ty of a mechanical administrator. Upon demand, a mechanical adminis-
4 trator or person acting in the capacity of a mechanical administrator,
5 or that person's representative, shall produce evidence of current
6 licensure.

7 Sec. 08.40.340. ISSUANCE OF CITATIONS. Either the Department of
8 Commerce and Economic Development or the Department of Labor may issue
9 a citation for a violation if there is probable cause to believe a
10 person has violated AS 08.40.210 - 08.40.490. Each day a violation
11 continues after a citation for the violation has been issued consti-
12 tutes a separate violation.

13 Sec. 08.40.350. PROCEDURE AND FORM OF CITATION. (a) A citation
14 issued under AS 08.40.340 must be in writing. A person receiving the
15 citation is not required to sign a notice to appear in court.

16 (b) The time specified in the notice to appear on a citation
17 issued under AS 08.40.340 must be at least five days, not including
18 weekends and holidays, after the issuance of the citation, unless the
19 person cited requests an earlier hearing.

20 (c) The Department of Commerce and Economic Development and the
21 Department of Labor are responsible for the issuance of books contain-
22 ing appropriate citations, and each shall maintain a record of each
23 book issued and each citation contained in it. Each department shall
24 require and retain a receipt for every book issued to an employee of
25 that department.

26 (d) The department that issues a citation under AS 08.40.340
27 shall deposit the original or a copy of the citation with a court
28 having jurisdiction over the alleged offense. Upon its deposit with
29 the court, the citation may be disposed of only by trial in the court

1 or other official action taken by the magistrate, judge, or prosecu-
2 tor. The department that issued the citation may not dispose of it or
3 copies of it or of the record of its issuance except as required under
4 this subsection and (e) of this section.

5 (e) The Department of Commerce and Economic Development and the
6 Department of Labor shall require the return of a copy of every cita-
7 tion issued by the respective department under AS 08.40.340 and of all
8 copies of every citation that has been spoiled or upon which an entry
9 has been made and not issued to an alleged violator. The departments
10 shall also maintain, in connection with every citation issued by the
11 respective department, a record of the disposition of the charge by
12 the court where the original or copy of the citation was deposited.

13 (f) If the form of citation issued under AS 08.40.340 includes
14 the essential facts constituting the offense charged, and if the
15 citation is sworn to as required under the laws of this state for a
16 complaint charging commission of the offense alleged in the citation,
17 then the citation when filed with a court having jurisdiction is
18 considered to be a lawful complaint for the purpose of prosecution.

19 **Sec. 08.40.360. CEASE AND DESIST ORDER.** (a) If the commis-
20 sioner of commerce and economic development determines that a person
21 is acting as a mechanical administrator in violation of AS 08.40.210 -
22 08.40.490 the commissioner may issue a cease and desist order pro-
23 hibiting further action by the person as a mechanical administrator.
24 The cease and desist order remains in effect until the person has
25 submitted evidence acceptable to the commissioner showing that the
26 violation has been corrected.

27 (b) A person affected by an order issued under (a) of this
28 section may seek equitable relief preventing the commissioner of
29 commerce and economic development from enforcing the order.

1 Sec. 08.40.370. INJUNCTIVE RELIEF. The commissioner of commerce
2 and economic development may seek an injunction in the superior court
3 to enjoin a person from violating AS 08.40.210 - 08.40.490.

4 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates
5 AS 08.40.210 - 08.40.490, or who knowingly violates a regulation or
6 order of the board or the department, is guilty of a misdemeanor, and
7 upon conviction is punishable by a fine of not more than \$300, or by
8 imprisonment for not more than 60 days, or by both.

9 (b) Unless the citation has been voided or otherwise dismissed
10 by the magistrate, judge, or prosecutor, a person who without lawful
11 justification or excuse fails to appear in court to answer a citation
12 issued under AS 08.40.340, regardless of the disposition of the charge
13 for which the citation was issued, is guilty of a class B misdemeanor.

14 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do
15 not apply to a utility, municipality, or local governing body whose
16 employees are engaged in mechanical work on an integral part of a
17 system owned and operated by the utility, municipality, or local
18 governing body.

19 (b) AS 08.40.210 - 08.40.490 do not apply to a person engaged in

20 (1) the manufacture or repair of mechanical apparatus or
21 equipment;

22 (2) mechanical work, the cost of which does not exceed
23 \$50,000, involving residences or small commercial establishments in
24 communities that

25 (A) have a population of under 5,000; or

26 (B) are over 50 miles by air or water transportation
27 from the business place of a mechanical administrator licensed
28 under AS 08.40.210 - 08.40.490;

29 (3) mechanical installation on a single-family residence or

1 a two-family residence that is not intended for sale at the time of
2 making the installation;

3 (4) installation of water lines or sanitary, storm, or
4 drain sewer lines more than five feet from a building.

5 Sec. 08.40.400. PERSONAL SUPERVISION. A person licensed under
6 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
7 to install or modify mechanical piping and systems, devices, fixtures,
8 equipment, or other mechanical materials, shall personally inspect
9 those materials after installation and modification unless the instal-
10 lation or modification amounts to simple or highly standardized work
11 performed in less than 24 man-hours by personnel generally under the
12 supervision of the mechanical administrator.

13 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

14 (1) "department" means the Department of Commerce and
15 Economic Development except where the context otherwise requires;

16 (2) "manufacture" means fabrication or completion of a
17 product or mechanical apparatus exclusive of its completion or instal-
18 lation at a job site;

19 (3) "mechanical administrator" means a person engaged in
20 the business of, or purporting to be engaged in the business of,
21 installing or modifying, or contracting to install or modify, mechani-
22 cal piping and systems, devices, fixtures, equipment, or other mechan-
23 ical materials subject to the Uniform Plumbing Code, Uniform Swimming
24 Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and the Uni-
25 form Mechanical Code as published by the International Association of
26 Plumbing and Mechanical Officials and the International Conference of
27 Building Officials;

28 (4) "mechanical piping" includes piping fixtures, devices,
29 and equipment;

1 (5) "utility" means every public, cooperative, or other
2 corporation, company, individual, or association of individuals, their
3 lessees, trustees, or receivers appointed by a court, that owns,
4 operates, manages, or controls a plant or system for

5 (A) furnishing, by generation, transmission, or dis-
6 tribution, electrical service, fuel gas service, district heat-
7 ing, sewage disposal, or domestic water service to the public for
8 compensation;

9 (B) furnishing telecommunications service to the
10 public for compensation.

11 * Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for
12 an initial appointment to the Board of Mechanical Examiners, created under
13 sec. 9 of this Act, as a professional member of the board, if at the time
14 of the appointment the person

15 (1) understands plans, design specifications, and engineering
16 terms commonly used in mechanical installations and piping;

17 (2) is familiar with mechanical installations and piping and
18 with mechanical installation problems peculiar to this state;

19 (3) is familiar with the requirements of the Uniform Plumbing
20 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy
21 Code, and Uniform Mechanical Code that are currently in effect in the
22 state; and

23 (4) satisfies the qualifications for appointment, other than
24 licensure, as set out in AS 08.40.220, as added by sec. 9 of this Act.

25 * Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.-
26 230, 08.40.270, and 08, 40.300, as added by sec. 9 of this Act, a person may
27 qualify for and receive without examination a license as a mechanical
28 administrator in those categories of mechanical administration for which
29 the person is qualified, if the person

1 (1) has functioned as a mechanical administrator in the state
2 during the two years before the effective date of this section; and

3 (2) applies for licensure before July 1, 1989.

4 (b) A person who applies for licensure under this section is exempt
5 from AS 08.40.260, as added by sec. 9 of this Act, until the person's
6 application has been accepted or rejected by the Board of Mechanical Exam-
7 iners.

8 (c) A license issued under this section is for all purposes a license
9 issued under AS 08.40.300, as added by sec. 9 of this Act.

10 * Sec. 12. TRANSITIONAL PROVISION. In addition to the requirements of
11 AS 08.18.028, as added by sec. 3 of this Act, by July 1, 1989, the follow-
12 ing persons must be, or employ a person who is, a licensed mechanical
13 administrator under AS 08.40, as added by sec. 9 of this Act:

14 (1) a person who is a registered mechanical contractor on Ju-
15 ly 1, 1989;

16 (2) a person who applies before July 1, 1989, to be a registered
17 mechanical contractor and is issued a certificate of registration after
18 July 1, 1989.

19 * Sec. 13. Sections 1, 2, 7, and 9 - 11 of this Act take effect immedi-
20 ately under AS 01.10.070(c).

21 * Sec. 14. Sections 4 - 6, 8, and 12 of this Act take effect
22 December 31, 1988.

23 * Sec. 15. Section 3 of this Act takes effect July 1, 1989.
24
25
26
27
28
29

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

HOUSE FINANCE COMMITTEE



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

MEMORANDUM

TO: All members

FROM: Representative Mark Boyer *[Handwritten signature]*

SUBJECT: HB 472, relating to Mechanical Administrators

DATE: April 28, 1988

Alaska currently has one of the most relaxed contractor licensing statutes in the nation, with demonstration of competency required only of electrical contractors through the electrical administrator statute. Mechanical contractors install plumbing heating, cooling, ventilation, and fire suppression systems, any of which may be as potentially injurious to public health and safety, when installed improperly, as electrical systems. However, it is possible to obtain licensure and operate in Alaska as a mechanical contractor merely by meeting bonding and insurance requirements. There are no requirements for knowledge of the plumbing or mechanical codes or of the special applications required for work in our arctic and subarctic environments.

HB 472 would establish the licensed profession of mechanical administrator, and would require mechanical contractors to either obtain licensure or employ a licensed administrator, who would be required to personally inspect and sign off on mechanical work, certifying that the work has been completed in accordance with the applicable code. With recent budget cutbacks, the state's inspection capability is inadequate at best, and the mechanical administrator statute constitutes a "self-inspection" mechanism which will protect Alaskan consumers from shoddy and dangerous workmanship.

In addition to establishing the mechanical administrator license, HB 472 creates the new category of "mechanical contractor." Current law only provides for two categories, general contractor and specialty contractor. A "general contractor" is defined as one whose operations involve the utilization of more than two distinct trades, while a "specialty contractor" is one "whose operations do not fall within the

definition of general contractor." An attorney general's opinion that this limits a specialty contractor to two or fewer trades has caused considerable problems for mechanical contractors, whose operations often involve the use of more than two trades, and are usually hired by a general contractor as subcontractors.

While the increase in bonding necessitated by this interpretation (from \$5000 for specialty to \$10,000 for general contractor) may seem insignificant, given the current collateral requirements for contractor bonds, this poses a significant problem for small contractors. HB 472 defines a specialty contractor as one using three or less trades, and defines mechanical contractor by the operations engaged in and the codes under which work is performed, without reference to a specific number of trades.

HB 472 is supported by both the Department of Commerce and Economic Development and the Department of Labor.

PHONE 456-8282
OR 456-5281

P. O. BOX 534
99707

Chandler PLUMBING
& HEATING, INC.

129 MINNIE
FAIRBANKS, ALASKA 99701

March 14, 1988

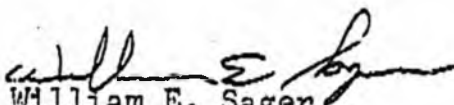
Representative Mark Boyer
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Sir:

This is to express support for and encourage the
passage of House Bill 472, "An Act Relating to
Mechanical Administrators".

Very truly yours,

CHANDLER PLUMBING & HEATING, INC.


William E. Sager
President

WES/bly

Attn: Linda Steward



International Mechanical, Inc.

646 E. DOWLING RD. - ANCHORAGE, ALASKA 99518 - (907) 563-3044

March 11, 1988

Red Boucher
Labor & Commerce Committee
Room 17 Capital Bldg.
Juneau, AK

RE: H-B 472

Dear Red:

As past president of the State and Local Mechanical Contractor Association, and a past member of the Municipality of Anchorage Mechanical Board, I am very much in favor of H-B 472. I also believe you should push forward on Adoption of the 1985 or 88 U.M.C. and U.P.C.

As you know Anchorage has been working under the 1985 codes, and at present we are reviewing the 88 codes at the Board of Building Regulation Examiner & Appeals of which I am presently a member.

Keep up the good work.

Sincerely,

Ray Carey
President

RC/lw



MECHANICAL CONTRACTORS of Alaska, Inc.



P.O. Box 74788 Fairbanks, Alaska 99707-4788
1830 Second Avenue (907) 458-8347



March 14, 1988

Representative Mark Boyer
Alaska State Legislature
P.O. Box V
Juneau, Alaska, 99811

Re; House Bill No. 472

Dear Representative Boyer:

The Mechanical Contractors of Alaska, Inc. is an association of mechanical construction contractors in the Anchorage and Fairbanks areas. I serve as their president.

This letter is written to express our support for the passage of House Bill No. 472.

This type of legislation is overdue for our industry in Alaska.

During the construction boom Alaska has recently gone through, "mechanical contractors" suddenly appeared from everywhere. The results of their ignorance (or worse) of code requirements and lack of knowledge of the special requirements of mechanical installations in the arctic can be found in too many buildings. The primary victim of their shoddy work is the homeowner and small businessman, the unsophisticated buyers of construction. These people did not receive the value for their construction dollars. Unfortunately, the entire construction industry takes the blame.

Please pass House Bill No. 472 so that the public receives what they expect from state licensed contractors, competent professionals.

Sincerely,

R.W. Macomber
President



MECHANICAL CONTRACTORS

of Fairbanks, Inc.

P.O. BOX 74796 ★ FAIRBANKS, ALASKA 99707-4796

The Need for House Bill 472, "An Act relating to Mechanical Administrators"

Licensing has been described as "a process by which an agency of government grants permission to an individual to engage in a given occupation upon finding that the applicant has attained the minimal degree of competency required to ensure that public health, safety and welfare will be reasonably well protected." At the present, except for electrical contractors, there are no competency requirements for a firm or individual to obtain a state construction contractors license.

The codes cited in H.B.472 contain minimum installation requirements for mechanical work in the building construction industry. This work encompasses many systems and work disciplines.

Testing an individual on his knowledge of these codes, the ability to understand plans and specifications, knowledge of installation problems and usage of the trade peculiar to Alaska, along with prerequisite experience requirements would help to determine competency.

In Alaska today, because of budget cutbacks, the state, along with both Anchorage and Fairbanks, have drastically reduced their inspection capabilities.

While inspection of construction work cannot insure compliance with codes, the drastic reduction of construction inspection capability at every governmental level in Alaska underscores the need for construction contractors to demonstrate their competency before being allowed to sell

their services to the public. The public probably perceives that a state licensed contractor is a competent contractor. Today this is not necessarily true.

H.B.472 is intended to assure that people licensed as mechanical administrators will have demonstrated competence in their category of mechanical construction.



R & S MECHANICAL
PLUMBING AND HEATING
1624 SUNCHIA CIRCLE FAIRBANKS, ALASKA 99701
(907) 456-5073

March 25, 1988

Juneau Legislative Information Office
Fax: #(907) 536-9548

Mr. Ed Flannigan
Rep. Mark Boyer's Office (907) 465-3466

Re: House Bill #472

Dear Mr. Flannigan;

House Bill #472 does not present a problem for me as the operator of a "one man" plumbing and heating shop. Quality workmanship is not a factor of size, but rather a factor of experience, education and pride.

House Bill #472 only requires a Mechanical Contractor to be responsible, to meet a minimum of requirements and "stand behind" his work. The responsible contractor should be held accountable regardless of volume or project size.

If I can be of further help, please let me know.

Yours,

A handwritten signature in dark ink, appearing to read "George E. Roberts".

George E. Roberts
Owner



Shop: 2225 Van Horn Road
Telephone: 452-1831

WESTERN MECHANICAL, INC.

P.O. BOX 60067, AIRPORT ANNEX

FAIRBANKS, ALASKA 99708-0067
AA 333

March 15, 1988

Representative Mark Boyer
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: House Bill 472

Dear Representative Boyer,

I wish to express the support of Western Mechanical, Inc. for the passage of HB472, "An Act Relating to Mechanical Administrators".

It is high time to establish competency requirements for all mechanical contractors who would be licensed by the State of Alaska. Because there are currently no such minimum requirements, anyone who can furnish the minimal contractor bond can obtain a contractor's license, whether he is qualified to perform the work or not.

The ultimate beneficiary of this bill is the consumer (whether public or private), who will be assured that the actual work is properly installed- for along with the administrators license comes a fair amount of responsibility. The proposed bill appears to provide appropriate relief.

We appreciate your sponsorship of HB472. Hopefully we will be able to establish a fair level of professionalism for the mechanical contracting industry.

Yours truly,

Michael C. Desmond
Vice President

MD/cj

EE/bill

UNIVERSAL MECHANICAL
PLUMBING - HEATING
P.O. BOX 2499
FAIRBANKS, ALASKA 99707
452-5269 OR 456-7493

March 25, 1988

Juneau Legislative Information Office
Fax #586-9548

Mr. Ed Flannigan
Rep. Mark Boyer (465-3466)

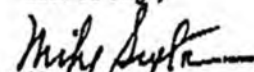
Re: House Bill #472

Dear Mr. Flannigan

I am the owner and operator of a "one man" plumbing and heating company. I support House Bill #472 and find no hardship due to operating as a "one man" shop because I have experience and education in the mechanical field. I encourage the passage of House Bill #472.

Further, the "licensure by qualification" section of this bill will enable all QUALIFIED mechanical contractors to comply with this bill and "protect the safety of the people and property in the state from the danger of improperly installed or modified mechanical systems".

Sincerely,


Mike Sexton
President

NORTHWEST INUPIAT HOUSING AUTHORITY

P.O. Box 331 • KOTZEBUE, ALASKA 99732 • (907) 442-3450

TO: Rep. Al Adams

FM: Jeff Hadley, Executive Director

92A

RE: House Bill 472

Northwest Inupiat Housing Authority is in opposition of House Bill 472 as it would increase construction cost in the Rural Area. Although it is a good practice to have a certified person sign off on components of construction, it would mean having to import and retain certified personnel. Northwest Inupiat Housing Authority would like to see this bill defeated or amended to change the population requirement from 500 to 5,000.

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



April 5, 1988

Representative Al Adams
Alaska State Legislature
P.O. Box V (M/S 3100)
Juneau, Alaska 99811

RE: HB 472

Dear Representative Adams:

My administrative staff has reviewed the House Labor and Commerce Committee Substitute for HB 472 which requires that a mechanical administrator be employed by each mechanical contractor engaged in business in municipalities having a population of 500 or more.

The bill would impose a cost and scheduling burden in the North Slope Borough beyond the ability of local contractors, already struggling with spiraling freight, materials and labor costs, to pay. The cost cap of \$5,000 for residential and small commercial establishments in communities of less than 500 is of little protection in the Borough. These costs can easily exceed those of similar projects in urban areas, and force an inequitable compliance rate on rural areas.

The legislation, if passed, would appear to create more problems in our rural communities than it seeks to cure. Therefore, the North Slope Borough opposes CS for HB 472 in its entirety, and we respectfully request your support of our position.

Sincerely,

George N. Ahmaogak, Sr.
George N. Ahmaogak, Sr.
Mayor

cc: Senator Willie Hensley
Harold J. Curran, Chief Administrative Officer
Dan Fauske, Administration & Finance
Edward Itta, Public Works-CIP

NORTHWEST ARCTIC BOROUGH

P.O. BOX 1110

KOTZEBUE, ALASKA 99752

(907) 442-2500



March 30, 1988

The Honorable Al Adams
Alaska State House
P.O. Box V
Juneau, Alaska 99811

Dear Representative Adams:

This letter is in opposition to CS for House Bill No. 472 (L&C). This legislation would create significant problems for locally based Contractors and Sub-Contractors in the Northwest Arctic Borough. In addition, the interests of the people which this bill is designed to protect, would in fact be harmed if this legislation were to pass. It is always difficult for a public official to oppose a program that on its surface appears to improve the public safety. However, I am convinced that this legislation will not significantly improve the installation and repair of mechanical systems enough to justify the costs of implementing this program in Rural Alaska. While controls are necessary to ensure the quality of all construction work, other methods to achieve this goal should be identified.

Fortunately, for us there is an existing program with which we can use as a comparison in evaluating the effects of this legislation. I am referring to the Electrical Administrators program adopted by Legislature. The same arguments used to support that program, are now being used to justify the adoption of this one. But what has been our experience under the electrical program? Has this resulted in a better quality of work? What benefits have the public received as a result the certification requirements of the program? Unfortunately the answers to these questions for the most part have been negative. Our experience has demonstrated an inability for these types of programs to work successfully in Rural Alaska. The program has created additional levels of bureaucracy, greater expense, and a decrease in the availability of certified people to perform the work.

**Ambler, Buckland, Candle, Deering, Kiana, Kivalina,
Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak.**

Al Adams
Page Two
March 30, 1988


Traditionally in Rural Alaska, the quantity of work available dictates the number of certified people available to perform the types of work covered under the certification program. In most cases, this results in certified people being unavailable on a year round basis. Our experience has demonstrated that specialty contractors and sub-contractors have found it to be uneconomical to locate their business on a permanent basis in our Borough. As well, the general contractors located in our Borough can not afford to secure licensing to perform these specialty tasks. The reasons for this are varied, but basically boil down to the cost of compliance versus the ability of the general public to pay for these services.

At a time when the issue of local hire is so critical to the economical viability of Rural Alaska, a program is being considered that will create the need to import non-resident workers further displacing otherwise qualified local residents. Though we know it is not beyond the ability of our residents to be certified under this program, we are still faced with the fact that it is not economically feasible for them to locate here, once they have been licensed.

Our experience under the electrical administrators program demonstrates that the benefits have not accrued to the small commercial or resident users, but only those who have the resources to comply. For the most part the program has become one of frustration for both the contractors and the residents of Rural Alaska. This leads us to believe the implementation of the mechanical administrators program will not achieve the goals the legislation intends.

While I commend the sponsors for their concern and efforts, an exemption must be provided for Rural Alaska.

Sincerely,


Chuck Greene
Mayor

CG/lkj

Original sponsors: Boyer, Boucher
and Ellis

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 472 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to mechanical administrators and
7 construction contractors; and providing for an effective
8 date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:
11 (28) Board of Mechanical Examiners (AS 08.40.220).
12 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:
13 (21) Board of Mechanical Examiners (AS 08.40.220) --
14 June 30, 1992.
15 * Sec. 3. AS 08.18 is amended by adding a new section to read:
16 Sec. 08.18.028. MECHANICAL CONTRACTORS. (a) The department may
17 not issue a certificate of registration as a mechanical contractor to
18 an applicant unless the applicant is, or employs, a person currently
19 licensed as a mechanical administrator under AS 08.40.
20 (b) Each applicant for a mechanical contractor's certificate of
21 registration may employ more than one mechanical administrator.
22 (c) If the relationship of the only mechanical administrator
23 with a registered mechanical contractor is terminated, the registra-
24 tion is void 30 days after the next regularly scheduled mechanical
25 administrator's examination unless the mechanical contractor has hired
26 a licensed mechanical administrator in the interim.
27 * Sec. 4. AS 08.18.041 is amended to read:
28 Sec. 08.18.041. FEES. The department [DEPARTMENT OF COMMERCE
29 AND ECONOMIC DEVELOPMENT] shall set registration and renewal fees

1 under AS 08.01.065 for the following:

- 2 (1) general contractor;
3 (2) specialty contractor;
4 (3) mechanical contractor.

5 * Sec. 5. AS 08.18.071(b) is amended to read:

6 (b) If the applicant is a general contractor, the amount of the
7 bond shall be \$10,000; if the applicant is a mechanical or specialty
8 contractor, the amount of the bond shall be \$5,000. In lieu of the
9 surety bond the applicant may file with the commissioner a cash depos-
10 it or other negotiable security acceptable to the commissioner in the
11 amount specified for bonds.

12 * Sec. 6. AS 08.18.171(3) is repealed and reenacted to read:

13 (3) "contractor" means a person who, in the pursuit of an
14 independent business, undertakes or offers to perform, or claims to
15 have the capacity to perform, or submits a bid for a project to con-
16 struct, alter, repair, move, or demolish a building, highway, road,
17 railroad, or any type of fixed structure, including excavation and
18 site development and erection of scaffolding; "contractor" includes a
19 general contractor, builder, mechanical contractor, speciality con-
20 tractor, and subcontractor;

21 * Sec. 7. AS 08.18.171 is amended by adding a new paragraph to read:

22 (5) "trade" means a skill used in the field of construc-
23 tion, as defined by regulation by the department.

24 * Sec. 8. AS 08.18.171 is amended by adding new paragraphs to read:

25 (6) "builder" means general contractor;

26 (7) "general contractor" means a contractor whose business
27 operations require the use of more than three trades or the use of
28 mechanical or specialty contractors and subcontractors who are under
29 the supervision of the contractor;

1 (8) "mechanical contractor" means a contractor whose busi-
2 ness operations involve plumbing, pipe fitting, sheet metal, heating,
3 air conditioning, ventilating, or sprinkler and dry chemical fire
4 protection trades in order to install or modify mechanical piping and
5 systems, devices, fixtures, and equipment or other mechanical mate-
6 rials subject to the following codes as published by the International
7 Association of Plumbing and Mechanical Officials or the International
8 Conference of Building Officials:

9 (A) Uniform Plumbing Code;

10 (B) Uniform Swimming Pool, Spa, and Hot Tub Code;

11 (C) Uniform Solar Energy Code; and

12 (D) Uniform Mechanical Code;

13 (9) "specialty contractor" means a contractor, other than a
14 mechanical contractor, whose business operations require the use of
15 not more than three trades.

16 * Sec. 9. AS 08.40 is amended by adding new sections to read:

17 ARTICLE 4. MECHANICAL ADMINISTRATORS.

18 Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-
19 490 is to protect the safety of people and property in the state from
20 the danger of improperly installed or modified mechanical systems by
21 providing a procedure to

22 (1) assure the public that persons responsible for making
23 mechanical installations in this state are qualified; and

24 (2) assure that a sufficient number of persons are so
25 qualified.

26 Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is
27 created the Board of Mechanical Examiners consisting of three members.
28 Each member of the board shall reside in a different judicial district
29 of the state. Two members of the board shall be licensed mechanical

1 administrators and one member shall be a public member. One of the
2 licensed mechanical administrator members of the board shall be a
3 resident of a community with a population of less than 5,000 persons.

4 (b) The members of the board shall elect one of its members as
5 chair.

6 (c) The board shall meet at least annually. The board may hold
7 other meetings at the call of the chair.

8 Sec. 08.40.230. CATEGORIES OF LICENSES. The board may adopt
9 regulations establishing categories of mechanical administrators,
10 qualifications for those categories, and the content of examinations
11 for applicants for each category.

12 Sec. 08.40.240. REGULATIONS. The board shall adopt regulations
13 under the Administrative Procedure Act (AS 44.62), relating to the ex-
14 amination and licensing of mechanical administrators, the establishing
15 of the continued competency of licensees for license renewal and
16 reinstatement, and the suspension or revocation of licenses.

17 Sec. 08.40.250. EXAMINATIONS. The board shall conduct licensing
18 examinations at least twice each year at appropriate places in the
19 state.

20 Sec. 08.40.260. LICENSE REQUIRED. (a) A person may not act as
21 a mechanical administrator without a license.

22 (b) A person licensed under AS 08.40.210 - 08.40.490 may perform
23 work only in a category for which the person is licensed.

24 Sec. 08.40.270. EXAMINATION OF APPLICANT. (a) Each applicant
25 shall be examined to determine the applicant's

26 (1) ability to understand plans, design specifications, and
27 engineering terms commonly used in the mechanical field;

28 (2) knowledge of mechanical installations and piping;

29 (3) familiarity with the requirements of the Uniform

1 Plumbing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform
2 Solar Energy Code, and the Uniform Mechanical Code currently in effect
3 in the state;

4 (4) familiarity with mechanical installation problems and
5 the usages of the trade peculiar to this state; and

6 (5) personal skill and ability.

7 (b) If an applicant for a license submits proof satisfactory to
8 the board that the applicant is licensed as a mechanical administrator
9 or the equivalent by another state or territory, meets qualifications
10 established by the board under AS 08.40.230, and has passed an ex-
11 amination equivalent to the test administered under (a) of this sec-
12 tion except insofar as that examination tests knowledge and skill
13 particularly required to meet the environment and usages of the trade
14 peculiar to this state, the board shall waive all of the examination
15 required under (a) of this section except those parts that test knowl-
16 edge and skill particularly required to meet the environment and
17 usages of the trade peculiar to this state.

18 Sec. 08.40.280. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-
19 TOR. A person may not qualify or operate as a mechanical adminis-
20 trator for more than one registered contractor, corporation, joint
21 venture, or other business entity, unless the municipality or communi-
22 ty where the person qualifies or operates as a mechanical administra-
23 tor is the principal place of business of fewer than three mechanical
24 administrators.

25 Sec. 08.40.290. RENEWAL AND REINSTATEMENT. (a) A license
26 issued under AS 08.40.210 - 08.40.490 is nontransferable and, unless
27 revoked or suspended, may be renewed on a date set by the department
28 upon proof of continued competency.

29 (b) A lapsed license may be reinstated upon proof of continued

1 competency by payment of all unpaid renewal fees and any penalty fee
2 established under AS 08.01.100(b), unless the license has been lapsed
3 for more than two years. If a person's license has been lapsed for
4 more than two years, the person is required to take an examination
5 under AS 08.40.270.

6 Sec. 08.40.300. ISSUANCE AND DISPLAY OF LICENSE. An applicant
7 who successfully passes the examination shall receive a certificate of
8 license. The licensee shall prominently display the certificate,
9 while in effect, in the licensee's principal place of business.

10 Sec. 08.40.310. FEES. Each applicant and each licensee shall
11 pay application and renewal fees established under AS 08.01.065.

12 Sec. 08.40.320. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

13 (a) The board may take disciplinary action against a licensee or
14 applicant upon a finding that

15 (1) the application is fraudulent or misleading;

16 (2) the licensee has knowingly violated AS 08.40.210 -
17 08.40.490 or an order or regulation of the board or the department; or

18 (3) the licensee is incompetent or has engaged in fraudu-
19 lent practices.

20 (b) Notice of a proposed denial, suspension, or revocation of
21 license shall be in writing and shall state the grounds.

22 (c) Proceedings for the denial, suspension, or revocation of a
23 license shall be governed by the Administrative Procedure Act (AS 44.-
24 62).

25 Sec. 08.40.330. INVESTIGATIONS. Either the Department of Com-
26 merce and Economic Development or the Department of Labor may investi-
27 gate alleged or apparent violations of AS 08.40.210 - 08.40.490. A
28 department, upon showing proper credentials, may enter, during regular
29 hours of work, a construction site where it appears that mechanical

1 work is being done. A department may make inquiries about the identi-
2 ty of the mechanical administrator or the person acting in the capaci-
3 ty of a mechanical administrator. Upon demand, a mechanical adminis-
4 trator or person acting in the capacity of a mechanical administrator,
5 or that person's representative, shall produce evidence of current
6 licensure.

7 Sec. 08.40.340. ISSUANCE OF CITATIONS. Either the Department of
8 Commerce and Economic Development or the Department of Labor may issue
9 a citation for a violation if there is probable cause to believe a
10 person has violated AS 08.40.210 - 08.40.490. Each day a violation
11 continues after a citation for the violation has been issued consti-
12 tutes a separate violation.

13 Sec. 08.40.350. PROCEDURE AND FORM OF CITATION. (a) A citation
14 issued under AS 08.40.340 must be in writing. A person receiving the
15 citation is not required to sign a notice to appear in court.

16 (b) The time specified in the notice to appear on a citation
17 issued under AS 08.40.340 must be at least five days, not including
18 weekends and holidays, after the issuance of the citation, unless the
19 person cited requests an earlier hearing.

20 (c) The Department of Commerce and Economic Development and the
21 Department of Labor are responsible for the issuance of books contain-
22 ing appropriate citations, and each shall maintain a record of each
23 book issued and each citation contained in it. Each department shall
24 require and retain a receipt for every book issued to an employee of
25 that department.

26 (d) The department that issues a citation under AS 08.40.340
27 shall deposit the original or a copy of the citation with a court
28 having jurisdiction over the alleged offense. Upon its deposit with
29 the court, the citation may be disposed of only by trial in the court

1 or other official action taken by the magistrate, judge, or prosecu-
2 tor. The department that issued the citation may not dispose of it or
3 copies of it or of the record of its issuance except as required under
4 this subsection and (e) of this section.

5 (e) The Department of Commerce and Economic Development and the
6 Department of Labor shall require the return of a copy of every cita-
7 tion issued by the respective department under AS 08.40.340 and of all
8 copies of every citation that has been spoiled or upon which an entry
9 has been made and not issued to an alleged violator. The departments
10 shall also maintain, in connection with every citation issued by the
11 respective department, a record of the disposition of the charge by
12 the court where the original or copy of the citation was deposited.

13 (f) If the form of citation issued under AS 08.40.340 includes
14 the essential facts constituting the offense charged, and if the
15 citation is sworn to as required under the laws of this state for a
16 complaint charging commission of the offense alleged in the citation,
17 then the citation when filed with a court having jurisdiction is
18 considered to be a lawful complaint for the purpose of prosecution.

19 Sec. 08.40.360. CEASE AND DESIST ORDER. (a) If the commis-
20 sioner of commerce and economic development determines that a person
21 is acting as a mechanical administrator in violation of AS 08.40.210 -
22 08.40.490 the commissioner may issue a cease and desist order pro-
23 hibiting further action by the person as a mechanical administrator.
24 The cease and desist order remains in effect until the person has
25 submitted evidence acceptable to the commissioner showing that the
26 violation has been corrected.

27 (b) A person affected by an order issued under (a) of this
28 section may seek equitable relief preventing the commissioner of
29 commerce and economic development from enforcing the order.

1 Sec. 08.40.370. INJUNCTIVE RELIEF. The commissioner of commerce
2 and economic development may seek an injunction in the superior court
3 to enjoin a person from violating AS 08.40.210 - 08.40.490.

4 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates
5 AS 08.40.210 - 08.40.490, or who knowingly violates a regulation or
6 order of the board or the department, is guilty of a misdemeanor, and
7 upon conviction is punishable by a fine of not more than \$300, or by
8 imprisonment for not more than 60 days, or by both.

9 (b) Unless the citation has been voided or otherwise dismissed
10 by the magistrate, judge, or prosecutor, a person who without lawful
11 justification or excuse fails to appear in court to answer a citation
12 issued under AS 08.40.340, regardless of the disposition of the charge
13 for which the citation was issued, is guilty of a class B misdemeanor.

14 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do
15 not apply to a utility, municipality, or local governing body whose
16 employees are engaged in mechanical work on an integral part of a
17 system owned and operated by the utility, municipality, or local
18 governing body.

19 (b) AS 08.40.210 - 08.40.490 do not apply to a person engaged in

20 (1) the manufacture or repair of mechanical apparatus or
21 equipment;

22 (2) mechanical work, the cost of which does not exceed
23 \$25,000, involving residences or small commercial establishments in
24 communities that

25 (A) have a population of under 5,000; or

26 (B) are over 50 miles by air or water transportation
27 from the business place of a mechanical administrator licensed
28 under AS 08.40.210 - 08.40.490;

29 (3) mechanical installation on a single-family residence or

1 a two-family residence that is not intended for sale at the time of
2 making the installation;

3 (4) installation of water lines or sanitary, storm, or
4 drain sewer lines more than five feet from a building.

5 Sec. 08.40.400. PERSONAL SUPERVISION. A person licensed under
6 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
7 to install or modify mechanical piping and systems, devices, fixtures,
8 equipment, or other mechanical materials, shall personally inspect
9 those materials after installation and modification unless the instal-
10 lation or modification amounts to simple or highly standardized work
11 performed in less than 24 man-hours by personnel generally under the
12 supervision of the mechanical administrator.

13 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

14 (1) "department" means the Department of Commerce and
15 Economic Development except where the context otherwise requires;

16 (2) "manufacture" means fabrication or completion of a
17 product or mechanical apparatus exclusive of its completion or instal-
18 lation at a job site;

19 (3) "mechanical administrator" means a person engaged in
20 the business of, or purporting to be engaged in the business of,
21 installing or modifying, or contracting to install or modify, mechan-
22 ical piping and systems, devices, fixtures, equipment, or other mechan-
23 ical materials subject to the Uniform Plumbing Code, Uniform Swimming
24 Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and the Uni-
25 form Mechanical Code as published by the International Association of
26 Plumbing and Mechanical Officials and the International Conference of
27 Building Officials;

28 (4) "mechanical piping" includes piping fixtures, devices,
29 and equipment;

1 (5) "utility" means every public, cooperative, or other
2 corporation, company, individual, or association of individuals, their
3 lessees, trustees, or receivers appointed by a court, that owns,
4 operates, manages, or controls a plant or system for

5 (A) furnishing, by generation, transmission, or dis-
6 tribution, electrical service, fuel gas service, district heat-
7 ing, sewage disposal, or domestic water service to the public for
8 compensation;

9 (B) furnishing telecommunications service to the
10 public for compensation.

11 * Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for
12 an initial appointment to the Board of Mechanical Examiners, created under
13 sec. 9 of this Act, as a professional member of the board, if at the time
14 of the appointment the person

15 (1) understands plans, design specifications, and engineering
16 terms commonly used in mechanical installations and piping;

17 (2) is familiar with mechanical installations and piping and
18 with mechanical installation problems peculiar to this state;

19 (3) is familiar with the requirements of the Uniform Plumbing
20 Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy
21 Code, and Uniform Mechanical Code that are currently in effect in the
22 state; and

23 (4) satisfies the qualifications for appointment, other than
24 licensure, as set out in AS 08.40.220, as added by sec. 9 of this Act.

25 * Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.-
26 230, 08.40.270, and 08.40.300, as added by sec. 9 of this Act, a person may
27 qualify for and receive without examination a license as a mechanical
28 administrator in those categories of mechanical administration for which
29 the person is qualified, if the person

1 (1) has functioned as a mechanical administrator in the state
2 during the two years before the effective date of this section; and

3 (2) applies for licensure before July 1, 1989.

4 (b) A person who applies for licensure under this section is exempt
5 from AS 08.40.260, as added by sec. 9 of this Act, until the person's
6 application has been accepted or rejected by the Board of Mechanical Exam-
7 iners.

8 (c) A license issued under this section is for all purposes a license
9 issued under AS 08.40.300, as added by sec. 9 of this Act.

10 * Sec. 12. TRANSITIONAL PROVISION. In addition to the requirements of
11 AS 08.18.028, as added by sec. 3 of this Act, by July 1, 1989, the follow-
12 ing persons must be, or employ a person who is, a licensed mechanical
13 administrator under AS 08.40, as added by sec. 9 of this Act:

14 (1) a person who is a registered mechanical contractor on Ju-
15 ly 1, 1989;

16 (2) a person who applies before July 1, 1989, to be a registered
17 mechanical contractor and is issued a certificate of registration after
18 July 1, 1989.

19 * Sec. 13. Sections 1, 2, 7, and 9 - 11 of this Act take effect immedi-
20 ately under AS 01.10.070(c).

21 * Sec. 14. Sections 4 - 6, 8, and 12 of this Act take effect Decem-
22 ber 31, 1988.

23 * Sec. 15. Section 3 of this Act takes effect July 1, 1989.