

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 747

liability for non-compliance and help eliminate unnecessary lawsuits. CS HB 155 (Finance) would not only help businesses comply with the federal requirements of the ADA, it would also stimulate private sector employment by financing a wide range of remodeling projects.

43 Million Americans

Some 43 million Americans experience a disability. A national survey of disabled individuals (including many senior citizens) determined that the disabled are routinely discouraged from full participation in our society. The survey found that: some 40% of disabled persons do not often leave their homes due to accessibility problems; people experiencing disabilities are far less likely to patronize restaurants; and about 65% of disabled people do not work. Most importantly, the survey confirmed that the lack of access to public and private facilities and services was discriminatory and violates the right that individuals with disabilities have to full and equal participation in society.

Broad Support

CS HB 155 (Finance) is supported by a broad range of local governments, private business interests, and private non-profits, including:

- Haines Chamber of Commerce
- City of Skagway
- Homer Senior Citizens
- Southeast Alaska Independent Living Program
- Hope Cottages
- Alaska Center for Blind and Deaf Adults
- Anchorage Building Owners and Managers Association
- American Association of Retired People
- Older Alaskans Commission
- Municipality of Anchorage
- Alaska Municipal League
- University of Alaska Small Business Development Center
- NEA Alaska
- City of Seward
- Alaska State Human Rights Commission
- City of Palmer
- North Slope Borough
- Sheraton Anchorage Hotel
- Access Alaska
- Challenge Alaska
- Alaska Center for a Barrier Free Environment
- Alaska Department of Transportation and Public Facilities
- Alaska Department of Labor

University of Alaska
Alaska State Court System
Governor's Committee on Employment of People with Disabilities
City of Cordova
City of Wasilla
Upper Tanana Development Corporation
City of St. Mary's
City of Haines
Alaska Association of the Deaf
Ninilchik Senior Center
City of Unalaska

There is no known opposition to the legislation.

SECTIONAL ANALYSIS

Barrier Free Remodeling & the ADA

CS HB 155 (Finance)

Section 1

Amends purposes of the Governor's Committee on Employment of People with Disabilities to include the elimination of physical barriers to facilities, including work places, that hinder access and employment opportunities for persons with disabilities.

Section 2

Amends composition of the Governor's Committee on Employment of People with Disabilities to provide that membership be from throughout the state and include an architect and a representative of local government. Adds the requirement that at least four members of the Committee be persons experiencing a disability or be persons who have immediate family members with disabilities.

Provides that, when the Committee meets for the purpose of establishing priority among remodeling projects, additional ex-officio committee members are added, including a representative of the Department of Transportation and Public Facilities (DOTPF), the administrative director of the Court System, the executive director of the Legislative Affairs Agency, a representative of the University of Alaska and the Chair of the Governor's Council for the Handicapped and Gifted.

Section 3

Amends the duties of the Governor's Committee on Employment of People with Disabilities to include serving as the advisory committee concerning expenditure of money from the barrier free remodeling funds established in Section 5.

Section 4

Amends the statutes of the Governor's Committee on Employment of People with Disabilities to allow the Committee to hold additional meetings at the call of the chair or at the request of the Governor.

Section 5

Establishes barrier free remodeling funds. Two remodeling funds are established: 1) a "Barrier Free Remodeling Fund" to be administered by DOTPF (for remodeling of public facilities); and 2) a "Barrier Free Remodeling Loan Fund" to be administered as a revolving loan fund by DCED (for remodeling of private places of public accommodation). Money in the funds will be used to finance the remodeling of public and private facilities completed by January 1, 1991 that are open to or used by the general public in order to make them accessible by the disabled, aged, or infirm.

By June 1 of each year, DOTPF shall prepare a list of state agency facilities controlled by the executive branch that are not accessible, together with a proposed budget for remodeling costs. The University of Alaska and the Alaska Railroad Corporation are also required to submit lists of their facilities that are in need of access improvements. The Legislative Affairs Agency and the Alaska Court System may submit remodeling requests. State agencies, local governments, school districts and private non-profits may apply to DOTPF for grants while private businesses may apply to DCED for zero interest loans to make barrier free access improvements.

In order for a local government or a school district to be eligible for a grant, the local government or school district must certify in its application that the invitations to bid and requests for proposals that it issues for property leases include a provision requiring the leased space to comply with the ADA.

By July 15 of each year, DOTPF and DCED shall provide to the Governor's Committee on Employment of People with Disabilities the project requests and applications for remodeling assistance. The committee shall, by November 15 of each year, prepare a prioritized listing of the grant and loan requests. In developing the priority lists, the Committee is directed to consider (1) whether alternative sources of funds are available to an applicant; (2) the significance of the proposed project in terms of providing employment opportunities; (3) the significance of the project in terms of providing access to basic services to persons with disabilities; (4) and other criteria or factors considered appropriate by the committee.

In cooperation with the Governor's Committee on Employment of People with Disabilities, the department shall provide information and technical assistance to state agencies, local governments, school districts and other persons who own or lease facilities open to or used by the public.

In consultation with the committee, DOTPF and DCED shall jointly adopt regulations to implement the program.

DCED may contract out for the servicing of loans.

Section 6

The barrier free remodeling grant and loan funds, and the advisory duties of the Governor's Committee on Employment of People with Disabilities pertaining to the funds, are repealed effective July 1, 2000.

Section 7

The composition of the Governor's Committee on Employment of People with Disabilities must comply with the amended requirements of section 2 by July 1, 1994.

Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office
3111 C Street #435
Anchorage, Alaska 99503
(907) 561-7627

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4998

TO: Senator Pat Pourchot, Co-Chair
Senate Finance Committee

FROM: Representative Kay Brown

DATE: May 4, 1992

SUBJ: CS HB 155 (Finance) — Barrier Free Access & the ADA

In anticipation of the Senate Finance Committee consideration of CS HB 155 (Finance), please find attached the following materials:

1. Sponsor Statement
2. Sectional Analysis
3. Fiscal Notes
 - Department of Transportation & Public Facilities
 - Department of Labor
 - Department of Commerce & Economic Development
4. *Americans with Disabilities Act Fact Sheet*
 - U.S. Architectural & Transportation Barriers Compliance Board
5. News Articles —
 - "Deadline to improve disabled access nears"*
Anchorage Times
 - "Easing access for the disabled carries considerable price tag"*
Anchorage Times
 - "Disabilities law backed by big fines"*
Anchorage Times
 - "Few businesses prepared as Disabilities Act becomes law today"*
Associated Press
 - "Breaking Down Barriers"*
Anchorage Daily News

As you can see from the attached list, this legislation is broadly supported throughout the state.

* * * * *

If you have any questions concerning this legislation, please let me know or contact Eric Myers of my staff at 465-4998.

DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace
Eastridge • Penland Park • Airport Heights • Government Hill

Support for...

House Bill 155 — Barrier Free Access & the ADA

Haines Chamber of Commerce
City of Skagway
Homer Senior Citizens
Southeast Alaska Independent Living Program
Hope Cottages
Alaska Center for Blind and Deaf Adults
Anchorage Building Owners and Managers Association
American Association of Retired People
Older Alaskans Commission
Municipality of Anchorage
Alaska Municipal League
University of Alaska Small Business Development Center
NEA Alaska
City of Seward
Alaska State Human Rights Commission
City of Palmer
North Slope Borough
Sheraton Anchorage Hotel
Access Alaska
Challenge Alaska
Alaska Center for a Barrier Free Environment
Alaska Department of Transportation and Public Facilities
Alaska Department of Labor
University of Alaska
Alaska State Court System
Governor's Committee on Employment of People with Disabilities
City of Cordova
City of Wasilla
Upper Tanana Development Corporation
City of St. Mary's
City of Haines
Alaska Association of the Deaf
Ninilchik Senior Center
City of Unalaska

There is no known opposition to the legislation.

Americans with Disabilities Act Fact Sheet

Accessibility Requirements	Effective Date	Regulations and Enforcement
<p><u>Title I - Employment</u></p> <p>Employers with 15 or more employees may not discriminate against qualified individuals with disabilities.</p> <p>Employers must reasonably accommodate the disabilities of qualified applicants or employees, including modifying work stations and equipment, unless undue hardship would result.</p>	<p>July 26, 1992 - for employers with 25 or more employees.</p> <p>July 26, 1994 - for employers with 15 to 24 employees.</p>	<p>EEOC to issue regulations by July 26, 1991.</p> <p>Individuals may file complaints with EEOC. Individuals may also file a private lawsuit after exhausting administrative remedies.</p> <p>Remedies are the same as available under Title VII of the Civil Rights Act of 1964. Court may order employer to hire or promote qualified individuals, reasonably accommodate their disabilities, and pay back wages and attorney's fees.</p>

Abbreviations used in this chart:

<p>ADA Americans with Disabilities Act</p> <p>ATBCB Architectural and Transportation Barriers Compliance Board</p> <p>DOJ Department of Justice</p> <p>DOT Department of Transportation</p>	<p>EEOC Equal Employment Opportunity Commission</p> <p>FCC Federal Communications Commission</p> <p>MGRAD Minimum Guidelines and Requirements for Accessible Design</p> <p>UFAS Uniform Federal Accessibility Standards</p>
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U.S. Architectural and Transportation Barriers Compliance Board
Suite 501, 1111 18th Street, NW
Washington, DC 20036-3894

TELEPHONE: 1-800-USA-ABLE (voice or TDD)

The Access Board will provide an information package on the Americans with Disabilities Act.

Accessibility Requirements

Effective Date

Regulations and Enforcement

Title II - Public Services

State and local governments may not discriminate against qualified individuals with disabilities.

Newly constructed state and local government buildings, including transit facilities, must be accessible.

Alterations to existing state and local government buildings must be done in an accessible manner.

When alterations could affect accessibility to "primary function" areas of a transit facility, an accessible path of travel must be provided to the altered areas and the restrooms, drinking fountains, and telephones serving the altered areas must also be accessible, to the extent that the additional accessibility costs are not disproportionate to the overall alterations costs.

New buses and rail vehicles for fixed route systems must be accessible.

New vehicles for demand responsive systems must be accessible unless the system provides individuals with disabilities a level of service equivalent to that provided to the general public.

One car per train must be accessible.

Existing "key stations" in rapid rail, commuter rail, and light rail systems must be accessible.

January 26, 1992 - unless otherwise noted below. (Recipients of Federal financial assistance are presently required to comply with similar requirements under Section 504 of the Rehabilitation Act of 1973.)

Ordered after August 25, 1990.

Ordered after August 25, 1990.

By July 26, 1995.

By July 26, 1993. Extensions may be granted up to July 26, 2010 (commuter rail) and July 26, 2020 (rapid and light rail) for stations needing extraordinarily expensive structural changes.

DOJ to Issue regulations except for public transportation by July 26, 1991.

DOT to Issue regulations for public transportation by July 26, 1991.

ATBCB to supplement MGRAD by April 26, 1991. DOJ and DOT regulations must be consistent with supplemental MGRAD and may incorporate the supplemental MGRAD.

UFAS to be used as Interim accessibility standard for transit facilities if final regulations have not been issued and if a building permit has been obtained prior to issuance of final regulations, work begins within one year of receipt of permit, and is completed under the terms of the permit. If final regulations have not been issued one year after MGRAD has been supplemented, MGRAD to be used as Interim accessibility standard.

(Most facilities constructed or altered with Federal funds are presently required to comply with UFAS under the Architectural Barriers Act of 1968. Facilities constructed or altered by recipients of Federal financial assistance are presently required to comply with UFAS under Section 504 of the Rehabilitation Act of 1973.)

Amtrak and commuter rail passenger cars must comply with MGRAD provisions for rail cars to the extent that they are in effect at the time the design of the cars is substantially completed, if final regulations have not been issued.

Accessibility Requirements	Effective Date	Regulations and Enforcement
<p>Comparable paratransit must be provided to individuals who cannot use fixed route bus service to the extent that an undue financial burden is not imposed.</p> <p>All existing Amtrak stations must be accessible.</p> <p>Amtrak trains must have same number of seating spaces for individuals who use wheelchairs as would available if every car in the train were accessible to such individuals.</p>	<p>By January 26, 1992.</p> <p>By July 26, 2010.</p> <p>By July 26, 2000. Half of these seats must be available by July 26, 1995.</p>	<p>Individuals may file complaints with DOT concerning public transportation and with other designated Federal agencies concerning matters other than public transportation. Individuals may also file a private lawsuit.</p> <p>Remedies are the same as available under Section 505 of the Rehabilitation Act of 1973. Court may order entity to make facilities accessible, provide auxiliary aids or services, modify policies, and pay attorneys' fees.</p>
<p><u>Title III - Public Accommodations</u></p> <p>Restaurants, hotels, theaters, shopping centers and malls, retail stores, museums, libraries, parks, private schools, day care centers, and other similar places of public accommodation may not discriminate on the basis of disability.</p> <p>Physical barriers in existing public accommodations must be removed if readily achievable (i.e., easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative methods of providing services must be offered, if those methods are readily achievable.</p> <p>New construction in public accommodations and commercial facilities (non-residential facilities affecting commerce) must be accessible.</p>	<p>January 26, 1992 - unless otherwise noted below.</p> <p>Facilities designed and constructed for first occupancy after January 26, 1993.</p>	<p>DOJ to issue regulations except for privately operated transportation by July 26, 1991.</p> <p>DOT to issue regulations for privately operated transportation by July 26, 1991.</p> <p>ATBCB to supplement MGRAD by April 26, 1991. DOJ and DOT regulations must be consistent with supplemental MGRAD and may incorporate the supplemental MGRAD.</p> <p>UFAS to be used as interim accessibility standard if final regulations have not been issued and if a building permit has been obtained prior to issuance of final regulations, work begins within one year of receipt of permit, and is completed under the terms of the permit. If final regulations have not been issued one year after MGRAD has been supplemented, MGRAD to be used as interim accessibility standard.</p>

Accessibility Requirements	Effective Date	Regulations and Enforcement
<p>Alterations to existing public accommodations and commercial facilities must be done in an accessible manner. When alterations could affect accessibility to "primary function" areas of a facility, an accessible path of travel must be provided to the altered areas and the rest rooms, telephones, and drinking fountains serving the altered areas must also be accessible, to the extent that the additional accessibility costs are not disproportionate to the overall alterations costs.</p> <p>Elevators are not required in newly constructed or altered buildings under three stories or with less than 3,000 square feet per floor, unless the building is a shopping center, mall or health providers office. The Attorney General may determine that additional categories of such buildings require elevators.</p> <p>New buses and other vehicles (except automobiles) operated by private entities must be accessible or system in which vehicles are used must provide individuals with disabilities a level of service equivalent to that provided to the general public depending on whether entity is primarily engaged in business of transporting people; whether system is fixed route or demand responsive; and vehicle seating capacity.</p> <p>New over-the-road buses (buses with an elevated passenger deck located over a baggage compartment) must be accessible.</p>	<p>Ordered after August 25, 1990 (February 25, 1992 for rail passenger cars and vans with a capacity of less than 8 persons when operated by an entity primarily engaged in the business of transporting people).</p> <p>Ordered after July 26, 1996 (July 26, 1997, for small companies). Date may be extended by one year after completion of a study.</p>	<p>On application by State or local government, Attorney General, in consultation with ATBCB, may certify that State or local building codes meet or exceed ADA accessibility requirements.</p> <p>Individuals may file complaints with the Attorney General. Individuals may also file a private lawsuit.</p> <p>Remedies are the same as available under Title II of the Civil Rights Act of 1964. Court may order an entity to make facilities accessible, provide auxiliary aides or services, modify policies, and pay attorneys' fees.</p> <p>Court may award money damages and impose civil penalties in lawsuit filed by Attorney General but not in private lawsuit by individuals.</p> <p>Small businesses with 25 or fewer employees and gross receipts of \$1 million or less may not be sued for violations occurring before July 26, 1992; and small businesses with 10 or fewer employees and gross receipts of \$.5 million or less may not be sued for violations occurring before January 26, 1993. However, such small businesses may be sued for violations relating to new construction and alterations to facilities occurring after the effective date.</p>
<p><u>Title IV - Telecommunications</u></p> <p>Telephone companies must provide telecommunications relay services for hearing-impaired and speech-impaired individuals 24 hours per day.</p>	<p>By July 26, 1993.</p>	<p>FCC to issue regulations by July 26, 1991.</p> <p>Individuals may file complaints with the FCC.</p>

November 1990

HB 156

(11)

HOUSE COMMITTEE REPORT

3-11-92

Date Referred: March 4, 1992

FURTHER REFERRALS:

Rule

Date of Committee Action: 3/09/92

The FINANCE Committee considered:

SSHB 156

SPONSOR SUB. FOR HOUSE BILL NO. 156 CONFIDENTIALITY/DOM. VIOLENCE COUNSELORS

"An Act providing that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged and may not be disclosed, with certain exceptions; prohibiting the disclosure of the location of certain types of facilities used by victims of domestic violence or sexual assault and the identities of domestic violence or sexual assault counselors; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS SSHB 156 (Jud) [] the same title [x] a new title

[] have attached amendments(s)

[x] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[x] zero fiscal note(s) ADM 3/4/92 LAW 3/4/92 DPS 3/4/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. Wilburn	✓				
Mark Boyer	✓	George Jacko		✓	
Tony Brown	✓	Barbara Barnes		x	
John Koponen	✓	Ben Sharp		x	
John Ulmer	✓	R. Phillips		x	
Julie Savone	✓	Ronald J. Larson		x	

Julie Savone Eileen P. Wilburn

FISCAL NOTE

No. 3

Bill Version: CSSS HB 156(JI

(H) Publish Date: 3-4-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Department of Law

Title: "...communications between victim and...
counselor are privileged..."

BRU: Prosecution

Sponsor: Representative Brown

Component: All

Requestor: House Judiciary Committee

COMPONENT SERIAL

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Expenditures/Revenues: (Thousands of Dollars)

85 through 91

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services

Phone: 465-3672

Date: February 21, 1992

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: February 21, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SSHB 156

This bill amends AS 18.66 to add a section which provides that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged. In addition to making these communications privileged, the bill prohibits the disclosure of the location of certain types of facilities used by the victims of these crimes, and prohibits the disclosure of the identities of domestic violence or sexual abuse counselors. The bill also provides several exceptions to these privileged communications, primarily dealing with information regarding child abuse or neglect, and when failure to disclose a privileged communication is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Similarly, these communications would no longer be privileged if they caused the failure of a person to testify as a witness and resulted in an inference unfavorable to the state's cause or the cause of a domestic violence or sexual assault victim. We do not believe that the bill will have a fiscal impact on the Department of Law.

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 2
Bill Version: CSSS HB 156 (JUD)
(H) Publish Date: 3-4-92

Revision Date: _____

Title: Confidentiality/Domestic Violence Counselors

Sponsor: Brown

Requestor: House Judiciary

Department Affected: Administration

BRU: Public Defender

Component: Public Defender

COMPONENT SERIAL NO.

1	6	3	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Kevin Brooks
Division: Administrative Services

Phone: 465-2277
Date: February 21, 1992

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: _____

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 4
Bill Version: C.S.S.S.H.R. 156 (IJD)
(H) Publish Date: 3-4-92

Revision Date: _____ Department Affected: Public Safety
Title: An Act providing that communications BRU: Domestic Violence & Sexual Assault
are privileged. Component: Domestic Violence & Sexual Assault
Sponsor: Brown et al
Requestor: House Judiciary Committee COMPONENT SERIAL NO.

5	2	1
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By Marcia Lynn McKenzie Phone: 465-4356

Division: Council on Domestic Violence & Sexual Assault Date: 1-15-92

Approved by Commissioner: Richard L. Burton

Agency: Department of Public Safety Date: 1-15-92

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 156 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/4/92

Referred: Finance

Sponsor(s): REPRESENTATIVES BROWN, Ulmer, G.Phillips, Navarre, Ellis, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act providing that communications between a domestic violence or sexual assault
2 victim and a domestic violence or sexual assault counselor are privileged, with exceptions;
3 and prohibiting compelled testimony that would give identifying information about counselors
4 and certain types of facilities used by victims of domestic violence or sexual assault, with
5 exceptions."

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

7 * Section 1. AS 09.25 is amended by adding a new section to read:

8 Sec. 09.25.230. PRIVILEGE RELATING TO DOMESTIC VIOLENCE AND SEXUAL
9 ASSAULT COUNSELING. Confidential communications between a victim of domestic violence
10 or sexual assault and a victim counselor are privileged under AS 25.35.052 - 25.35.059.

11 * Sec. 2. AS 12.45 is amended by adding a new section to read:

12 Sec. 12.45.049. PRIVILEGE RELATING TO DOMESTIC VIOLENCE AND SEXUAL
13 ASSAULT COUNSELING. Confidential communications between a victim of domestic violence

1 or sexual assault and a victim counselor are privileged under AS 25.35.052 - 25.35.059.

2 * Sec. 3. AS 25.35 is amended by adding new sections to read:

3 Sec. 25.35.052. COMPULSORY DISCLOSURE OF COMMUNICATIONS
4 PROHIBITED. (a) Except as provided in AS 25.35.054 or 25.35.056, a victim or victim
5 counselor may not be compelled, without appropriate consent, to give testimony or to produce
6 records concerning confidential communications for any purpose in a criminal, civil, legislative,
7 or administrative proceeding. In this subsection, "appropriate consent" means

8 (1) the consent of the victim with respect to the testimony of

9 (A) an adult victim; and

10 (B) a victim counselor when the victim is an adult;

11 (2) the consent of the victim's parent, legal guardian, or guardian ad litem with
12 respect to the testimony of a

13 (A) victim who is a minor or incompetent to testify; and

14 (B) victim counselor when the victim is a minor or incompetent to testify.

15 (b) Either party may apply for appointment of a guardian ad litem for purposes of (a)(2)
16 of this section.

17 (c) A victim or victim counselor may not be compelled to provide testimony in a civil,
18 criminal, or administrative proceeding that would identify the name, address, location, or
19 telephone number of a safe house, abuse shelter, or other facility that provided temporary
20 emergency shelter to the victim of the offense or transaction that is the subject of the proceeding,
21 or the name, address, or telephone number of a victim counselor, unless the court or hearing
22 officer determines that the information is necessary and relevant to the facts of the case.

23 (d) Notwithstanding (a) of this section,

24 (1) a minor may waive the privilege provided under (a) of this section and testify
25 or give consent for a victim counselor to testify if the court determines that the minor is capable
26 of knowingly waiving the privilege;

27 (2) a parent or legal guardian may not, on behalf of a minor, waive the privilege
28 provided under (a) of this section with respect to the minor's testimony or the testimony of a
29 victim counselor if

30 (A) the parent or legal guardian has been charged with a crime against the
31 minor;

1 (B) a protective order or restraining order has been entered against the
2 parent or legal guardian on request of or on behalf of the minor; or

3 (C) the parent or legal guardian otherwise has an interest adverse to that
4 of the minor with respect to the waiver of privilege.

5 Sec. 25.35.054. EXCEPTIONS. The privilege provided under AS 25.35.052 does not
6 apply to

7 (1) reports of suspected child abuse or neglect under AS 47.17;

8 (2) evidence that the victim is about to commit a crime;

9 (3) a proceeding that occurs after the victim's death;

10 (4) a communication relevant to an issue of breach by the victim or victim
11 counselor of a duty arising out of the victim - victim counselor relationship;

12 (5) a communication that is determined to be admissible hearsay as an excited
13 utterance under the Alaska Rules of Evidence;

14 (6) a child-in-need-of-aid proceeding under AS 47.10;

15 (7) a communication made during the victim-victim counselor relationship if the
16 services of the counselor were sought, obtained, or used to enable anyone to commit or plan a
17 crime or to escape detection or apprehension after the commission of a crime; or

18 (8) a criminal proceeding concerning criminal charges against a victim of
19 domestic violence or sexual assault where the victim is charged with a crime under AS 11.41
20 against a minor.

21 Sec. 25.35.056. WAIVER. (a) A victim does not waive the protections provided in
22 AS 25.35.052 by testifying except that, if the victim partially discloses the contents of a
23 confidential communication in the course of testifying in a civil, criminal, or administrative
24 proceeding, then either party may request the court or hearing officer to rule that justice requires
25 the protections of AS 25.35.052 to be waived to the extent they apply to that portion of the
26 communication. A waiver under this subsection applies only to the extent necessary to require
27 a witness to respond to counsel's questions concerning the confidential communications that were
28 disclosed and only to the extent that they are relevant to the facts of the case.

29 (b) A victim counselor may not waive the protections afforded to a victim under
30 AS 25.35.052 without the consent of the victim or the consent of a parent, legal guardian, or
31 guardian ad litem authorized to give consent under AS 25.35.052.

1 Sec. 25.35.058. INFERENCE FROM CLAIM OF PRIVILEGE; INSTRUCTION. (a)
2 The claim of a privilege under AS 25.35.052, whether in a present proceeding or upon a prior
3 occasion, is not a proper subject of comment by a judge, hearing officer, legislator, or counsel.
4 An inference may not be drawn from the claim of privilege.

5 (b) In jury cases, proceedings shall be conducted, to the extent practicable, so as to
6 facilitate the making of a claim of privilege under AS 25.35.052 without the knowledge of the
7 jury.

8 (c) Upon request, a party against whom a jury might draw an adverse inference from a
9 claim of privilege under AS 25.35.052 is entitled to an instruction that an inference may not be
10 drawn from the claim of privilege.

11 Sec. 25.35.059. DEFINITIONS. In AS 25.35.052 - 25.35.059,

12 (1) "confidential communication" means information exchanged between a victim
13 and a victim counselor in private or in the presence of a third party who is necessary to facilitate
14 communication or further the counseling process and that is disclosed in the course of the
15 counselor's treatment of the victim for an emotional or psychological condition resulting from
16 a sexual assault or domestic violence;

17 (2) "sexual assault" means an offense under AS 11.41.410 - 11.41.470 or an
18 offense in another jurisdiction whose elements are similar to the elements of an offense under
19 AS 11.41.410 - 11.41.470;

20 (3) "victim" means a person who consults a victim counselor for assistance in
21 overcoming adverse emotional or psychological effects of a sexual assault or domestic violence;

22 (4) "victim counseling" means assessment, diagnosis, and treatment to alleviate
23 the adverse emotional or psychological effect of a sexual assault or domestic violence on the
24 victim;

25 (5) "victim counseling center" means a private organization or a local government
26 agency that

27 (A) has as one of its primary purposes the treatment of victims for
28 emotional or psychological conditions resulting from a sexual assault or domestic
29 violence;

30 (B) is not affiliated with a law enforcement agency or a prosecutor's
31 office; and

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(C) is not on contract with the state to provide services under AS 47;
(6) "victim counselor" means an employee or supervised volunteer of a victim counseling center that provides counseling to victims
(A) who has undergone a minimum of 40 hours of training in domestic violence or sexual assault treatment, crisis intervention, and related areas; and
(B) whose duties include treating victims for emotional or psychological conditions resulting from a sexual assault or domestic violence.

SPONSOR STATEMENT

CS SS HB 156 (Judiciary)

Providing for Privileged Communications in Cases of Domestic Violence & Sexual Assault

Domestic violence and sexual assault are growing problems in Alaska. Communities throughout the state have established shelters and safe homes in an effort to provide counseling and safety to victims of these crimes. Since FY 87, the number of nights of safety provided by funded shelters has increased by 44 percent.

As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for their emotional trauma. In order to fully recover from domestic violence and sexual assault crimes, it is necessary for victims to discuss thoughts and feelings with someone who is trained to address these issues. Domestic violence/sexual assault counselors provide this assistance. The relationship that develops between a victim and counselor is fragile and requires trust.

Need for Legislation

Current Alaskan law discourages some victims from coming forward by allowing the court system to subpoena records that disclose all information, given in trust, between a sexual assault counselor and victim. At the request of the Alaska Network on Domestic Violence and Sexual Assault, I have introduced CS SS HB 156 (Judiciary) to make changes to the state laws and establish a general rule that testimony and communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor is privileged and confidential. The bill allows for exceptions to the privileged communication rule in certain instances, for example, such as cases of child abuse or neglect or if the victim is deceased.

CS SS HB 156 (Judiciary) is necessary to encourage and protect the trust relationship between victim and counselor. Victims of domestic violence and sexual assault should be allowed to choose if and when deeply personal information is to become a matter of public record. CS SS HB 156 (Judiciary) would provide confidentiality for these highly personal, private and confidential communications.

CS SS HB 156 (Judiciary)

CS SS HB 156 (Judiciary) would provide that the communications between a victim of domestic violence and/or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the appropriate consent of the victim.

CS SS HB 156 (Judiciary) would extend to all victims of domestic violence and sexual assault a testimonial privilege encompassing the contents of communication with a domestic violence or sexual assault counselor and to render immune from discovery or legal process the records of the communications maintained by the domestic violence or sexual assault program.

CS SS HB 156 (Judiciary) would make amendments to AS 09.25 (Civil Evidence) and AS 12.45 (Criminal Trial) each adding a new language to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

CS SS HB 156 (Judiciary) also amends and adds new sections to AS 25.35 (Domestic Violence) to establish a general prohibition, with certain exceptions, regarding compulsory disclosure of confidential communications between domestic violence and sexual assault victims and their counselors.

Exceptions to this general standard of privileged communications include cases involving:

- 1) reports of child abuse or neglect;
- 2) evidence that the victim is about to commit a crime;
- 3) a proceeding where the victim is deceased;
- 4) a communication relevant to an issue of breach by the victim or victim counselor of a duty arising out of the victim-counselor relationship;
- 5) a communication that is determined to be admissible hearsay as an excited utterance under the Alaska Rules of Evidence;
- 6) a children-in-need-of-aid proceeding under AS 47.10;
- 7) a communication made during the victim-counselor relationship if the services of the counselor were sought, obtained, or used to enable anyone to commit or plan a crime; or
- 8) a criminal proceeding concerning criminal charges against a victim of domestic violence or sexual assault where the victim is charged with a crime under AS 11.41 against a minor.

Further, the legislation provides that the location of a safe house of the identity of a domestic violence counselor may not be disclosed in a civil,

criminal, legislative or administrative proceeding unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.

Discussion

Confidentiality for victims working with domestic violence and sexual assault counselors and shelters serves both the needs of victims and the needs of society to help reduce the damage done by domestic violence and sexual assault crimes.

- As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for the emotional injuries resulting from the crime.
- Without adequate psychological support, many of these victims fail to report the crime and cooperate with the criminal justice system.
- Domestic violence and sexual assault counselors are specifically trained to help victims recover from an assault; skills and techniques employed by counselors are designed to encourage the victim to discuss the emotional aftermath of an assault and thereby normalize the life of the victim.
- Full recovery from an assault requires that victims discuss thoughts and feelings that a victim is unlikely to discuss without the assurance of confidentiality, and this confidentiality should be accorded to all assault victims who desire services whether or not they are able to afford the services of private psychiatrists and psychologists.
- These victims hesitate to turn to friends and family because of the social stigma attached to domestic violence and sexual assault.

In developing this legislation, I have worked very closely with the Alaska Council on Domestic Violence/Sexual Assault, the Department of Public Safety and the Alaska Network on Domestic Violence and Sexual Assault.

SECTIONAL ANALYSIS

CS SS HB 156 (Judiciary) Confidentiality Regarding Domestic Violence & Sexual Assault

Section 1

Amends AS 09.25 (Code of Civil Procedure) adding a new section to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

Section 2

Amends AS 12.45 (Code of Criminal Procedure) adding a new section to provide that confidential communications between a domestic violence or sexual assault victim and a counselor are privileged.

Section 3

Amends AS 25.35 to provide that communications between a domestic violence or sexual assault counselor and a domestic violence and sexual assault victim are privileged. Compulsory disclosure of these communications is generally prohibited, with certain exceptions, and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the "appropriate consent" of the victim or the victim's parent, legal guardian, or guardian ad litem. Provision is made to allow a minor the opportunity to knowingly waive the confidentiality privilege established under this section if a court determines that the minor is capable of knowingly waiving the privilege. This section provides for exceptions to the general rule of confidentiality in certain instances, including among others, cases involving child abuse or neglect under AS 47.17 or if the victim is deceased.

This section also provides that the location of a safe house or the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding unless the court or hearing officer determines that the information is necessary and relevant to the facts of the case.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC);
Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRCC);
Manklaq Regional Women's Crisis Program;
Tongass Community Counseling Center; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Sitkans Against Family Violence (SAFV);
Seward Life Action Council (SLAC); Southwestern Alaska Council
for the Prevention of Child Sexual Assault (SWACPCSA);
South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

NATIONAL ORGANIZATIONS SUPPORTING VICTIM/COUNSELOR PRIVILEGE

- * President's Task Force on Victims of Crime (1982)
- * The National Center on Women & Family Law
- * The National Organization for Victim Assistance
- * National Victim Center
- * National Coalition Against Domestic Violence
- * National Coalition Against Sexual Assault
- * National Network for Victims of Sexual Assault
- * National Woman Abuse Prevention Project

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for the Prevention of Child Sexual Assault (SWACPCSA);
South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR); Tundra Women's Coalition (TYWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

SOME STATES WITH VICTIM/COUNSELOR PRIVILEGE*

Alabama
California
Connecticut
Florida
New Hampshire
Illinois
Indiana
Iowa
Maine
Massachusetts
Minnesota
New Jersey
New Mexico
North Dakota
Pennsylvania
Utah
Washington
Wyoming

*Primarily limited to victims of sexual assault and/or domestic violence, although some states include victims of all violent crimes. So, federal statute under the Victims of Crime Act requires confidentiality of victim records for organizations receiving VOCA funding. About half of Alaska's dv/sa programs receive VOCA funds.

PLEASE MICROFILM TOP PAGE ONLY

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

→ letters of support

→ Annual Report - Jan. 1991 - Council
on Domestic Violence & Sexual Assault

→ Final Report Dec. 1982 - President's
TASK Force on Victims of Crime

HB 157

HOUSE BILL NO. 157

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BROWN, Ellis, Hudson

Introduced: 2/22/91

Referred: State Affairs, Health, Education and Social Services, Finance

Funding Information:	General Fund	\$5,000,000
	Other Funds	<u>-0-</u>
		\$5,000,000

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the barrier free facility fund; and providing
2 for an effective date."

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

4 * Section 1. The sum of \$5,000,000 is appropriated from the general fund to the barrier free facility
5 fund (AS 35.50.010).

6 * Sec. 2. The appropriation made by this Act is not a one-year appropriation and does not lapse under
7 AS 37.25.010.

8 * Sec. 3. This Act takes effect on the effective date of an Act enacted by the Seventeenth Alaska
9 State Legislature that creates the barrier free facility fund (AS 35.50.010).



Department of Transportation
and Public Facilities

POSITION PAPER

BILL NO: HB 157

APPROVED: *[Signature]*

TITLE: An Act making a special appropriation
to the barrier free facility fund

DATE: 1/21/92

The department supports the bill. However, the funding level as provided will only begin to pay for the work that is actually needed. The department's conservative estimate is that the total, statewide cost for removing barriers in facilities owned by the state and private entities may be well in excess of \$200 million.



Community Connections PO Box 9586 • Rm. No. 320 NBA Bldg. • Ketchikan, Alaska 99901 • (907) 225-7825

February 24, 1992

Eileen Panigeo MacLean, Representative
Mike Navarre, Representative
House Finance Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Senators MacLean and Navarre:

HB157 which capitalizes the proposed Barrier Free Remodeling Fund with \$5 million is up for consideration to become law, Community Connections asks you to support this measure since it assists specialized needs for persons with disabilities.

Community Connections is a non-profit corporation based in Southern Southeast Alaska. This agency provides many disabled persons and their families support to achieve their own personal goals for managing their daily lives and for having valued roles of participation in the physical and social life of their communities.

Community Connections philosophy is to design services around the needs of people, not buildings or places. Our efforts are aimed at helping individual people and their families be empowered to meet their goals for learning, earning, coming and going, having valued roles and experiencing their full civil rights as contributing members of their communities.

Thank you for your time and we appreciate your help in making this bill become law.

Sincerely,

Kevin Miller
President, Community Connections

Joanna DeSanto
Executive Director, Community Connections

cc: Mark Boyer, Representative
Kay Brown, Representative
George G. Jacko, Jr., Representative
Niilo Koponen, Representative
Ron Larson, Representative
Fran Ulmer, Representative
Ramona Barnes, Representative
Randy Phillips, Representative
Bert Sharp, Representative

HB 1559

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 19, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-1-91

The FINANCE Committee considered:

HB 159

HOUSE BILL NO. 159

EXTEND BD OF ELECTRICAL EXAMINERS

"An Act extending the Board of Electrical Examiners in the Department of Commerce and Economic Development; and providing for an effective date."

RECOMMENDATIONS:

the same title

be replaced with CS HB 159 (LIC)

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) OLEO 2-25-91

SIGNING-DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	Eileen P. Mahan		✓	
<i>[Signature]</i>	x				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	x				
<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 159 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/19/91
Referred: Finance

Sponsor(s): HOUSE RULES/GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the Board of Electrical Examiners in the Department of Commerce and
2 Economic Development; and providing for an effective date."

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

4 * Section 1. AS 08.03.010(c)(22) is amended to read:

5 (22) Board of Electrical Examiners (AS 08.40.011) -- June 30, 1992 [1991];

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: HB 159
(H) Publish Date: 2/25/91

Revision Date: _____ Department Affected: Commerce & Economic Dev.
Title: Extending the Board of BRU: Occupational Licensing
Electrical Examiners Component: Administration
Sponsor: Rules Committee
Requestor: Governor

COMPONENT SERIAL NO.	0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Funding for the Board of Electrical Examiners is included in the department's FY 92 operating budget request and, therefore, new funds are not required. The FY 92 projected budget for the Board of Electrical Examiners is explained on the attached page.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: January 31, 1991
Approved by Commissioner: Glenn A. Olds
Agency: Department of Commerce & Economic Development Date: January 31, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE ANALYSIS

The Division of Occupational Licensing, Department of Commerce & Economic Development, is funded primarily by program receipts generated from licensing fees. All licensing programs share in the responsibility of covering a percentage of the administrative costs based on the number of current licensees (560 electrical administrators) divided by the total number of current division licensees (29,108). In FY 92, costs for the Board of Electrical Examiners are projected as follows:

Personal Services:			
-	Administrative costs	20.7	
-	25% Licensing Examiner	10.6	
-	15% Investigative	<u>7.5</u>	
	Sub-Total:		\$ 38.8
Travel:			
-	Administrative	1.2	
-	Board Travel	<u>4.4</u>	
	Sub-Total:		\$ 5.6
Contractual:			\$ 10.5
Supplies:			\$.8
Equipment:			\$ <u>.1</u>
	TOTAL: FY 92 Costs		\$ 55.8
<u>Average Annual Revenue:</u>			\$ 76.4

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-



House Labor and Commerce Committee
Letter of Intent for
HB 159

It is the intent of the Legislature by enactment of HB 159 that the Board of Electrical Examiners and the Department of Commerce and Economic Development shall work to ensure that electrical administrators make on-site inspections of the electrical projects for which they are responsible, in accordance with AS 08.40.195. It is the Legislature's intent that the Department adopt regulations requiring electrical administrators to certify in writing that jobs have been completed under their supervision, and that the required on-site inspections have been made. The Board shall suspend or revoke the licenses of administrators who fail to submit such certifications or submit substantially inaccurate certifications.

A handwritten signature in black ink, appearing to be "C. J. ...", written over a horizontal line.

Chairman
April 9, 1991

April 28, 1991

Reps. Milton MasLean & Mike Navarre
Alaska State Legislature

FAX 465-2444

I would appreciate your consideration of the information on the enclosed six pages in your consideration of SB-159 scheduled for hearing in the Finance Committee on Monday April 28, 1991.

If the Electrical Examiners board were allowed to sunset it could help to solve the problem with the inequities in the electrical - mechanical administrators statutes.

And it would be interesting to see what the savings on the budget would be by eliminating the board, their travel expenses and the expenses of the Depts of Labor and Commerce in attempting to enforce the statutes and regulations. Nothing would be lost that benefits the public.

It would be appreciated if you would make this letter available to the other members of the committee.

Yours very truly,

Harry Pursell
2540 Lord Baranof Dr.
Anchorage, AK 99517
Tel. 562-2425

March 28, 1991

I have been associated with the construction industry in Alaska for more than 40 years. In working with the industry I have become very concerned with the statutes and regulations concerning the licensing of contractors and tradesmen and the regulation of the industry.

With legislation now pending I believe it is time to recognize the problems and make some corrections.

About 1977, Alaska Statute 08.40 was enacted. The purpose of the chapter defined in Sec. 08.40.003 is "The purpose of this chapter is to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment, by providing a procedure to assure

- (1) the public that persons responsible for making electrical installations in this state are qualified; and
- (2) a sufficient number of persons are so qualified.

This Act has not achieved it's purpose and in fact has been counterproductive. Please consider the problems with the act enumerated in the 3 page memorandum attached.

Now the Board of Electrical Examiners is up for sunset review. HB No. 159 is under consideration to extend the life of the board. This is a good time to review what is needed to best accomplish the aim of protecting the safety of people and property in the state.

I have discussed this with individuals from the Dept. of Labor, Dept. of Commerce and Dept. of Public Safety who are very familiar with the problems with the existing statute and the enforcement thereof. I believe we all agree on the following points.

1. The greatest problem in protecting the public safety lies in an area that is excluded from the compliance and inspection requirements of the statutes. The people who die in fires from improper construction are usually in a single family residence in an outlying area that is exempted from the regulatory procedures.

2. All certified electricians and plumbers are not fully familiar with the code requirements and capable of planning and executing a job properly. Most of the Administrators licensed under the statutes were these same people and were licensed under "grandfather" provisions of the act. If they were capable of inspecting the work we would not need state inspectors but this is not the case.

3. Electrical installations are made by people who are not fully qualified and without proper plans or with plans that have not been reviewed.

4. AS 08.40 is so poorly written and so full of loopholes that in it's 12 years of existence there is no record of any license being revoked although numerous abuses have been noted.

RECOMMENDATIONS:

1. H.B. 159 extending the Board of Electrical Examiners be withdrawn or defeated. This would bring full consideration of the problem. Nothing would be lost as it has accomplished nothing in 12 years.

2. Enclosed is the draft of a bill introduced last session by Rep. Leman to eliminate the licensing of electrical and mechanical administrators and abolishing the two boards. Pass this legislation. It would leave the responsibility for proper installation where it should be - with the licensed and bonded contractors and the inspection where it should be - with unbiased competent state inspectors not on the payroll of the contractor and enforcement against the contractors and electricians where it should be.

3. Provide for state review by the Dept. of Labor of the electrical and mechanical plans before construction. This can be done with no budget increase and would be the very best thing that could happen to "protect the safety of people and property in the state ----".

This has been proven effective. At the present time complete plans including electrical and mechanical are required to be submitted to the Dept. of Public Safety, Div. of Fire Protection for review and approval. The review is not a lengthy expensive process. The approval provides it does not include any omissions or oversights by the approving agency and makes it clear all codes must be followed. (A sample copy of an approval is enclosed.)

Then the contractor and the workmen have a plan to work with, the state inspector has something to work with and the state enforcement officer has something on which to enforce compliance.

At the present time the Div. of Fire Protection discards the plans submitted when the building is finished or returns them to the owner if so requested. The electrician and mechanical drawings are not reviewed.

If AS 08.40 is repealed, the two boards eliminated and the state responsibility of maintaining records on the Administrators eliminated there will be a substantial

monetary savings. Just a fraction of these savings would take care of the review cost without the need of setting a fee for the review by the owner.

There should be no need for the addition to the budget for more inspectors especially if the now exempted residential occupancies are not inspected. Nearly all projects are now inspected. Also with the review problem projects will be easier to identify and targeted for closer inspection. The trained person making the review will see evidence during the review that things might not be up to standard and will alert everybody that the new installation exists.

The review could also disclose potential environmental problems or construction that might meet the codes but not be suitable for Alaska conditions. The state has spent a great deal of money in bush housing correcting problems that could have been flagged with a plan review.

4. Consideration should be given to including in the review process the construction of housing in the outlying area that is now excluded. Even if the review was done without a subsequent inspection there could be enforcement if the job is done improperly and did not follow the plans. The owner could file a complaint and request an inspection.

5. For efficiency some consideration should be given to consolidating the review and inspection responsibilities in one department. The fire marshal in making an inspection could give a cursory inspection of the plumbing and electrical and call for a further inspection if something appeared to be out of line.

I believe the most important point is that the inspection is a governmental function. Then everybody is treated the same and the inspector is not subject to the influence of the one who is writing his paycheck.

Please consider the following argument in opposition to House Bill No. 159 "An Act extending the Board of Electrical Examiners in the Department of Commerce and Economic Development; and providing for an effective date."

This board is now subject to sunset review. I believe it should be allowed to expire.

Alaska Statute 08.40 was passed creating this board and creating "Electrical Administrators". The purpose of the chapter defined in Sec. 08.40.005 is "the purpose of this chapter is to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment, by providing a procedure to assure (1) the public that persons responsible for making electrical installations in this state are qualified; and (2) a sufficient number of persons are so qualified.

The statute empowers the board jurisdiction only over the Electrical Administrators. It works under the Department of Commerce and not under the Department of Labor where electrician Fitness Certification and electrical inspections are handled.

I believe this statute has been in effect since about 1977. It not only has failed in it's intent it is clearly counterproductive, against the public interest and benefits only special interests.

It was promoted in the first place by these special interests and is making unnecessary budget demands, restricting competition, increasing construction costs, is detrimental to small businesses, gives advantages to out of state businesses and makes liars and cheats in the Alaska construction industry.

The public is protected without the need of an Electrical Administrator. The contractors are licensed and bonded, the electricians are examined to verify their competence and understanding of the codes and issued a Certificate of Fitness, the Alaska Dept. of Labor has inspectors to inspect the work, and all work is required to be installed in conformance with the National Electrical Code.

If additional inspection of the work is needed it should be done by the Alaska Department of Labor. Enforcement should be the responsibility of the government. That it is unbiased and the same for everybody. It should not be done by an employee hired and paid by the contractor. It is obvious the contractor can get the inspection he wants if he has this control on the inspector.

Please consider these flaws in the regulations requiring the Electrical Administrator.

1. Sec. 08.40.105 reads "A person licensed under this chapter-----must personally inspect those materials after installation and repair unless the installation or repair amounts to simple or highly standardized work performed in less than 24 man hours by personnel generally under the supervision of the electrical administrator."

A review of the listing of Electrical Administrators as of 9-6-88 showed 376 active administrators. 55 of these list an out of state address and Dept. of Labor officials have told me they know of others that list an Alaska address but clearly reside elsewhere. If the administrator is not in the state it is obvious he cannot be inspecting the work. I was told this past week that to date only one license has been revoked because the administrator failed to do his job.

A review of the listing of Electrical Contractors will show large contractors with work in progress all over the State with only one administrator. Some work accomplished one day would be covered up the next day where it could not be inspected. It is obvious that one administrator could not be in Bethel, Fairbanks and Haines at the same time inspecting the work.

The regulations do not specify when the inspection is to be made. It seems the Administrator might fulfill his duty by looking at a job a year after the installation.

2. Sec. 08.40.130 reads "A person may not qualify for or operate as an Electrical Administrator for more than one registered contractor."

If an Administrator is desirable and needed why would there be this restriction? Couldn't an Administrator act as an independent business to provide his service to any contractor without an Administrator? I believe it is because it would not do what was really intended with this legislation.

A. To provide an extra source of income to electricians. The Administrator can assign his license to the Contractor. This may help the individual keep his job, help the Contractor by restricting competition or may provide the individual with some extra money for assigning his license. But it accomplishes nothing for the public and invites abuse.

When the law was enacted all electricians that applied for the license were grandfathered without taking a test. Now they can sell their Administrator services to the highest bidder and exert some control over their employer by threatening to withdraw their license. Most have not been tested and many are not qualified. If it is contended they are qualified and the program is working properly why do we have need of State Electrical Inspectors?

B. To restrict competition. An example is an individual acting as an electrical contractor and is also an Administrator. A review of the State listing of contractors will show many examples. John Doe is listed as an Administrator for John Doe Electric Co. In this case John Doe installs the work and then provides his own inspection. Nothing is accomplished for the public but the individual benefits as it restricts competition by adding expense and bureaucratic problems to his competition.

The regulations discriminate against Alaska businesses to the benefit of outside business.

An example is the construction of camp modules in the State of Alaska. If the work is done in a factory in Alaska an Administrator must supervise the electrical, mechanical and plumbing work even though the work is standardized and repetitive and is accomplished by tradesmen with a Certificate of Fitness in accordance with the codes.

April 8, 1991

Reps. David Finkelstein
House Labor & Commerce Committee
Juneau, Alaska

FAX 465-2444

We have talked about my concerns with Alaska Statute Sec. 08.40 dealing with electrical and mechanical administrators.

I am now informed your committee will have a hearing on H.B. 159 tomorrow April 9th and Catherine Rierden has provided me with a Letter of Intent you propose to present to the committee.

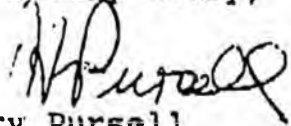
I have given you information on the problems with Sec. 08.40. I have discussed these problems with Mr. Don Cather, Chief Mechanical Inspector, Dept. of Labor, Mr. Jack McGary, Alaska Fire Marshalls office and Mr. Dennis Bowden, Investigator, Licensing Enforcement Unit. All agree these problems exist.

Your Letter of Intent does not address these problems. The problem is not in the enforcement. Please talk to Mr. Cather or Mr. Bowden. The problem is with AS 08.40.

If implemented your Letter of Intent would cause chaos in the construction industry. More enforcement is not practical and would not serve the public.

I strongly urge a full hearing on the subject with attendance by the construction industry and the people named above that have to work with the problems and understand them.

Yours very truly,



Harry Pursell
2540 Lord Baranof Dr.
Anchorage, AK 99517
562-2425
563-0806 FAX

PLEASE MICROFILM TOP PAGE ONLY

HB 160

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Date of Committee Action: 4/5/91

The FINANCE Committee considered:

HB 160

HOUSE BILL NO. 160

EXTEND REAL ESTATE COMMISSION

"An Act extending the Real Estate Commission in the Department of Commerce and Economic Development: and providing for an effective date."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____
 fiscal impact _____
 zero fiscal note _____

APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____
 zero fiscal note(s) COMMERCE 2-25-91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Stavane</i>					
<i>John Brown</i>					
<i>Tan Brown</i>	X				
<i>Dorcas Brewer</i>	✓				
<i>Bob in Sharp</i>	✓				
<i>ROSE TEE</i>					
<i>Ronald Jam</i>	X				
<i>Greg Stry</i>					
<i>Thompson</i>	✓				
<i>A. Williams</i>					

Mike Stavane

 CHAIRMAN'S SIGNATURE

Gov's letter d FN

HOUSE BILL NO. 160

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/25/91

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the Real Estate Commission in the Department of Commerce and
2 Economic Development; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 08.03.010(c)(18) is amended to read:

5 (c)(18) Real Estate Commission (AS 08.88.011) - June 30, 1995 [1991];

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

1
Bill Version: HB 160
(H) Publish Date: 2/25/91

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Extending the Real Estate BRU: Occupational Licensing
 Commission Component: Administration
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Funding for the Real Estate Commission is included in the department's FY 92 operating budget request and, therefore, new funds are not required. The FY 92 projected budget for the Real Estate Commission is explained on the attached page.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: January 31, 1991
 Approved by Commissioner: Glenn A. Olds
 Agency: Department of Commerce & Economic Development Date: January 31, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION OF FISCAL NOTE ANALYSIS

The Division of Occupational Licensing, Department of Commerce & Economic Development, is funded primarily by program receipts generated from licensing fees. All licensing programs share in the responsibility of covering a percentage of the administrative costs based on the number of current licensees (2,804 real estate licensees) divided by the total number of current division licensees (29,108). In FY 92, costs for the Real Estate Commission are projected as follows:

Personal Services:		
- Administrative costs		283.6
- 70% Licensing Examiner		29.7
- 40% Investigative		<u>19.9</u>
Sub-Total:		\$333.2
Travel:		
- Administrative		5.8
- Board Travel		<u>10.4</u>
Sub-Total:		\$ 16.2
Contractual:		\$ 52.5
Supplies:		\$ 4.4
Equipment:		\$ <u>.6</u>
TOTAL: FY 92 Costs		\$406.9
<u>Average Annual Revenue:</u>		\$278.3

CORRECTION

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

CONTINUATION OF FISCAL NOTE ANALYSIS

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-	Administrative	5.8
-	Board Travel	<u>10.4</u>
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Contractual:		\$ 52.5
Supplies:		\$ 4.4
Equipment:		<u>\$.6</u>
	TOTAL: FY 92 Costs	\$406.9
<u>Average Annual Revenue:</u>		\$278.3

PLEASE MICROFILM TOP PAGE ONLY

HB 161

CORRECTION

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

HB 161

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 3, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-9-91

The FINANCE Committee considered:

HB 161

HOUSE BILL NO. 161

EXTEND STATE MEDICAL BOARD

"An Act extending the State Medical Board in the Department of Commerce and Economic Development; and providing for an effective date."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) None 2-25-91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				

[Signature]
 CHAIRMAN'S SIGNATURE

HOUSE BILL NO. 161

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/25/91

Referred: Health, Education and Social Services, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the State Medical Board in the Department of Commerce and
2 Economic Development; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 08.03.010(c)(11) is amended to read:

5 (c)(11) State Medical Board (AS 08.64.010) - June 30, 1995 [1991];

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