

ALASKA LEGISLATURE

2212

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

HB

81

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 23 2001
SENATE FINANCE
COMMITTEE

DATE: 4/17/01

FURTHER:

DATE TURNED IN TO OFFICE: 23 April 01

Finance Committee considered CS FOR HOUSE BILL NO. 81(FIN)

DENTISTS/DENTAL HYGIENISTS & ASSISTANTS

"An Act extending the termination date of the Board of Dental Examiners; relating to the Board of Dental Examiners and regulation of the practice of dentistry; and relating to dental hygienists and dental assistants."

and recommends:

- be replaced with S CS CS HB 81 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DC.ED	3/6/01		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓		✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

CS FOR HOUSE BILL NO. 81(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/26/01
 Referred: Rules

Sponsor(s): REPRESENTATIVES FATE, Harris

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Board of Dental Examiners; relating to
 2 the Board of Dental Examiners and regulation of the practice of dentistry; and relating
 3 to dental hygienists and dental assistants."

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

5 * **Section 1.** AS 08.03.010(c)(7) is amended to read:

6 (7) Board of Dental Examiners (AS 08.36.010) -- June 30, 2005
 7 [2001];

8 * **Sec. 2.** AS 08.32.110(a) is amended to read:

9 (a) The role of the dental hygienist is to assist members of the dental
 10 profession in providing oral health care to the public. A person licensed to practice
 11 the profession of dental hygiene in the state may

12 (1) remove calcareous deposits, accretions, and stains from the
 13 exposed surfaces of the teeth beginning at the epithelial attachment by scaling and
 14 polishing techniques;

- 1 (2) apply topical preventive [OR PROPHYLACTIC] agents;
- 2 (3) apply pit and fissure sealants;
- 3 (4) perform root planning and periodontal soft tissue curettage;
- 4 (5) perform other dental operations and services delegated by a
- 5 licensed dentist if the dental operations and services are not prohibited by (c) of this
- 6 section; and
- 7 (6) if certified by the board and under the direct or indirect supervision
- 8 of a licensed dentist, administer local anesthetic agents.

9 * Sec. 3. AS 08.32.110(d) is amended to read:

10 (d) This section does not prohibit a dental assistant from applying topical
11 preventive [OR PROPHYLACTIC] agents or pit and fissure sealants when those
12 duties have been delegated to the assistant by a dentist licensed under AS 08.36 or by
13 a dentist exempt from licensure under AS 08.36.350(a)(2).

14 * Sec. 4. AS 08.36.010 is amended by adding a new subsection to read:

15 (b) When making appointments of dentists and dental hygienists under (a) of
16 this section, the governor ^{may} ~~shall~~ consider licensed dentists who have been nominated by
17 the Alaska Dental Society and licensed dental hygienists who have been nominated by
18 the Alaska State Dental Hygienists' Association.

19 * Sec. 5. AS 08.36.075(d) is amended to read:

20 (d) The board shall require that inspection of dental radiological equipment
21 occur once within every five calendar years and require that records concerning the
22 inspection be provided to the board by the owner or lessee of the equipment and kept
23 on file where the equipment is located. The board shall, upon application by the
24 owner or lessee of the dental radiological equipment, submission of evidence
25 documenting compliance with the inspection standards of the board, and payment of a
26 fee set by the board, issue to the owner or lessee an inspection seal indicating the date
27 by which the dental radiological equipment must pass inspection again. The date on
28 the inspection seal shall be December 31 of the fourth calendar year that occurs after
29 the calendar year in which the inspection occurred. A dentist may not use, or allow a
30 person under the dentist's supervision to use, dental radiological equipment in this
31 state after the date on the most recent inspection seal. The board may authorize an

SENATE FINANCE COMMITTEE
4/20/2001 COMMITTEE ACTION

Bill Number	HB 81		
Amendment	#1		
Motion	Adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>			
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> passed			

1 or on the safety or well-being of patients;

2 (G) has not previously had a license to practice dentistry
3 suspended for grounds similar to those specified under AS 08.36.115, revoke it,
4 or voluntarily surrendered;

5 (H) has completed at least 42 hours of continuing education
6 related to clinical dentistry in the three years preceding application for a
7 license in this state; the continuing education must have been approved by the
8 American Dental Association, the Academy of General Dentistry, or the
9 appropriate specialty board;

10 (I) has not within the previous three years failed the clinical
11 exam given by the Western Regional Examining Board;

12 (J) is not the subject of an adverse report from the National
13 Practitioner Data Bank or the American Association of Dental Examiners
14 Clearinghouse for Disciplinary Information that relates to criminal or
15 fraudulent activity, negligent dental care, or malpractice;

16 (2) has passed, to the satisfaction of the board, a written examination
17 that consists of the portion of the written examination given under AS 08.36.160(b)
18 that pertains to the state's laws on the practice of dentistry; the board may not require a
19 higher passing score for applicants under this section than the board requires for
20 applicants under AS 08.36.110;

21 (3) is personally interviewed by the board for purposes of verifying
22 credentials;

23 (4) pays all required fees;

24 (5) provides the board with an affidavit that the dentist is not an
25 impaired practitioner;

26 (6) provides to the board an authorization for release of records in a
27 form prescribed by the board.

28 * **Sec. 8.** AS 08.36 is amended by adding a new section to read:

29 **Sec. 08.36.317. Civil fine authority.** Notwithstanding AS 08.01.075(a), in a
30 disciplinary action, the board may impose a civil fine not to exceed \$25,000 for each
31 violation of this chapter or of a regulation adopted under this chapter.

1 * Sec. 9. AS 08.36.360 is amended to read:

2 Sec. 08.36.360. Practice of dentistry defined. A person engages in the
3 practice of dentistry who

4 (1) performs or holds out to the public as being able to perform dental
5 operations;

6 (2) diagnoses, treats, operates on, corrects, attempts to correct, or
7 prescribes for [,] a disease, lesion, pain, injury, deficiency, deformity, or physical
8 condition, malocclusion or malposition of the human teeth, alveolar process, gingiva,
9 maxilla, mandible, or adjacent tissues;

10 (3) performs or attempts to perform an operation incident to the
11 replacement of teeth;

12 (4) furnishes, supplies, constructs, reproduces, or repairs dentures,
13 bridges, appliances or other structures to be used and worn as substitutes for natural
14 teeth, except on prescription of a duly licensed and registered dentist and by the use of
15 impressions or casts made by a duly licensed and registered dentist;

16 (5) uses the words "dentist" or "dental surgeon" or the letters "D.D.S."
17 or "D.M.D." or other letter or title that represents the dentist as engaging in the
18 practice of dentistry;

19 (6) extracts or attempts to extract human teeth;

20 (7) exercises control over professional dental matters or the operation
21 of dental equipment in a facility where the acts and things described in this section are
22 performed or done;

23 (8) evaluates, diagnoses, treats, or performs preventive procedures
24 relating to diseases, disorders, or conditions of the oral cavity, maxillofacial area,
25 or adjacent and associated structures, a dentist whose practice includes the
26 services described in this paragraph may only perform the services if they are
27 within the scope of the dentist's education, training, and experience and in accord
28 with the generally recognized ethical precepts of the dental profession; nothing in
29 this paragraph requires a person licensed under AS 08.64 to be licensed under
30 this chapter.

SENATE FINANCE COMMITTEE
2000 COMMITTEE ACTION

4/20

Bill Number	HB 81		
Amendment	#2		
Motion	Adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	Removed		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	passed		

Alaska State Legislature

REPRESENTATIVE
HUGH "BUD" FATE

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House Of Representatives

While in session
State Capitol
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House District 33

CS for House Bill 81

"An Act extending the termination date of the Board of Dental Examiners; relating to the Board of Dental Examiners and regulation of the practice of dental hygienists and dental assistants."

SPONSOR: Representative Hugh Fate

SPONSOR STATEMENT:

Under Title 8 of the Alaska Statutes the Board of Dental Examiners will terminate June 30, 2001. A report released by the Legislative Budget and Audit Committee recommended that the Legislature extend the board's date to June 30, 2005. This is the main focus of House Bill 81. The regulation and licensing of qualified dentists and hygienists benefits the public's safety and welfare. The Board contributes to safe guarding the public interests by ensuring competence and integrity of dentists and dental hygienists. As a retired dentist I believe the Board provides an invaluable service and should continue to do so.

House Bill 81 also addresses some issues of concern to the Dental Board of Examiners and the Alaska Dental Society. House Bill 81 attempts to clear up some duplicate and confusing language, reduce paperwork, expand the definition of dentistry, address dental testing and equivalency options, board appointments, and increase the allowable civil fine penalty that the Board can impose.

Sectional Analysis House Bill 81, Board of Dental Examiners

Section 1. AS 08.03.010(c)(7)

Page 1 Line 6

Extends the termination date from June 30, 2001 to June 30, 2005.

Section 2 AS 08.03.110(a)(2)

Page 2 Line 1

Removes OR PROPHYLACTIC. Prophylactic is duplicate language to preventative. It is covered under preventative agent. Prophylactic is also confusing language because it is similar to other dental terms like prophylaxis.

Section 3 AS 08.03.110(d)

Page 2 Line 11

Same reason. [Prophylactic was taken out of both locations because the Department of Law said if one went, they both had to.]

Section 4 AS 08.36.010

Page 2 Line 15-18

Adds wording that says, the Governor, when making appointments, will consider licensed dentists nominated by the Alaska Dental Society and licensed dental hygienists nominated by the Dental Hygienists' Association.

Section 5 AS 08.36.075(d)

Pg. 2 Line 31 & Pg. 1-9

Allows a board authorized inspector to determine whether the owner or lessee of dental radiological equipment is in compliance with the inspection standards of the board, collect the appropriate fee and remit the fee to the board, and issue an inspection seal. The inspector will then remit the paperwork to the board and whether a seal was issued or not.

Section 6 AS 08.36.160(e)

Page 3 Lines 11-17

Makes a passing score on a clinical exam given by the Central Regional Dental Testing Service, Inc. an acceptable alternative to the Western Regional Examining Board examination as long as the exam was passed after January 1, 2001.

Section 7 AS 08.36.234(a)

Page 3 Line 28

Requires that the dentist be currently licensed in another state, with the same requirements as Alaska, in order avoid re-examination to practice in Alaska.

Page 3 Lines 29-30

Language that states a dentist could have taken a dental exam in one state and be practicing in another, and as long as the state the they are licensed in has equivalent requirements to Alaska, the dentist can practice in Alaska. (The dentist doesn't have to be licensed and practicing in the same state in order for them to practice in Alaska, if it has equivalent requirements.)

Section 8 AS 08.36.317

Page 5 Line 29-31

Increases the allowable civil fine from \$5,000 to \$25,000 per violation.

Section 9 08.36.360

Page 6 Lines 23-30

Expands the current definition of Dentistry to include the American Dental Association's definition of dentistry which allows a dentist to evaluate, diagnose, treat, or perform preventive procedures relating to diseases, disorders, or conditions of the oral cavity, maxillofacial area, or adjacent and associated structures.



ALASKA STATE LEGISLATURE
SENATOR RANDY PHILLIPS
Senate District L

Senate Labor & Commerce Committee

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April 12, 2001

Letter of Intent for HB81
DENTISTS/DENTAL HYGIENISTS & ASSISTANTS

It is the intent of the Legislature that the size of fines typically imposed for minor, noncompliance infractions remain unaffected by the enactment of HB81.

It is the intent of the Legislature that the size of fines typically imposed for serious and consequential violations of ethical and professional misconduct be increased.

Proposed Legislative Changes 2001

Inserted words [Deleted words]

1st Bill - Dentists and Dental Hygienists (statutes and regulations)

1. (Pg. 5) AS 08.32.110 (a)(2) & (d) Delete the words or prophylactic from both sections to read as follows:
 - (2) apply topical preventive [~~or prophylactic~~] agents;
 - (d) This section does not prohibit a dental assistant from applying topical preventive [~~or prophylactic~~] agents or pit and fissure sealants when those duties have been delegated to the assistant by a dentist licensed under AS 08336.350(a)(2).
2. (Pg. 8) AS 08.36.010. Creation and membership of board. Inserting phrases to read as follows:
 - There is created the Board of Dental Examiners consisting of nine members. Six members shall be licensed dentists who are nominated by the Alaska Dental Society and have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, two members shall be dental hygienists licensed under AS 08.32 who are nominated by the Alaska State Dental Hygiene Association and have been engaged in the practice of dental hygiene in the state for five years immediately preceding appointment, and one member shall be a public member.
3. (Pg. 8) AS 08.36.030 Election of officers. Inserting the phrase to read as follows:
 - The board shall elect a president who is a licensed dentist and a secretary from among its members, each to serve for a term not to exceed two years.
4. (Pg. 11) AS 0836.075(d) Dental radiological equipment Insert the words or board approved inspector to read as follows:
 - (d) ... and kept on file where the equipment is located. The board or board approved inspector shall, upon application by the owner or lessee of the dental radiological equipment, submission of evidence ...
5. (Pg. 13) AS 08.36.160(e) Contents of examination. Insert the words or the Central Regional Dental Testing Service, Inc. and delete the words [~~, provided the examination was taken on or after January 1, 1987~~] to read as follows:
 - (e) A passing score on a clinical examination given by the Western Regional Examining Board or the Central Regional Dental Testing Service, Inc. within the five years preceding licensure application

under this chapter constitutes a passing score on a clinical examination required under this chapter[, provided the examination was taken on or after January 1, 1987].

6. (Pg. 14) AS 08.36.234(a)(1)(B) Licensure by credentials. The following changes to read as follows:
 - (a)(1)(B) has passed clinical and written examinations required for licensure in another state, territory, or region of the United States and is [has been] licensed to practice dentistry in a [that] state, territory, or region in which the dentist is licensed must have licensing requirements at least generally equivalent to those ...
7. (Pg. 21) AS 08.36.360 Practice of dentistry defined. Add section (8) & (9) to read as follows:
 - (8) evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body; provided by a dentist, within the scope of his/her education, training and experience, in accordance with the ethics of the profession and applicable law.
 - (9) serves as a third-party reviewer for any dentally related treatments.

2nd Bill – Chapter 01. Centralized Licensing.

8. (Pg. 45) AS 08.01.075(a)(8) Disciplinary powers of the board. To read as follows:
 - (8) impose a civil fine not to exceed [\$5,000] \$25,000 per incident.
 - (9) Recover associated costs from a licensee found in violation to include but not limited to expert witnesses, attorney fees, court costs board and department costs.

3rd Bill - Insurance Add language to the effect:

9. A payment by a third-party payer to a provider in accordance with **** shall be considered final one year after payment was made. After that date, both of the following apply:
 - The amount of the overpayment is not subject to adjustment, except in the case of fraud by the provider.
 - The third-party payer shall not deduct any overpayment made to the provider from any other payment it owes the provider.

Dental Statute Changes

The Board of Dental Examiners would like the legislature to make the following dental statute changes during the consideration of board sunset extension.

- 1) Replace the current definition of the practice of dentistry with the American Dental Association definition.
- 2) Increase the maximum fine for violation of the dental statutes. The board believes the current \$5,000 maximum fine is not sufficient incentive to stop transgressions.
- 3) Delete the term "prophylactic" from AS 08.32.110(d) in order to make it clear that dental assistants cannot perform teeth cleaning. Cleaning has always been an exclusive hygienist function, but the current wording may mislead the public.
- 4) Amend AS 08.36.160(e) so the board may accept the Central Regional Dental Testing Service exam as well as the current Western Regional Examining Board exam.
- 5) Amend AS 08.36.234(a)(1)(B) by changing "has been licensed" to "is licensed." The effect of this change would be to require applicants for licensure by credentials to hold a current license in another state, territory or region of the United States.

Thank you for considering our comments.

Sincerely,



Catherine Reardon, director

From: Dave Eichler <eichler@mosquionet.com>

Sat 11:03 AM

Subject:

To: Senator_Jerry_Ward@Legis.state.ak.us

01 * Sec. 9. AS 08.36 is amended by adding a new section to read:

02 Sec. 08.36.317. Civil fine authority. Notwithstanding AS
03 08.01.075(a), in a
04 disciplinary action, the board may impose a civil fine not to
05 exceed \$25,000 for each
06 violation of this chapter or of a regulation adopted under this
07 chapter.

Dear Jerry:

I am requesting your help on this. The above section has been amended to raise that statutory fine for the dental board from \$5000 to \$25000. The argument is that \$5000 is not enough to discourage violations from "rich" dentists and does not cover the costs of investigations.

I object on constitutional grounds. The board is supposed to provide all oversight of investigations but in reality the commissioner and his administrator hire the investigator, who initiates investigations, and basically tells the board to rubber stamp all his actions. If the board objects they are told that the AG's office will not back them up. The AG also can use the board as a tool for his own ends. They can enter my office without a warrant or without cause and shut me or anyone else down. \$25000 is way more than is necessary for rule infractions. If a crime has taken place then that should be prosecuted under criminal code. That is the real job of the AG.

If the board or commissioner testifies, ask them how an investigation is conducted, if the complaint is reviewed by the board and then action is initiated or is the board acting as a rubber stamp for all the commissions activity.

The bill will be heard in labor and commerce on Tue Apr 10 at 1:30

Thanks
Dave Eichler



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preventive[1,noun] Go
preventive[2,adjective]

Main Entry: ¹pre·ven·tive
Pronunciation: - 'ven-tiv
Function: *noun*
Date: circa 1639
: something that prevents; *especially* : something used to prevent disease

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* Requires Acrobat Reader 

SUMMARY OF: A Special Report on the Department of Community and Economic Development, Board of Dental Examiners, Sunset Review November 12, 2000.

PURPOSE OF THE REPORT

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dental Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the oversight process to determine whether the termination date of the board should be extended. Currently, AS 08.03.010(c)(7) requires the board to terminate on June 30, 2001. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its affairs.

REPORT CONCLUSIONS

In our opinion, the Board of Dental Examiners is operating in an efficient and effective manner and should continue to regulate dentists and dental hygienists. We believe the board contributes to the safeguarding of the public interest, by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists.

The board serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the board and ensure that dentist and dental hygienists are licensed in the State of Alaska.

Alaska Statute 08.03.010(c)(7) requires the Board of Dental Examiners be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2005.

ISSUES NEEDING FURTHER STUDY

Government auditing standards recommend that audit agencies report on issues that are noted during the course of an audit, but due to circumstances are not necessarily addressed with additional audit fieldwork. The standards state the auditor should "refer significant issues needing further audit work" to the appropriate entities, so the issues can be addressed through audit review at some other time.

Investigating and "making a case" against licensed professionals is difficult. Complaints often involve whether a certain procedure or practice was appropriate and consistent with competent care or lawful, ethical practice. Assessing compliance with such care or practice standards often involves having both the Division of Occupational Licensing and the Department of Law consult with other practitioners regarding

professional procedural norms. Such consultation takes time. We recognize the value in proceeding cautiously in order to make the best case possible, our concern is that the public may unduly be put at risk due to delays often involved with such an approach.

In that context, we suggest that further study is needed to determine if investigations are being carried out by the Division of Occupational Licensing with support from the Department of Law, in a timely manner. This issue is not solely related to the Board of Dental Examiners as the Division of Occupational Licensing must prioritize and allocate its resources across all boards and licensing functions. However, we are concerned about the length of time an investigation (including legal support) of a single dentist is taking given the serious nature of the complaints.

A separate review could assess the overall investigative efforts of the Division of Occupational Licensing and the related legal assistance provided by the Department of Law. This assessment will determine if the various boards are receiving the support necessary to enforce professional standards and requirements and ensure adequate public protection.

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November 27, 2000

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF DENTAL EXAMINERS
SUNSET REVIEW

November 12, 2000

Audit Control Number
08-20002-01

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(7), the Board of Dental Examiners is scheduled to terminate on June 30, 2001. The board would be allowed one year in which to conclude its administrative affairs.

In our opinion, the termination date for Board of Dental Examiners should be extended. The regulation and licensure of dental professionals contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Dental Examiners to June 30, 2005.

This sunset review was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

Pat Davidson, CPA
Legislative Auditor

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Department of Community and Economic Development	13

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the board of Dental Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the oversight process to determine whether the termination date of the board should be extended. Currently, AS 08.03.010(c)(7) requires the board to terminate on June 30, 2001. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its affairs.

Objectives

There are two central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest and determine if the board has exercised general control over licensed dentists.¹

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction and supervision conducted a majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Dental Examiners for the period of FY 98 through FY 00.

During the course of our examination, we reviewed and evaluated the following:

¹AS 08.36.070(a) states that the board shall:

- (1) Provide for the examination of applicants and issue licenses to those qualified;
- (2) Register licensed dentists and hygienists who are in good standing;
- (3) Affiliate with the American Association of Dental Examiners;
- (4) Hold hearings and order disciplinary sanction of a person who violates this chapter, AS 08.32, or a regulation of the board;
- (5) Adopt regulations ensuring that renewal of registration is contingent upon proof of continued professional competence;
- (6) Enforce the provisions of this chapter and AS 08.32 and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective; and
- (7) Require, as a condition of a license or license renewal by the board current certification in cardiopulmonary resuscitation techniques.

1. Applicable statutes and regulations.
2. Compliance with statutes and regulations related to the licensing of dentists and dental hygienists. Our evaluation addressed considerations of license applications, testing of candidates, and continuing education necessary for an individual to maintain their license in good standing.
3. Minutes of meetings of the Board of Dental Examiners.
4. Annual reports issued by the Board of Dental Examiners.
5. Complaints filed with the Department of Community and Economic Development, Division of Occupational Licensing, Office of the Ombudsman, Department of Labor and Workforce Development, Alaska Commission on Human Rights, and Equal Employment Opportunity Commission.
6. Reading and correspondence files maintained with the Department of Community and Economic Development, Division of Occupational Licensing.
7. Interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.
8. Other documents deemed pertinent.

ORGANIZATION AND FUNCTION

The Board of Dental Examiners was established in 1955, through Alaska Statute 08.36.010. The powers of the board include:

1. Examining and issuing licenses to qualified applicants.
2. Hold hearings and order the disciplinary sanction of an individual who violates relevant portions of the state statutes or regulations.
3. Adopting regulations ensuring that renewal of registration is contingent upon proof of continued professional competence by a licensed dentist or licensed dental hygienist.
4. Provide the department with the requirements for proof of continued professional competence.
5. Issuing permits or certificates to licensed dentists and licensed dental hygienists who meet the standards determined by the board for specific procedures that require specific education and training.

Board of Dental Examiners
As of November 1, 2000

Professional Members

Rena L. Anderson, RDH Hygienist
James R. Arneson, D.D.S. Dentist
Mary Ann Cerney Hygienist
James A. Clark, D.M.D. Dentist
Raymond L. Lang, D.D.S. Dentist
David G. Logan, D.D.S. Dentist
Michael P. Moriarty, DDS Dentist
1 Dentist position vacant

Public Member

James B. Blasingame Public Member

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists. The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Dental Examiners. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees,

permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the Board of Dental Examiners is operating in an efficient and effective manner and should continue to regulate dentists and dental hygienists. We believe the board contributes to the safeguarding of the public interest, by ensuring the competence and integrity of those who hold themselves out to the public as dentists and dental hygienists.

The board serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the board and ensure that dentists and dental hygienists are licensed in the State of Alaska.

Alaska Statute 08.03.010(c)(7) requires the Board of Dental Examiners be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2005.

ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Dental Examiners (board) activities relates to the public need factors defined in the "sunset" review law, AS 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commission, or agency has operated in the public interest.

The board, through regulation of the licensure of dentists and dental hygienists, has provided the public with qualified professionals in the dental industry. The profession has continuing education requirements that require specific hours of patient contact or patient care related courses. The board requires that all persons licensed by the board display their license in the open for the public to see.

The board licenses applicants in two ways, by examination and by credentials. Licensure by credentials requires the applicant demonstrate their previous work history qualifies them for licensure. Prior audits have noted that licensure by this means has been rather difficult. The board adopted or revised regulations concerning licensure by credentials; governing education requirements; enforced the laws for issuing licenses in a uniform manner; and held meetings and administered examinations in accordance with statutory requirements.

In 1998, legislation was adopted that allows dentists and dental hygienists to be licensed to administer nitrous oxide. Previously, only dentists could administer nitrous oxide to a patient.

The board has been active in providing information to the public, professional and state societies and associations. A member of the board attends every association meeting to act as an ambassador to the association. This allows the board to maintain constant updates on state association issues and concerns as well as providing an efficient means of communicating change in state statutes, regulations and licensing requirements.

Annual reports for fiscal years ended June 30, 1997, 1998, and 1999 were submitted in a timely manner to the Division of Occupational Licensing.

Determine the extent to which the operations of the board has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

In reviewing and evaluating the activities of the board, we consider board activities for the last three complete fiscal years – FY 98, FY 99, and FY 00. During the earlier part of this review period, the Office of the Governor left the public member seat vacant for an extended amount of time. The board met five times between September 1997 and May 1998 with a

vacancy on the board set aside for a non-licensed public member. In late May 1998, a public member was appointed, and the individual has attended 11 of the 12 meetings held since that time.

We believe that it is critical that the public member seat on the board be filled. One of the primary ways the legislature can provide greater assurance that professional licensing boards are acting in the public interest is to place non-licensed citizens on the boards. Accordingly, when this seat is left vacant, or the individual does not regularly attend, this aspect of public protection is diminished.

Determine the extent to which the board has recommended statutory changes that are generally of benefit to the public interest.

The board supported legislation that was passed in 1998 that redefined, and expanded to a limited extent, the requirements for licensure by examination and credentials.

The board also supported a bill amending state law, subsequently adopted by the legislature, to allow dentists to continue practice even though they were unable to qualify for the necessary certification in cardio-pulmonary resuscitation (CPR) training. The legislation permitted dentists to continue practice, even without CPR certification, as long as they made sure an individual with the requisite CPR training was on the premises of the dental practice.

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

The location, date, and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*, the *Fairbanks Daily News-Miner* and the *Juneau Empire*.

The board's meeting agenda sets aside time for the board to take public comment. Minutes from the meetings reflect public participation throughout the meeting. Proposed regulations are often circulated to those affected by the proposed regulations through professional trade journals, public notice advertisement, or direct mail correspondence from the Division of Occupational Licensing.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in major newspapers, as previously discussed. Meetings are adequately advertised and time set aside for public testimony.

Major proposed regulation changes were circulated throughout the professional community by either direct response mailing to the affected license holders, or providing the proposed

changes to the state associations for publication in member newsletters. Feedback resulted in changes to the proposed regulations addressing the profession's concerns.

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

During the last three fiscal years (FY 98 – FY 00) the Division of Occupational Licensing has received or developed internally 49 complaints or investigations related to activities regulated by the Board of Dental Examiners. Of these 49, 8 have involved one licensed dentist. Of the remaining 41 complaints, the division has completed an investigation and resolved the case in 36 instances.

Of these 36, 24 were resolved without formal board action including 20 where the division determined there was no violation of professional or legal requirements. The remaining 4 were closed through the issuance of warning letters or through various other administrative procedures.

For the 12 complaints and related investigative actions brought before it, the board took the following actions:

1. issued two reprimands,
2. fined two licensees,
3. placed two licensees on probation,
4. suspended the licenses of three licensees, and
5. upheld administrative decisions that three applicants were not sufficiently qualified for licensure.

Much of the Division of Occupational Licensing's investigative efforts have involved numerous cases of a single licensed dentist. In the past three fiscal years, eight complaints have been made or developed involving the dentist. Even though two of these complaints have been closed, six complaints are still being investigated by Division of Occupational Licensing. As a result of these investigative activities, 42 patient files have been subpoenaed and are being analyzed by dental practice experts for evidence of inappropriate practice.

Complaints have originated from reports from other licensed dentists, the State's dental society, a pharmacist, and an on-site inspection conducted by the Division of Occupational Licensing. We are concerned about the length of time the State's investigate effort is taking while this dentist is still being allowed to practice – despite the repeated indications of shortcomings in his practice of dentistry.

As discussed in the Issue Needing Further Study section of this report, we suggest that a separate audit be conducted to review the Division of Occupational Licensing investigat

activities for this and other occupational boards – to evaluate the efficacy of the agency’s investigative efforts.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

Listed below is a summary of new licenses and permits issued by the board for the period under review.

New License and Permits Issued (Exclusive of Renewals)	FY 98	FY 99	FY 00	Total	Current as of June 30, 2000
Dentist	23	34	31	88	549
Dental Hygienist	17	24	41	82	482
Dental Specialist	4	7	6	17	90
Parenteral Sedation Permit	1	4	2	7	32
General Anesthetic Permit	2	-	1	3	18
Local Anesthetic Permit	16	16	39	71	376

Overall the application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Continuing education is required and adequately monitored by the board, to promote a high level of quality performance and to help ensure the integrity of the profession.

Each applicant is required to satisfy requirements for licensing. Board meeting minutes reflect that the board considers each applicant, interviews those applying by credentials, and verifies the licensing requirements are satisfied prior to issuing a license.

Determine the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board to its own activities and the area of activity or interest.

The ombudsman received no complaints regarding the Division of Occupational Licensing. We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

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

The board continues to recognize the need to evaluate the Americans with Disabilities Act (ADA), to determine its impact on the profession. The board will consider whether any statutory or regulatory changes are needed to ensure compliance.

ISSUES NEEDING FURTHER STUDY

Government auditing standards recommend that audit agencies report on issues that are noted during the course of an audit, but due to circumstances are not necessarily addressed with additional audit fieldwork. The standards state the auditor should "*refer significant issues needing further audit work*" to the appropriate entities, so the issues can be addressed through audit review at some other time.

Investigating and "making a case" against licensed professionals is difficult. Complaints often involve whether a certain procedure or practice was appropriate and consistent with competent care or lawful, ethical practice. Assessing compliance with such care or practice standards often involves having both the Division of Occupational Licensing and the Department of Law consult with other practitioners regarding professional procedural norms. Such consultation takes time. We recognize the value in proceeding cautiously in order to make the best case possible, our concern is that the public may unduly be put at risk due to delays often involved with such an approach.

In that context, we suggest that further study is needed to determine if investigations are being carried out, by the Division of Occupational Licensing with support from the Department of Law, in a timely manner. This issue is not solely related to the Board of Dental Examiners as the Division of Occupational Licensing must prioritize and allocate its resources across all boards and licensing functions. However, we are concerned about the length of time an investigation (including legal support) of a single dentist is taking given the serious nature of the complaints.

A separate review could assess the overall investigative efforts of the Division of Occupational Licensing and the related legal assistance provided by the Department of Law. This assessment will determine if the various boards are receiving the support necessary to enforce professional standards and requirements and ensure adequate public protection.

January 4, 2001

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Dental Examiners preliminary audit. This response is being submitted on behalf of the Division of Occupational Licensing and the Board of Dental Examiners.

The division and the board are pleased that the auditors found the board is doing a satisfactory job and concur that the board should be extended.

Future Audit of Investigative Activities

The Division of Occupational Licensing and the Board of Dental Examiners ask the Legislative Budget and Audit Committee to reconsider the recommendation for a future audit of investigative activities.

In 1997, the Division of Legislative Audit conducted a comprehensive audit of Division of Occupational Licensing investigative activities (audit control number: 08-4556-97) and made no recommendations for change. In that process, auditors reviewed 141 investigative case files.

An additional audit of our investigative activities would occupy a significant amount of the investigative unit's time, time that could be spent on investigations.

If the Committee feels that an additional audit is warranted, please consider focusing more narrowly on dental investigations rather than on all professions. The audit recommendation appears to be based on concerns about a single ongoing dental investigation. The other five occupational licensing sunset audits conducted this interim did not raise concern about investigations.

Dental Statute Changes

The Board of Dental Examiners would like the legislature to make the following dental statute changes during the consideration of board sunset extension.

- 1) Replace the current definition of the practice of dentistry with the American Dental Association definition.
- 2) Increase the maximum fine for violation of the dental statutes. The board believes the current \$5,000 maximum fine is not sufficient incentive to stop transgressions.
- 3) Delete the term "prophylactic" from AS 08.32.110(d) in order to make it clear that dental assistants cannot perform teeth cleaning. Cleaning has always been an exclusive hygienist function, but the current wording may mislead the public.
- 4) Amend AS 08.36.160(e) so the board may accept the Central Regional Dental Testing Service exam as well as the current Western Regional Examining Board exam.
- 5) Amend AS 08.36.234(a)(1)(B) by changing "has been licensed" to "is licensed." The effect of this change would be to require applicants for licensure by credentials to hold a current license in another state, territory or region of the United States.

Thank you for considering our comments.

Sincerely,

Catherine Reardon, director



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2 entries found for **prophylactic**.

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prophylactic[1,adjective]

prophylactic[2,noun]

Main Entry: ¹pro·phy·lac·tic

Pronunciation: "prO-f&- 'lak-tik also "prä-

Function: *adjective*

Etymology: Greek *prophylaktikos*, from *prophylassein* to be on guard, from *pro-* before + *phylassein* to guard, from *phylak-*, *phylax* guard

Date: 1574

1 : guarding from or preventing disease

2 : tending to prevent or ward off : **PREVENTIVE**

- *pro·phy·lac·ti·cal·ly* /-ti-k(&-)lE/ *adverb*

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SENATE COMMITTEE REPORT

DATE: 3/29/01

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4-12-01

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 81(FIN)

EXTENDING BOARD OF DENTAL EXAMINERS

"An Act extending the termination date of the Board of Dental Examiners; relating to the Board of Dental Examiners and regulation of the practice of dentistry; and relating to dental hygienists and dental assistants."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by L & C Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DCED	3/6/01	\$		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Bettye Davis</i>	X			
<i>Loren L. Hanson</i>	✓			
CHAIR: <i>Richard J. ...</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

HB 81 - DENTISTS/DENTAL HYGIENISTS & ASSISTANTS

NAME: Catherine Rowdon Subject/Bill No: HB 81
Co./Dept./Title: Division Director ^{Occupational} Licensing Phone: 465-2538
Address: DO 110806 Juleau Ave Zip: 99801

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

90

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB90
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Dev.
 Title: An Act relating to reimbursement of municipal BRU: School Debt Retirement
bonds for school construction; and providing for an . . . Component: School Debt Retirement
 Sponsor: Rep. Mulder
 Requester: House Finance Component Number: 153

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Recd.						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This Bill would amend AS 14.11.100(a)(10) & (j) and would remove the requirement that school construction projects be approved by the Department of Education and Early Development before being approved by the local voters. The Bill would also remove the requirement for municipalities to include on the ballot language detailing the costs shared by the State and Municipality and the potential impact to the tax payers of the municipality. This Bill would set the effective date retroactively to July 1, 2000.

Prepared by: Eddy Jeans, School Finance Manager Phone 465-8679
 Division: Education Support Services Date/Time 2/5/01 12:00 AM
 Approved by: Bruce Johnson, Deputy Commissioner of Education Date 2/5/01
 Agency: Education & Early Development

For distribution information, call the Governor's Legislative Office

2/6/01

Amended pg 4

~~technical change to pg 4 line 19~~

HOUSE BILL NO. 90

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MULDER

Introduced: 1/24/01
Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reimbursement of municipal bonds for school construction; and
2 providing for an effective date."

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

4 * **Section 1.** AS 14.11.100(a) is amended to read:

5 (a) During each fiscal year, the state shall allocate to a municipality that is a
6 school district the following sums:

7 (1) payments made by the municipality during the fiscal year two years
8 earlier for the retirement of principal and interest on outstanding bonds, notes, or other
9 indebtedness incurred before July 1, 1977, to pay costs of school construction;

10 (2) 90 percent of

11 (A) payments made by the municipality during the fiscal year
12 two years earlier for the retirement of principal and interest on outstanding
13 bonds, notes, or other indebtedness incurred after June 30, 1977, and before
14 July 1, 1978, to pay costs of school construction;

1 (B) cash payments made after June 30, 1976, and before July 1,
2 1978, by the municipality during the fiscal year two years earlier to pay costs
3 of school construction;

4 (3) 90 percent of

5 (A) payments made by the municipality during the fiscal year
6 two years earlier for the retirement of principal and interest on outstanding
7 bonds, notes, or other indebtedness incurred after June 30, 1978, and before
8 January 1, 1982, to pay costs of school construction projects approved under
9 AS 14.07.020(a)(11);

10 (B) cash payments made after June 30, 1978, and before July 1,
11 1982, by the municipality during the fiscal year two years earlier to pay costs
12 of school construction projects approved under AS 14.07.020(a)(11);

13 (4) subject to (h) and (i) of this section, up to 90 percent of

14 (A) payments made by the municipality during the current
15 fiscal year for the retirement of principal and interest on outstanding bonds,
16 notes, or other indebtedness incurred after December 31, 1981, and authorized
17 by the qualified voters of the municipality before July 1, 1983, to pay costs of
18 school construction, additions to schools, and major rehabilitation projects that
19 exceed \$25,000 and are approved under AS 14.07.020(a)(11);

20 (B) cash payments made after June 30, 1982, and before July 1,
21 1983, by the municipality during the fiscal year two years earlier to pay costs
22 of school construction, additions to schools, and major rehabilitation projects
23 that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

24 (C) payments made by the municipality during the current
25 fiscal year for the retirement of principal and interest on outstanding bonds,
26 notes, or other indebtedness to pay costs of school construction, additions to
27 schools, and major rehabilitation projects that exceed \$25,000 and are
28 submitted to the department for approval under AS 14.07.020(a)(11) before
29 July 1, 1983, and approved by the qualified voters of the municipality before
30 October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the
31 annual growth rate of average daily membership of the municipality is more

1 than 7 percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth
2 rate of average daily membership of the municipality is 12 percent or more;
3 payments made by a municipality under this subparagraph on total project
4 costs that exceed the amounts set out in (i) and (ii) of this subparagraph are
5 subject to (5)(A) of this subsection;

6 (5) subject to (h) - (j) of this section, 80 percent of

7 (A) payments made by the municipality during the fiscal year
8 for the retirement of principal and interest on outstanding bonds, notes, or
9 other indebtedness authorized by the qualified voters of the municipality

10 (i) after June 30, 1983, but before March 31, 1990, to
11 pay costs of school construction, additions to schools, and major
12 rehabilitation projects that exceed \$25,000 and are approved under
13 AS 14.07.020(a)(11); or

14 (ii) before July 1, 1989, and reauthorized before
15 November 1, 1989, to pay costs of school construction, additions to
16 schools, and major rehabilitation projects that exceed \$25,000 and are
17 approved under AS 14.07.020(a)(11); and

18 (B) cash payments made after June 30, 1983, by the
19 municipality during the fiscal year two years earlier to pay costs of school
20 construction, additions to schools, and major rehabilitation projects that exceed
21 \$25,000 and are approved by the department before July 1, 1990, under
22 AS 14.07.020(a)(11);

23 (6) subject to (h) - (j) and (m) of this section, 70 percent of payments
24 made by the municipality during the fiscal year for the retirement of principal and
25 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified
26 voters of the municipality on or after April 30, 1993, but before July 1, 1996, to pay
27 costs of school construction, additions to schools, and major rehabilitation projects
28 that exceed \$200,000 and are approved under AS 14.07.020(a)(11);

29 (7) subject to (h) - (j) and (m) of this section, 70 percent of payments
30 made by the municipality during the fiscal year for the retirement of principal and
31 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified

1 voters of the municipality after March 31, 1990, but before April 30, 1993, to pay
2 costs of school construction, additions to schools, and major rehabilitation projects;

3 (8) subject to (h), (i), (j)(2) - (4), and (n) of this section and after
4 projects funded by the bonds, notes, or other indebtedness have been approved by the
5 commissioner, 70 percent of payments made by the municipality during the fiscal year
6 for the retirement of principal and interest on outstanding bonds, notes, or other
7 indebtedness authorized by the qualified voters of the municipality on or after July 1,
8 1995, but before July 1, 1998, to pay costs of school construction, additions to
9 schools, and major rehabilitation projects that exceed \$200,000 and are approved
10 under AS 14.07.020(a)(11);

11 (9) subject to (h), (i), (j), and (n) of this section and after projects
12 funded by the bonds, notes, or other indebtedness have been approved by the
13 commissioner, 70 percent of payments made by the municipality during the fiscal year
14 for the retirement of principal and interest on outstanding bonds, notes, or other
15 indebtedness authorized by the qualified voters of the municipality on or after July 1,
16 1998, but before July 1, 2004, to pay costs of school construction, additions to
17 schools, and major rehabilitation projects that exceed \$200,000 and are approved
18 under AS 14.07.020(a)(11);

19 (10) subject to (h), (i), (i)(2) - (4) ~~[(j)]~~, and (p) of this section, and after
20 projects funded by the bonds, notes, or other indebtedness have been approved by the
21 commissioner, 70 percent of payments made by the municipality during the fiscal year
22 for the retirement of principal and interest on outstanding bonds, notes, or other
23 indebtedness authorized by the qualified voters of the municipality on or after June 30,
24 1998, to pay costs of school construction, additions to schools, and major
25 rehabilitation projects that exceed \$200,000, are approved under AS 14.07.020(a)(11),
26 and are not reimbursed under (n) of this section.

27 * Sec. 2. AS 14.11.100(j) is amended to read:

28 (j) Except as provided in (l) of this section, the state may not allocate money
29 to a municipality for a school construction project under (a)(5), (6), (7), or (9) [, OR
30 (10)] of this section unless the municipality complies with the requirements of (1) - (4)
31 of this subsection, the project is approved by the commissioner before the local vote

1 on the bond issue for the project or for bonds authorized after March 31, 1990, but on
 2 or before April 30, 1993, the bonds are approved by the commissioner before
 3 reimbursement by the state, and the local vote occurs before July 1, 1987, or after
 4 June 30, 1988. In approving a project under this subsection, and to the extent required
 5 under (a)(8) or (10) of this section, the commissioner shall require

6 (1) the municipality to include on the ballot for the bond issue, for
 7 bonds authorized on or before March 31, 1990, or after April 30, 1993, the estimated
 8 total cost of each project including estimated total interest, estimated annual operation
 9 and maintenance costs, the estimated amounts that will be paid by the state and by the
 10 municipality, and the approximate amount that would be due in annual taxes on
 11 \$100,000 in assessed value to retire the debt;

12 (2) that the bonds may not be refunded unless the annual debt service
 13 on the refunding issue is not greater than the annual debt service on the original issue;

14 (3) that the bonds must be repaid in approximately equal annual
 15 principal payments or approximately equal debt service payments over a period of at
 16 least 10 years;

17 (4) the municipality to demonstrate need for the project by establishing
 18 that the school district has

19 (A) projected long-term student enrollment that indicates the
 20 district has inadequate facilities to meet present or projected enrollment;

21 (B) facilities that require repair or replacement in order to meet
 22 health and safety laws or regulations or building codes;

23 (C) demonstrated that the project will result in a reduction in
 24 annual operating costs that economically justifies the cost of the project; or

25 (D) facilities that require modification or rehabilitation for the
 26 purpose of improving the instructional program.

27 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 **RETROACTIVITY.** This Act is retroactive to July 1, 2000.

30 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



REPRESENTATIVE ELDON MULDER

DISTRICT 23 - MULDOON & FORT RICHARDSON

ALASKA STATE LEGISLATURE

HOUSE OF REPRESENTATIVES

"PROUD TO BE A MULDOONER"



HB 90

An Act relating to reimbursement of municipal bonds for school construction;
and providing for an effective date

Sponsor Statement

January 27, 2001

House Bill 90 corrects a technical error in HB 281, Chapter 130, SLA 2000, the school capital funding and bond debt reimbursement bill. The bill intended to provide bond debt reimbursement for several bond obligations previously approved by voters. Several districts had voters approve bonds prior to securing approval from the commissioner of Education and Early Development. This precluded them from securing intended reimbursement under the provisions of last year's bill.

HB 90 corrects the technical error. It does not expand the authorizations previously provided. It simply allows those intended to receive bond debt reimbursement to do so.

We believe this affects the Municipality of Anchorage and the Northwest Arctic Borough.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

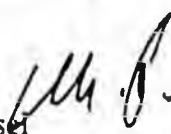
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 25, 2001

SUBJECT: Sectional Summary of HB 90 (Municipal bond reimbursement)

TO: Representative Eldon Mulder
Attn: Denny

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 14.11.100(a)(10) to provide that municipal bonds authorized after June 30, 1998, are eligible for reimbursement from the state without requiring compliance with AS 14.11.100(j)(1), that requires the total cost of each project be listed on the ballot for the bond issue.

Section 2. Amends AS 14.11.100(j) to provide that municipal bonds authorized after June 30, 1998 under AS 14.11.100(a)(10), are eligible for reimbursement from the state without requiring compliance with AS 14.11.100(j)(1), that requires the total cost of each project be listed on the ballot for the bond issue.

Section 3. Makes the Act retroactive to July 1, 2000.

Section 4. Effective date.

MFF:glc
01-056.glc



Anchorage School District

4600 DeWarr Road
P.O. Box 156614
Anchorage, Alaska 99519-6614
(907) 742-4000

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Harriet A. Drummond

Debbie Oxlander

SUPERINTENDENT

Bob Christie

February 1, 2001

Dear Representative Mulder:

On behalf of the voters of Anchorage and the Anchorage School District, I wish to thank you for sponsoring HB 90 "An act relating to reimbursement of municipal bonds for school construction."

The passage of this bill will enable the Anchorage School District to seek State debt reimbursement eligibility under HB 281 for projects passed by the voters of Anchorage in April 2000.

Pertinent Information

House Bill 281 approved by the Legislature during the last session provides for 70 percent debt reimbursement for bonds authorized by voters after June 30, 1998. Based on student enrollment, Anchorage School District is eligible for debt reimbursement on \$77.897 million of projects approved by voters after June 30, 1998 and until July 1, 2004. Anchorage voters approved \$77.9 million of projects on Proposition 13 in April 2000.

Even though the voters approved the bonds during the specified time period, projects contained in Proposition 13 are currently not eligible for debt reimbursement. As in prior bills that have provided debt reimbursement on projects approved by voters prior to the legislation, HB 281 did not contain language that allowed certain requirements to be waived. These requirements apply only if State debt reimbursement is applicable. In this case, the specific projects had not received prior approval by the Department of Education and Early Development (DEE) before being placed on the ballot. Certain required ballot language, such as estimated total interest and estimated total amounts that will be paid by the State and by the municipality, were not on the ballot because based on Bond Counsel's direction the percentage of State debt reimbursement was not known at that time.

Proposition 13 ballot language states: "There is currently no program for State reimbursement to Anchorage for payment of principal and interest on these bonds. If legislation were enacted to establish such a program, Anchorage would seek reimbursement pursuant to the terms of the legislation."

The changes to statute provided in HB 90 will enable the Anchorage School District to seek reimbursement for bond projects passed by voters last April.

Again, thank you for your sponsorship of this bill.

Sincerely,



Carol Comeau
Superintendent



**Anchorage
School
District**

January 8, 2001

Dear Representative Mulder:

4600 DeBar Road
P.O. Box 196614
Anchorage, Alaska 99519-6614
(907) 742-4000

Attached please find the memorandum prepared for the School Board regarding the bonds passed by the voters of Anchorage this past April.

As you can see from the memorandum, our Bond counsel has indicated

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SUPERINTENDENT

Bob Christal

that based on the ballot language in Proposition 13 and due to the fact that the District routinely lobbies the Legislature, the District has an obligation to request the Legislature to amend language to allow Proposition 13 projects approved by the voters in April 2000 to be eligible for State debt reimbursement.

Therefore, we are requesting that the Legislature move forward this January in revising the statute to enable us to apply the funds allocated to ASD in HB 281 to this past year's bonds.

Sincerely,

Larry Wiget
Executive Director, Public Affairs

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

December 1, 2000

TO: SCHOOL BOARD

FROM: CAROL COMEAU
SUPERINTENDENT (ACTING)

SUBJECT: RESPONSE TO REQUEST FOR INFORMATION

School Board Member, Debbie Ossiander, requested the following information on November 20, 2000. Janet Stokesbary, Chief Financial Officer, prepared the following response.

REQUEST:

Please confer with Bond Counsel to see if the District has any further obligation under the ballot language in Proposition 13 approved by the voters in April 2000 to obtain State debt reimbursement eligibility under HB 281 for these projects. Or, can the District choose to apply the State debt reimbursement eligibility to projects in future bond propositions.

RESPONSE:

House Bill 281 approved by the Legislature during the last session provides for 70 percent debt reimbursement for bonds authorized by voters after June 30, 1998. Based on student enrollment, Anchorage School District is eligible for debt reimbursement on \$77.897 million of projects approved by the voters after June 30, 1998 and until July 1, 2004. Anchorage voters approved \$77.9 million of projects on Proposition 13 in April 2000.

Even though the voters approved the bonds during the specified time period, projects contained in Proposition 13 are currently not eligible for debt reimbursement. As in prior bills that have provided debt reimbursement on projects approved by voters prior to the legislation, HB 281 did not contain language that allowed certain requirements to be waived. These requirements apply only if State debt reimbursement is applicable. In this case, the specific projects had not received prior approval by the Department of Education and Early Development (DEED) before being placed on the ballot. Certain required ballot language, such as estimated total interest and estimated total amounts that will be paid by the State and by the municipality, were not on the ballot because based on Bond Counsel's direction the percentage of State debt reimbursement was not known at that time.

Bond Counsel has indicated that based on the ballot language in Proposition 13 and due to the fact that the District routinely lobbies the Legislature, the District has an obligation to request the Legislature to amend language to allow Proposition 13 projects approved by the voters in April 2000 to be eligible for State debt reimbursement.

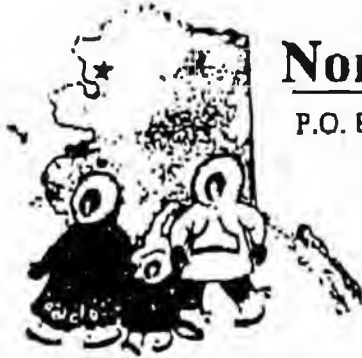
Proposition 13 ballot language states: "There is currently no program for State reimbursement to Anchorage for payment of principal and interest on these bonds. If legislation were enacted to establish such a program, Anchorage would seek reimbursement pursuant to the terms of such legislation."

It was also noted that the amount approved for the District in HB 281 and the amount in Proposition 13 are so close that it appears that it may have been the intent of the Legislature to have those projects covered.

Even if legislation were to be approved to waive prior DEED project approval and required ballot language, the projects most likely will still be required to meet specified criteria and be approved by the DEED.

CC/JS

Time to Prepare Response: 2 hours



Northwest Arctic Borough School District

P.O. Box 51 • Kotzebuc, Alaska 99752 • Phone (907) 442-3472 • Fax (907) 442-2392

January 31, 2001

Leading the Way

The Honorable Representative Eldon Mulder
Co-Chairman, House Finance Committee
House of Representatives
State Capital
Juneau, Alaska 99801-1182

RE: Letter of Support for HB90

Dear Representative Mulder:

The Northwest Arctic Borough School District (NWABSD) wishes to go on record in support of HB90; An Act Relating to Reimbursement of Municipal Bonds for School Construction; and Providing for an Effective Date. Additionally, on behalf of the School District, I wish to express my appreciation to you for introducing this legislation.

The NWABSD has a School construction project in the community of Selawik that is positively effected by your changes in this bill. We need the reference to prior approval by the Commissioner prior to Bond election to be replaced. This seems to be what Section 2. AS 14.11.100 Subsection 1 - 4 does. Thank you again for finding an expeditious solution to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Charles F. Mason".

Charles F. Mason,
Chief Executive Officer

cc: Senator Don Olson
Representative Reggie Joule
Commissioner Shirley Holloway, DEED
Mr. Eddie Jeans, DEED

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Thursday, May 25, 2000

Page: A1

Section: Nation

Edition: Final

SCHOOL REPAYMENT BILL FLAWED, OFFICIAL SAYS

By Rosemary Shinohara, Daily News Reporter

The Alaska Legislature voted to take care of 70 percent of the construction bond debt for many city and borough school districts this year -- including \$78 million in projects Anchorage voters approved in April.

But a state finance expert said Wednesday that the legislation is flawed and can't be used to pay off this year's projects.

The bill is meant to cover projects approved by local voters from 1998 to 2004. To work, it would have had to suspend state law that sets out what districts must do in advance of a bond election to qualify for state reimbursement -- such as list the 70-30 split for state and local payments on the ballot. It didn't do that, said Eddy Jeans, finance manager for the state Department of Education.

The news took legislators and Anchorage School District officials by surprise.

"You're kidding," said Anchorage Superintendent Bob Christal. "That's new news."

"That's interesting," said Sen. John Torgerson, R-Kenai, who was among key legislators drafting the school construction bill. "It's strange they didn't mention anything when we were debating the bill."

Torgerson later checked with legislative legal advisers and confirmed that the problem exists. "It's a technicality, but it's enough" to stop Anchorage and other districts from collecting state money to pay off debt this year, he said. He plans to begin work immediately on a bill for the 2001 Legislature to make the money available retroactively.

The bill includes \$92.9 million in state grants to replace five rural schools and build an elementary school addition in Kake. It includes state reimbursement for up to \$151 million worth of projects in 12 identified cities and boroughs, at the rate of 70 percent.

Local taxes would pay for the other 30 percent.

Anchorage's share of debt reimbursement would cover \$77.9 million in projects, for which the state would lay out \$54.5 million. The projects approved by Anchorage voters this year include

renovations to Chugiak, East, Bartlett and Service high schools and Wendler Middle School, and replacement of Denali Elementary.

Voters agreed to repay 100 percent of the costs, but Christal said the district wanted to use state reimbursement if it's available.

The Legislature debated various means of school construction funding and only agreed to this plan, a version of House Bill 281, in the final days of the session.

Sen. Gary Wilken, R-Fairbanks, said the HB 281 backers specifically attempted to set the debt reimbursement date back to 1998 because voters in the Matanuska-Susitna Borough have approved bonds that could be eligible for state reimbursement.

Gov. Tony Knowles had proposed the state spend more. His plan called for \$510 million for school construction and maintenance over the next three years. The state would pay for it through a combination of revenue bonds, proceeds from the national tobacco settlement, and general funds.

HB 281 has not yet reached his desk for signature, said Bob King, Knowles' press secretary. But Knowles made it clear during the session he was disappointed the Legislature didn't fund more maintenance projects in Bush schools. "He's pleased they funded the school needs that they did, but we don't think it went far enough," King said.

State Department of Education officials testified against the bill that finally passed because it didn't follow the state priority list for funding projects, which includes more rural projects and fewer in urban areas.

The school construction legislation came together under the shadow of a court ruling last year that Alaska is violating the state constitution and federal civil rights law by providing inadequate school buildings for rural students.

The plaintiffs in that lawsuit — rural school districts and parents — were attempting to achieve a settlement during the session. But they, too, left the session unsatisfied, said Don Evans, chief executive for the Southwest Region School District, and a representative of the plaintiffs.

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HB

90

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 16 2001

SENATE FINANCE
COMMITTEE

DATE: 3/1/01

FURTHER:

DATE TURNED IN TO OFFICE: 6 May 2001

Finance Committee considered **CS FOR HOUSE BILL NO. 90(FIN)**
MUNICIPAL SCHOOL BOND REIMBURSEMENT

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Education	3/5/01		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			x	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			⊗	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 90(FIN)
(H) Publish Date: 2/23/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Education & Early Dev.
Title: An Act relating to reimbursement of municipal BRU: School Debt Retirement
bonds for school construction, and providing for an . . . Component: School Debt Retirement
Sponsor: Rep. Mulder
Requester: House Finance Component Number: 153

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation, unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This Bill would amend AS 14.11.100(a)(10) & (j) and would remove the requirement that school construction projects be approved by the Department of Education and Early Development before being approved by the local voters. The Bill would also remove the requirement for municipalities to include on the ballot language detailing the costs shared by the State and Municipality and the potential impact to the tax payers of the municipality. This Bill would set the effective date retroactively to July 1, 2000.

Prepared by: Eddy Jeans, School Finance Manager Phone 455-8679
Division: Education Support Services Date/Time 2/5/01 12:00 AM
Approved by: Bruce Johnson, Deputy Commissioner of Education Date 2/5/01
Agency: Education & Early Development

For distribution information, call the Governor's Legislative Office

COMMITTEE COPY

SENATE FINANCE
COMMITTEE

Amendment Number: 1
Bill Number: HB 90
Sponsor: HOFFMAN Date: 4/24
Logged In By: CADLE

22-LS0424\C.1
Ford
3/12/01

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 90(FIN)

1 Page 5, following line 26:

FROM: SENATOR HOFFMAN

2 Insert a new bill section to read:

3 ** Sec. 3. AS 14.11.100(o) is amended to read:

4 (o) The total amount of school construction projects approved for
5 reimbursement by the department under (a)(10) of this section

6 (1) may not exceed \$153,569,000 [\$151,019,000]; and

7 (2) after June 30, 1998, and until July 1, 2004, shall be allocated as

8 follows:

9 (A) \$77,897,000 to projects in a municipality with a public
10 school enrollment of 25,000 or more students in fiscal year 2000, as
11 determined under AS 14.17.500;

12 (B) \$14,571,000 to projects in a municipality with a public
13 school enrollment of at least 15,000 but less than 25,000 students in fiscal year
14 2000, as determined under AS 14.17.500;

15 (C) \$14,143,000 to projects in a municipality with a public
16 school enrollment of at least 10,000 but less than 15,000 students in fiscal year
17 2000, as determined under AS 14.17.500;

18 (D) \$7,429,000 to projects in a municipality with a public
19 ~~school enrollment of at least 7,500 but less than 10,000 students in fiscal year~~
20 2000, as determined under AS 14.17.500;

21 (E) \$7,717,000 to projects in a municipality with a public
22 school enrollment of at least 5,000 but less than 7,500 students in fiscal year
23 2000, as determined under AS 14.17.500;

24 (F) \$2,660,000 to projects in a municipality with a public

1 school enrollment of at least 2,750 but less than 3,000 students in fiscal year
2 2000, as determined under AS 14.17.500;

3 (G) \$454,000 to projects in a municipality with a public school
4 enrollment of at least 2,400 but less than 2,750 students in fiscal year 2000, as
5 determined under AS 14.17.500;

6 (H) \$22,790,000 to projects in a municipality with a public
7 school enrollment of at least 2,050 but less than 2,400 students in fiscal year
8 2000, as determined under AS 14.17.500;

9 (I) \$329,000 to projects in a municipality with a public school
10 enrollment of at least 1,700 but less than 1,750 students in fiscal year 2000, as
11 determined under AS 14.17.500;

12 (J) \$286,000 to projects in a municipality with a public school
13 enrollment of at least 650 but less than 725 students in fiscal year 2000, as
14 determined under AS 14.17.500;

15 (K) \$519,000 to projects in a municipality with a public school
16 enrollment of at least 500 but less than 525 students in fiscal year 2000, as
17 determined under AS 14.17.500;

18 (L) \$2,224,000 to projects in a municipality with a public
19 school enrollment of at least 425 but less than 482 students in fiscal year 2000,
20 as determined under AS 14.17.500;

21 (M) \$2,550,000 to projects in a municipality with a public
22 school enrollment of at least 350 but less than 373 students in fiscal year
23 2000, as determined under AS 14.17.500."

24
25 Renumber the following bill sections accordingly.

COMPANION BILL

22-LS0019A

SENATE BILL NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS TORGERSON, Pearce

Introduced: 1/8/01

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reimbursement of municipal bonds for school construction; and
2 providing for an effective date."

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

4 * Section 1. AS 14.11.100(a) is amended to read:

5 (a) During each fiscal year, the state shall allocate to a municipality that is a
6 school district the following sums:

7 (1) payments made by the municipality during the fiscal year two years
8 earlier for the retirement of principal and interest on outstanding bonds, notes, or other
9 indebtedness incurred before July 1, 1977, to pay costs of school construction;

10 (2) 90 percent of

11 (A) payments made by the municipality during the fiscal year
12 two years earlier for the retirement of principal and interest on outstanding
13 bonds, notes, or other indebtedness incurred after June 30, 1977, and before
14 July 1, 1978, to pay costs of school construction;

1 (B) cash payments made after June 30, 1976, and before July 1,
2 1978, by the municipality during the fiscal year two years earlier to pay costs
3 of school construction;

4 (3) 90 percent of

5 (A) payments made by the municipality during the fiscal year
6 two years earlier for the retirement of principal and interest on outstanding
7 bonds, notes, or other indebtedness incurred after June 30, 1978, and before
8 January 1, 1982, to pay costs of school construction projects approved under
9 AS 14.07.020(a)(11);

10 (B) cash payments made after June 30, 1978, and before July 1,
11 1982, by the municipality during the fiscal year two years earlier to pay costs
12 of school construction projects approved under AS 14.07.020(a)(11);

13 (4) subject to (h) and (i) of this section, up to 90 percent of

14 (A) payments made by the municipality during the current
15 fiscal year for the retirement of principal and interest on outstanding bonds,
16 notes, or other indebtedness incurred after December 31, 1981, and authorized
17 by the qualified voters of the municipality before July 1, 1983, to pay costs of
18 school construction, additions to schools, and major rehabilitation projects that
19 exceed \$25,000 and are approved under AS 14.07.020(a)(11);

20 (B) cash payments made after June 30, 1982, and before July 1,
21 1983, by the municipality during the fiscal year two years earlier to pay costs
22 of school construction, additions to schools, and major rehabilitation projects
23 that exceed \$25,000 and are approved under AS 14.07.020(a)(11); and

24 (C) payments made by the municipality during the current
25 fiscal year for the retirement of principal and interest on outstanding bonds,
26 notes, or other indebtedness to pay costs of school construction, additions to
27 schools, and major rehabilitation projects that exceed \$25,000 and are
28 submitted to the department for approval under AS 14.07.020(a)(11) before
29 July 1, 1983, and approved by the qualified voters of the municipality before
30 October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the
31 annual growth rate of average daily membership of the municipality is more

1 than 7 percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth
2 rate of average daily membership of the municipality is 12 percent or more;
3 payments made by a municipality under this subparagraph on total project
4 costs that exceed the amounts set out in (i) and (ii) of this subparagraph are
5 subject to (5)(A) of this subsection;

6 (5) subject to (h) - (j) of this section, 80 percent of

7 (A) payments made by the municipality during the fiscal year
8 for the retirement of principal and interest on outstanding bonds, notes, or
9 other indebtedness authorized by the qualified voters of the municipality

10 (i) after June 30, 1983, but before March 31, 1990, to
11 pay costs of school construction, additions to schools, and major
12 rehabilitation projects that exceed \$25,000 and are approved under
13 AS 14.07.020(a)(11); or

14 (ii) before July 1, 1989, and reauthorized before
15 November 1, 1989, to pay costs of school construction, additions to
16 schools, and major rehabilitation projects that exceed \$25,000 and are
17 approved under AS 14.07.020(a)(11); and

18 (B) cash payments made after June 30, 1983, by the
19 municipality during the fiscal year two years earlier to pay costs of school
20 construction, additions to schools, and major rehabilitation projects that exceed
21 \$25,000 and are approved by the department before July 1, 1990, under
22 AS 14.07.020(a)(11);

23 (6) subject to (h) - (j) and (m) of this section, 70 percent of payments
24 made by the municipality during the fiscal year for the retirement of principal and
25 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified
26 voters of the municipality on or after April 30, 1993, but before July 1, 1996, to pay
27 costs of school construction, additions to schools, and major rehabilitation projects
28 that exceed \$200,000 and are approved under AS 14.07.020(a)(11);

29 (7) subject to (h) - (j) and (m) of this section, 70 percent of payments
30 made by the municipality during the fiscal year for the retirement of principal and
31 interest on outstanding bonds, notes, or other indebtedness authorized by the qualified

1 voters of the municipality after March 31, 1990, but before April 30, 1993, to pay
2 costs of school construction, additions to schools, and major rehabilitation projects;

3 (8) subject to (h), (i), ~~(j)(2) - (4)~~, and (n) of this section and after
4 projects funded by the bonds, notes, or other indebtedness have been approved by the
5 commissioner, 70 percent of payments made by the municipality during the fiscal year
6 for the retirement of principal and interest on outstanding bonds, notes, or other
7 indebtedness authorized by the qualified voters of the municipality on or after July 1,
8 1995, but before July 1, 1998, to pay costs of school construction, additions to
9 schools, and major rehabilitation projects that exceed \$200,000 and are approved
10 under AS 14.07.020(a)(11);

11 (9) subject to (h), (i), (j), and (n) of this section and after projects
12 funded by the bonds, notes, or other indebtedness have been approved by the
13 commissioner, 70 percent of payments made by the municipality during the fiscal year
14 for the retirement of principal and interest on outstanding bonds, notes, or other
15 indebtedness authorized by the qualified voters of the municipality on or after July 1,
16 1998, but before July 1, 2004, to pay costs of school construction, additions to
17 schools, and major rehabilitation projects that exceed \$200,000 and are approved
18 under AS 14.07.020(a)(11);

19 (10) subject to (h), (i), (j)(2) - (4) [(j)], and (p) of this section, and after
20 projects funded by the bonds, notes, or other indebtedness have been approved by the
21 commissioner, 70 percent of payments made by the municipality during the fiscal year
22 for the retirement of principal and interest on outstanding bonds, notes, or other
23 indebtedness authorized by the qualified voters of the municipality on or after June 30,
24 1998, to pay costs of school construction, additions to schools, and major
25 rehabilitation projects that exceed \$200,000, are approved under AS 14.07.020(a)(11),
26 and are not reimbursed under (n) of this section.

27 * Sec. 2. AS 14.11.100(j) is amended to read:

28 (j) Except as provided in (l) of this section, the state may not allocate money
29 to a municipality for a school construction project under (a)(5), (6), (7), or (9) [. OR
30 (10)] of this section unless the municipality complies with the requirements of (1) - (4)
31 of this subsection, the project is approved by the commissioner before the local vote

1 on the bond issue for the project or for bonds authorized after March 31, 1990, but on
 2 or before April 30, 1993, the bonds are approved by the commissioner before
 3 reimbursement by the state, and the local vote occurs before July 1, 1987, or after
 4 June 30, 1988. In approving a project under this subsection, and to the extent required
 5 under (a)(8) or (10) of this section, the commissioner shall require

6 (1) the municipality to include on the ballot for the bond issue, for
 7 bonds authorized on or before March 31, 1990, or after April 30, 1993, the estimated
 8 total cost of each project including estimated total interest, estimated annual operation
 9 and maintenance costs, the estimated amounts that will be paid by the state and by the
 10 municipality, and the approximate amount that would be due in annual taxes on
 11 \$100,000 in assessed value to retire the debt;

12 (2) that the bonds may not be refunded unless the annual debt service
 13 on the refunding issue is not greater than the annual debt service on the original issue;

14 (3) that the bonds must be repaid in approximately equal annual
 15 principal payments or approximately equal debt service payments over a period of at
 16 least 10 years;

17 (4) the municipality to demonstrate need for the project by establishing
 18 that the school district has

19 (A) projected long-term student enrollment that indicates the
 20 district has inadequate facilities to meet present or projected enrollment;

21 (B) facilities that require repair or replacement in order to meet
 22 health and safety laws or regulations or building codes;

23 (C) demonstrated that the project will result in a reduction in
 24 annual operating costs that economically justifies the cost of the project; or

25 (D) facilities that require modification or rehabilitation for the
 26 purpose of improving the instructional program.

27 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 RETROACTIVITY. This Act is retroactive to July 1, 2000.

30 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



REPRESENTATIVE ELDON MULDER

DISTRICT 23 - MULDOON & FORT RICHARDSON

ALASKA STATE LEGISLATURE

HOUSE OF REPRESENTATIVES

"PROUD TO BE A MULDOONER"



HB 90

An Act relating to reimbursement of municipal bonds for school construction;
and providing for an effective date

Sponsor Statement

January 27, 2001

House Bill 90 corrects a technical error in HB 281, Chapter 130, SLA 2000, the school capital funding and bond debt reimbursement bill. The bill intended to provide bond debt reimbursement for several bond obligations previously approved by voters. Several districts had voters approve bonds prior to securing approval from the commissioner of Education and Early Development. This precluded them from securing intended reimbursement under the provisions of last year's bill.

HB 90 corrects the technical error. It does not expand the authorizations previously provided. It simply allows those intended to receive bond debt reimbursement to do so.

We believe this affects the Municipality of Anchorage and the Northwest Arctic Borough.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 25, 2001

SUBJECT: Sectional Summary of HB 90 (Municipal bond reimbursement)

TO: Representative Eldon Mulder
Attn: Denny

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 14.11.100(a)(10) to provide that municipal bonds authorized after June 30, 1998, are eligible for reimbursement from the state without requiring compliance with AS 14.11.100(j)(1), that requires the total cost of each project be listed on the ballot for the bond issue.

Section 2. Amends AS 14.11.100(j) to provide that municipal bonds authorized after June 30, 1998 under AS 14.11.100(a)(10), are eligible for reimbursement from the state without requiring compliance with AS 14.11.100(j)(1), that requires the total cost of each project be listed on the ballot for the bond issue.

Section 3. Makes the Act retroactive to July 1, 2000.

Section 4. Effective date.

MFF:glc
01-056.glc

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Thursday, May 25, 2000

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Section: Nation

Edition: Final

SCHOOL REPAYMENT BILL FLAWED, OFFICIAL SAYS

By Rosemary Shinohara, Daily News Reporter

The Alaska Legislature voted to take care of 70 percent of the construction bond debt for many city and borough school districts this year -- including \$78 million in projects Anchorage voters approved in April.

But a state finance expert said Wednesday that the legislation is flawed and can't be used to pay off this year's projects.

The bill is meant to cover projects approved by local voters from 1998 to 2004. To work, it would have had to suspend state law that sets out what districts must do in advance of a bond election to qualify for state reimbursement -- such as list the 70-30 split for state and local payments on the ballot. It didn't do that, said Eddy Jeans, finance manager for the state Department of Education. The news took legislators and Anchorage School District officials by surprise.

"You're kidding," said Anchorage Superintendent Bob Christal. "That's new news."

"That's interesting," said Sen. John Torgerson, R-Kenai, who was among key legislators drafting the school construction bill. "It's strange they didn't mention anything when we were debating the bill."

Torgerson later checked with legislative legal advisers and confirmed that the problem exists. "It's a technicality, but it's enough" to stop Anchorage and other districts from collecting state money to pay off debt this year, he said. He plans to begin work immediately on a bill for the 2001 Legislature to make the money available retroactively.

The bill includes \$92.9 million in state grants to replace five rural schools and build an elementary school addition in Kake. It includes state reimbursement for up to \$151 million worth of projects in 12 identified cities and boroughs, at the rate of 70 percent.

Local taxes would pay for the other 30 percent.

Anchorage's share of debt reimbursement would cover \$77.9 million in projects, for which the state would lay out \$54.5 million. The projects approved by Anchorage voters this year include

renovations to Chugiak, East, Bartlett and Service high schools and Wendler Middle School, and replacement of Denali Elementary.

Voters agreed to repay 100 percent of the costs, but Christal said the district wanted to use state reimbursement if it's available.

The Legislature debated various means of school construction funding and only agreed to this plan, a version of House Bill 281, in the final days of the session.

Sen. Gary Wilken, R-Fairbanks, said the HB 281 backers specifically attempted to set the debt reimbursement date back to 1998 because voters in the Matanuska-Susitna Borough have approved bonds that could be eligible for state reimbursement.

Gov. Tony Knowles had proposed the state spend more. His plan called for \$510 million for school construction and maintenance over the next three years. The state would pay for it through a combination of revenue bonds, proceeds from the national tobacco settlement, and general funds.

HB 281 has not yet reached his desk for signature, said Bob King, Knowles' press secretary. But Knowles made it clear during the session he was disappointed the Legislature didn't fund more maintenance projects in Bush schools. "He's pleased they funded the school needs that they did, but we don't think it went far enough," King said.

State Department of Education officials testified against the bill that finally passed because it didn't follow the state priority list for funding projects, which includes more rural projects and fewer in urban areas.

The school construction legislation came together under the shadow of a court ruling last year that Alaska is violating the state constitution and federal civil rights law by providing inadequate school buildings for rural students.

The plaintiffs in that lawsuit -- rural school districts and parents -- were attempting to achieve a settlement during the session. But they, too, left the session unsatisfied, said Don Evans, chief executive for the Southwest Region School District, and a representative of the plaintiffs.

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Anchorage School District

4600 DeLarr Road
P.O. Box 156614
Anchorage, Alaska 99519-6614
(907) 742-4000

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DeDe Osklander

SUPERINTENDENT

UDD Christal

February 1, 2001

Dear Representative Mulder:

On behalf of the voters of Anchorage and the Anchorage School District, I wish to thank you for sponsoring HB 90 "An act relating to reimbursement of municipal bonds for school construction."

The passage of this bill will enable the Anchorage School District to seek State debt reimbursement eligibility under HB 281 for projects passed by the voters of Anchorage in April 2000.

Pertinent Information

House Bill 281 approved by the Legislature during the last session provides for 70 percent debt reimbursement for bonds authorized by voters after June 30, 1998. Based on student enrollment, Anchorage School District is eligible for debt reimbursement on \$77.897 million of projects approved by voters after June 30, 1998 and until July 1, 2004. Anchorage voters approved \$77.9 million of projects on Proposition 13 in April 2000.

Even though the voters approved the bonds during the specified time period, projects contained in Proposition 13 are currently not eligible for debt reimbursement. As in prior bills that have provided debt reimbursement on projects approved by voters prior to the legislation, HB 281 did not contain language that allowed certain requirements to be waived. These requirements apply only if State debt reimbursement is applicable. In this case, the specific projects had not received prior approval by the Department of Education and Early Development (DEE) before being placed on the ballot. Certain required ballot language, such as estimated total interest and estimated total amounts that will be paid by the State and by the municipality, were not on the ballot because based on Bond Counsel's direction the percentage of State debt reimbursement was not known at that time.

Proposition 13 ballot language states: "There is currently no program for State reimbursement to Anchorage for payment of principal and interest on these bonds. If legislation were enacted to establish such a program, Anchorage would seek reimbursement pursuant to the terms of the legislation."

The changes to statute provided in HB 90 will enable the Anchorage School District to seek reimbursement for bond projects passed by voters last April.

Again, thank you for your sponsorship of this bill.

Sincerely,



Carol Comeau
Superintendent



Anchorage School District

January 8, 2001

Dear Representative Mulder:

4600 DeBarr Road
P.O. Box 196614
Anchorage, Alaska 99519-0614
(907) 742-4000

Attached please find the memorandum prepared for the School Board regarding the bonds passed by the voters of Anchorage this past April.

SCHOOL BOARD

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SUPERINTENDENT

Rob Christal

As you can see from the memorandum, our Bond counsel has indicated

that based on the ballot language in Proposition 13 and due to the fact that the District routinely lobbies the Legislature, the District has an obligation to request the Legislature to amend language to allow Proposition 13 projects approved by the voters in April 2000 to be eligible for State debt reimbursement.

Therefore, we are requesting that the Legislature move forward this January in revising the statute to enable us to apply the funds allocated to ASD in HB 281 to this past year's bonds.

Sincerely,

Larry Wiget
Executive Director, Public Affairs

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

December 1, 2000

TO: SCHOOL BOARD

FROM: CAROL COMEAU
SUPERINTENDENT (ACTING)

SUBJECT: RESPONSE TO REQUEST FOR INFORMATION

School Board Member, Debbie Ossiander, requested the following information on November 20, 2000. Janet Stokesbary, Chief Financial Officer, prepared the following response.

REQUEST:

Please confer with Bond Counsel to see if the District has any further obligation under the ballot language in Proposition 13 approved by the voters in April 2000 to obtain State debt reimbursement eligibility under HB 281 for these projects. Or, can the District choose to apply the State debt reimbursement eligibility to projects in future bond propositions.

RESPONSE:

House Bill 281 approved by the Legislature during the last session provides for 70 percent debt reimbursement for bonds authorized by voters after June 30, 1998. Based on student enrollment, Anchorage School District is eligible for debt reimbursement on \$77.897 million of projects approved by the voters after June 30, 1998 and until July 1, 2004. Anchorage voters approved \$77.9 million of projects on Proposition 13 in April 2000.

Even though the voters approved the bonds during the specified time period, projects contained in Proposition 13 are currently not eligible for debt reimbursement. As in prior bills that have provided debt reimbursement on projects approved by voters prior to the legislation, HB 281 did not contain language that allowed certain requirements to be waived. These requirements apply only if State debt reimbursement is applicable. In this case, the specific projects had not received prior approval by the Department of Education and Early Development (DEED) before being placed on the ballot. Certain required ballot language, such as estimated total interest and estimated total amounts that will be paid by the State and by the municipality, were not on the ballot because based on Bond Counsel's direction the percentage of State debt reimbursement was not known at that time.

Bond Counsel has indicated that based on the ballot language in Proposition 13 and due to the fact that the District routinely lobbies the Legislature, the District has an obligation to request the Legislature to amend language to allow Proposition 13 projects approved by the voters in April 2000 to be eligible for State debt reimbursement.

Proposition 13 ballot language states: "There is currently no program for State reimbursement to Anchorage for payment of principal and interest on these bonds. If legislation were enacted to establish such a program, Anchorage would seek reimbursement pursuant to the terms of such legislation."

It was also noted that the amount approved for the District in HB 281 and the amount in Proposition 13 are so close that it appears that it may have been the intent of the Legislature to have those projects covered.

Even if legislation were to be approved to waive prior DEED project approval and required ballot language, the projects most likely will still be required to meet specified criteria and be approved by the DEED.

CC/JS

Time to Prepare Response: 2 hours



Northwest Arctic Borough School District

P.O. Box 51 • Kotzebue, Alaska 99752 • Phone (907) 442-3472 • Fax (907) 442-2392

January 31, 2001

Leading the Way

The Honorable Representative Eldon Mulder
Co-Chairman, House Finance Committee
House of Representatives
State Capital
Juneau, Alaska 99801-1182

Re: Letter of Support for HB90

Dear Representative Mulder:

The Northwest Arctic Borough School District (NWABSD) wishes to go on record in support of HB90; An Act Relating to Reimbursement of Municipal Bonds for School Construction; and Providing for an Effective Date. Additionally, on behalf of the School District, I wish to express my appreciation to you for introducing this legislation.

The NWABSD has a School construction project in the community of Selawik that is positively effected by your changes in this bill. We need the reference to prior approval by the Commissioner prior to Bond election to be replaced. This seems to be what Section 2, AS 14.11.100 Subsection 1 - 4 does. Thank you again for finding an expeditious solution to this matter.

Sincerely,

Charles F. Mason,
Chief Executive Officer

cc: Senator Don Olson
Representative Reggie Joule
Commissioner Shirley Holloway, DEED
Mr. Eddie Jeans, DEED

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SENATE FINANCE COMMITTEE

SIGN-IN

HB 90-MUNICIPAL SCHOOL BOND REIMBURSEMENT

NAME: Eddy Jeans Subject/Bill No: HB 90
Co./Dept./Title: School Finance Manager Phone: 465-8679
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions