

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2840

HB

81

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 11, 2005

FURTHER REFERRALS:

Date of Committee Action: 3/7/05

The FINANCE Committee considered:

HB 81

HOUSE BILL NO. 81

CONTRACTOR LICENSE ENFORCEMENT

"An Act establishing an administrative fine and procedure for construction contractors in certain circumstances; increasing the amount of a civil penalty for persons acting in the capacity of contractors or home inspectors; modifying the elements of a crime involving contractor registration and residential contractors; and exempting the administrative hearings for imposing an administrative fine on construction contractors from the hearings conducted by the office of administrative hearings in the Department of Administration."

Recommends it be replaced with HCS or CS for HB 81 (LTC)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - CED
 - COR
 - CRF
 - EED
 - DEC
 - DFG
 - GOV
 - HSS
 - LEG
 - LAW
 - LWF
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DCCED	#1			✓
LWF	#2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Carl E. Moses</i>	Hawker	X			
<i>Carl E. Moses</i>	MOSES			X	
<i>[Signature]</i>				X	
<i>[Signature]</i>	Bill Statie			X	
<i>[Signature]</i>	CRIST			✓	
<i>[Signature]</i>	FESTED	X			
<i>[Signature]</i>	Kelly			X	
Chair <i>[Signature]</i>	Meyer	✓			
Chair <i>[Signature]</i>	Chenault			X	

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 81(L&C)
(H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Contractor License Enforcement RDU Occupational Licensing (117)
Sponsor Anderson Component Occupational Licensing
Requester House Labor and Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 81 establishes an administrative fine and procedure for construction contractors in certain circumstances. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144
Division: Occupational Licensing Date/Time: 1/21/05 2:31 PM
Approved by: Edgar Blatchford, Commissioner Date: 1/21/2005
Agency: Commerce, Community & Economic Development

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 81(L&C)
(H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Contractor License Enforcement RDU: Labor Standards and Safety
Component: Mechanical Inspection
Sponsor: Representative Anderson
Requester: House Labor and Commerce Component Number: 346

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
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 (Worker Safety Account)						
Other (Worker Safety Account)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill proposes to establish a civil administrative fine to allow for an alternative to the current criminal penalty for contractor licensing violations. Criminal penalties are difficult to pursue for contractor licensing violations. The standard of proof and the formality required in the investigation process are much higher in a criminal case and the District Attorney must agree to pursue the case to achieve a penalty. When weighed against other criminal violations competing for the District Attorney's time, licensing violations are generally a low priority and may not be prosecuted. The administrative civil fine is expected to provide a more efficient means of enforcement. The fiscal impacts of the administrative fine and hearing process are not expected to be significant and will be absorbed at current funding levels. The administrative fines are expected to produce unrestricted General Fund revenues. The specific amount of revenue cannot be accurately estimated.

Prepared by: Grey Mitchell, Director Phone: (907) 465-4855
Division: Labor Standards and Safety Date/Time: 1/20/05 1:23 PM
Approved by: Greg O'Claray, Commissioner Date: 1/20/2005
Agency: Department of Labor and Workforce Development

3/7/05

Amendment 1

moved 3/7/05

failed 1-8

HB 81 (L&C)

by Representative Holm

Delete:

On page 4, line 18

“whether” and “or a different”

Labor/handyman services should be allowed to perform under \$5000 dollars of work for “different” licensed contractors or owner builders. This practice is precluded on page 4, line 18. The words “whether” and “or a different” should be removed. The remaining sentence would ensure that a “Handyman” could not simply break up the same job into \$5000 dollar chunks and skirt the law.

Alaska State Legislature

Representative Jim Holm
District 9

Session

Capitol Building, Room 110
Juneau, AK 99801
Phone: (907) 465-3466
Fax: (907) 465-2937



Interim

119 N. Cushman St.
Fairbanks, AK 99701
Phone: (907) 456-7423
Fax: (907) 451-9293

DATE: March 7, 2005
TO: Todd Larkin
FROM: Barbara Cotting, staff for Rep. Jim Holm

Per my phone conversation last week with Legislative Legal staff about current law and proposed fines as they pertain to the two examples you cited relative to a "handy-man" business:

1. In example 1, working for and retaining some of your current customers would clearly be illegal.
2. In example 2, if the teacher hires anyone else, licensed or not, he would be breaking the law.

Both examples are covered in current statute. HB 81 would additionally subject "handy-man" license holders to new daily fines.

Example #1: An unregistered contractor (handy man) agrees to install 5 door handles, one wall of siding, six window trims and 220 feet of soffet material on a home that is being constructed by a general contractor (his customer). The home project will total \$160,000 dollars and be completed by the General contractor who is also the project owner; however, the total work done by the "handyman" will be under \$5000 dollars and he has no owner interest in the project.

Additional facts for this example:

- None that I can see
- If additional facts are needed to render an opinion, insert an assumption that would make the example illegal and one that would make the example legal. (Only if there are not enough facts to render an opinion.)

Question:

Under the existing statute language sited in HB81 on page 4, lines 17 & 18, is the above mentioned contract arrangement unlawful? This is important and RELEVANT to confirm because HB81 is creating a new fine structure and postponing access to the courts if a licensee is cited under this law.

Specifically, the number "8" exemption seems to be denied because, the work performed by the handyman "...is only a part of a larger or major operation,... [valued over \$5000] ...undertaken by... a different contractor".

The language seems plain to me. Representative Coghill and the members of the Finance committee will need a legal opinion to confirm or refute my findings in order to cast an informed vote.

Example #2: A retired Alaska teacher owns 40 acres of land off Nordale road. It is subdivided and has an existing access road. If this teacher builds a house with a bank loan to rent out and takes out an equity loan on that house to build another rental; then repeats that process to complete 5 rental homes in 3 years but, never occupies any of them and acts as his own general contractor for each project... has he just broken the law? (I know of retired teachers that did this exact thing or sold the houses as they built them to pad a small retirement)

Additional facts for example #2:

- The owner never hires a Licenced general contractor home builder.
- He does hire "unregistered contractors" on two different occasions to do miscellaneous portions of work on each of the homes.
- Neither of those contractors exceed \$5000 dollars worth of service.
- He hires "licensed trade subcontractors" for some phases of construction some of the time i.e. electrician, plumber and framer.

- If these facts are incomplete to render an opinion, insert an assumption that would make the project illegal and one that would make the project legal. (only if the facts are not sufficient to render an opinion)

As I read HB81 (the existing and proposed law), it seems that the actions of the retired teacher above are outlawed unless he moves into each property for 2 years; or, unless he hires a general contractor for each project.

Before the committee votes on the 'two year' occupation requirement, they should be fully informed of its effect on this common practice example.

Basis for the proposed changes to existing law cited by HB81:

The current law is poorly written for application to the real market, it has been largely overlooked because the effected license holders have no lobby presence and they rarely have time or cause to reread the law concerning license parameters. Beyond that, the law was rarely applied or enforced for lack of solid legal cases against offenders. If the legislature now intends to aggressively enforce this law outside the courts then we should correct the broken language in it to reflect the true labor market.

1. The language that speaks to advertising on page 4, line 21 needs to be more specific. It should only allow for a violation when the advertising "clearly indicates to the public that the person is a construction contractor, home builder or specialty trade contractor..." other than handyman or general labor Svc.,
2. Labor/handyman svcs should be allowed to perform under \$5000 dollars of work for "different" licensed contractors or owner builders. This practice is precluded on page 4, line 18. The words "[whether]" and "[or a different]" should be removed. The remaining sentence would ensure that a "Handyman" could not simply break up the same job into \$5000 dollar chunks and skirt the law.
3. The proposed occupancy requirement on page 5 must be expanded to allow a second option. A 3 year ownership and rental history should satisfy it or... maybe ownership alone would meet the goal. I pick three years for an important reason. less time is not long enough for serious construction flaws to surface and more years would simply be burdensome and unnecessary.
4. Page 2, paragraphs b) and c) are very troubling. These fines are just like traffic tickets (! ut way bigger). They should be challengeable in court before a magistrate just like traffic tickets. We do not need to create new government positions and legal recourse should not be delayed, regardless. If the department has proof of wrongdoing then they can present it to the lower court and the inspector who issued the ticket should have to appear. This satisfies the stated intent of not having to rely on the department of law or the AG's office. The references to "administrative hearings" should be deleted and replaced with district court language. No "administrative hearings"!
5. A statutory warranty should be created. Let the builders write it and then put it in statute.
6. Jobs valued at under \$5000 dollars for labor AND MATERIALS, do not support or justify an insurance policy. If they did, then the "licensed and insured" tradesmen contractors would be accepting those small jobs. Most are not bidding or accepting these small jobs. Therefore, the language requiring insurance over \$2500 on page 4 lines 23-25 should be deleted.

If you make the changes suggested here, the bill will meet the stated goals of the homebuilders and actually contain some consumer protection without outlawing legitimate small scale work by "handymen" and will allow owner builders to be held responsible for their work. It will also eliminate the legal loophole to being an

unlicensed home "dealer". Also, potential selective or malicious enforcement practices (and you know that will happen) will be reviewed by the lower courts at low cost to the citizen and the department.

I will be interested to hear why these are not all reasonable and fair changes to this bill, if the general contractors object.

Please try to discuss and make these changes and keep me informed.

Thanks

Todd Larkin

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Sectional Analysis for HB 81 (L&C) BY: Representative Tom Anderson

Section 1. Amends AS 08.18.117. Adds: Except as provided for in AS 08.18.125 either removes [Either]. This change allows the Departments to also issue administrative fines as well as citations.

Section 2. Adds a new section to AS 08.18

AS 08.18.125

- (a) Allows the Department to impose a \$1000 fine for a first offense and a \$1500 fine for all subsequent offenses against a person who violates AS 08.18.011 or 08.18.025
- (b) The Department must issue a written notice of the fine as well as the reason, a copy of the applicable procedures and notice for an opportunity to request a hearing. The hearing must be made within 10 days after the notice on the fine
- (c) If the Department receives a hearing request within 10 days of the fine being noticed a hearing must be scheduled no earlier than 10 days after the request is made
- (d) The decisions of the hearing officer is final subject to review by a superior court
- (e) A fine may not be imposed on a contractor or home inspector operating in an area with a population of less than 1000 people that is not connected to Anchorage or Fairbanks by rail or road

Section 3. Amends AS 08.18.131. Adds: \$1,000 and removes [\$250]
This change increases the amount a superior court may fine a person from \$250 to \$1000.

Section 4. Adds language to the previous statute to include contractors who have been previously convicted of violations or who have been fined. Also makes all other violations of this chapter punishable under chapter 12

Section 5. AS 44.64.030 (a) is amended Adds: AS 08.18.125
Changes the contractor licensing exemption for people building personal use buildings to add an occupancy requirement of two years. Also provides for a hardship exemption to the two year requirement.

Section 6. AS 44.64.030(a)(6) is amended Adds: AS 08.18.125,
Places the Administrative Hearings created in Section 2 of the bill under the jurisdiction of the Office of Administrative Hearings

Section 7. Adds to the uncodified law of the State of Alaska. Violations discussed in Sections 2-4 of this bill apply after the effective date of this Act. Section 4 is retroactive.

Section 8. Revisor's note. The changes made in Section 5 of this bill must be rectified with Secs. 82 and 96 ch. 163 SLA 2004 so that both are given effect

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

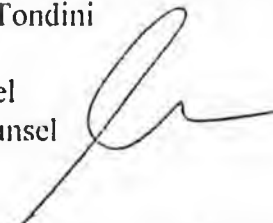
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 10, 2005

SUBJECT: Contractors (CSHB 81(L&C) (Work Order No.24-LS0144\1))

TO: Representative Lesil McGuire, Chair, House Judiciary Committee
Attn: Vanessa Tondini

FROM: Jean M. Mischel
Legislative Counsel 

The House Judiciary Committee has requested an opinion regarding equal protection issues raised by CSHB 81(L&C), pertaining to construction contractors and home inspectors. The bill contains two provisions that raise the possibility of an equal protection challenge, but the likelihood of prevailing is probably low if the state can demonstrate a legitimate interest that is fairly and substantially related to the differential treatment.

The first provision of the bill that raises equal protection issues is at sec. 2, page 2, lines 28-30, that exempts contractors and home inspectors working in areas with populations of less than 1,000 and that are not connected to Anchorage or Fairbanks by rail or road from the imposition of an administrative fine for second and subsequent violations of the applicable licensing laws.

The second provision of the bill that raises equal protection issues (as well as other constitutional questions) is the authorization in bill section 2 generally of the imposition of an administrative fine for contractors and home inspectors in non-rural areas in addition to the current availability of citations and civil penalties for the same violation.

Alaska's equal protection clause is found in Article I, Section 1 of the Constitution of the State of Alaska: "all persons are equal and entitled to equal rights, opportunities, and protection under the law." Amendment XIV, Section 1 of the Constitution of the United States provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

The equal protection clause does not mean that the state has to treat everyone equally. It only requires that similarly situated people be treated equally. *Rutter v. State*, 963 P.2d 1007, 1013 (Alaska 1998); *Shepherd v. State, Dep't of Fish & Game*, 897 P.2d 33, 43, 44 (Alaska 1995). The threshold question in any equal protection analysis is whether similarly situated individuals are being treated differently. *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391, 396 (Alaska 1997).

Representative Lesil McGuire

February 10, 2005

Page 2

Assuming that a court found that the contractors working in rural and non-rural areas were similarly situated, it would apply the full sliding scale equal protection analysis. See *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391, 396 (Alaska 1997). The contractors and home owners' interests impaired by CSHB 81(L&C) would likely be found to be economic interests. Under Alaska law, economic interests are entitled only to "minimum scrutiny." See *Underwood v. State*, 881 P.2d 322, 327 (Alaska 1994). At the minimum level of scrutiny, the state only needs to show that the challenged enactment "was designed to achieve a legitimate governmental objective, and that the means bear a 'fair and substantial' relationship to the accomplishment of that objective." *Id.* (citations omitted).

Since contractors and home inspectors working in rural areas may be construed by a court not to be similarly situated with non-rural contractors and home inspectors, the equal protection principles may be found to be inapplicable in both instances of differential treatment.

If a court does find them to be similarly situated, however, the court will look for a legitimate governmental objective that is fairly and substantially related to that objective. With regard to the imposition of administrative fines, two possible legitimate objectives are efficiency and cost. The procedures allowed for the imposition of an administrative fine would require enforcement personnel and hearings to be conducted in remote areas at great expense. The risks and fines associated with enforcement in those areas may be too small to justify that level of inefficiency and expense. This may be particularly persuasive in the context of the availability of two other penalty options in rural areas: citations and civil remedies.

With regard to the authorization of three different types of penalties for non-rural contractors and home inspectors, the legitimacy of the government objective will depend upon the standards used for selecting the penalty. As long as all non-rural contractors and home inspectors are treated the same (since they are clearly similarly situated) for each type of violation found to exist, the validity of the distinction for rural contractors and home inspectors will again turn on the court's perception of the legitimacy of the differential treatment for them.

If I may be of further assistance, please advise.

JMM:med

05-094.med

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, 2005

SUBJECT: Construction Contractors - CSHB 81(L&C)
(Work Order No. 24-LS0144\F)

TO: Representative Tom Anderson,
Chair of House Labor and Commerce Committee
Attn: Jon Bittner

FROM: Jean M. Mischel
Legislative Counsel



Enclosed is a draft CS for HB 81(L & C) incorporating a conceptual amendment to sec. 2 of the bill at sec. 08.18.125(c). I have not incorporated a second conceptual amendment involving sec. 3 that was described as a substitution of the term "specialty contractor" for "home inspector" as that term is used in AS 08.18.131 relating to civil penalties. It is my understanding that, in proposing this second amendment, the committee was operating under the misunderstanding that those terms were substituted for each other by the 23rd Legislature. They were not. In separate bills, the term "specialty contractor" was clarified by adding AS 08.18.024(b) (sec. 1, ch. 144 SLA 2004) and related changes, and the concept of "home inspector" was added as a regulated entity throughout AS 08.18, including a list of prohibited acts and exemptions related to home inspectors under AS 08.18.152 and 08.18.156 (sec. 31, ch. 134 SLA 2003), for which the civil penalty applies.

A substitution of those terms, in this bill, for purposes of imposing a civil penalty would create confusion in the entire chapter and result in a redundancy in the civil penalty section itself. The confusion would come from the deletion of "home inspectors" in a section that specifically cross-references "home inspection activities" while retaining the term "home inspectors" in all other sections of AS 08.18. Substituting the term "specialty contractors" in the civil penalty section would cause a specialty contractor to become subject to a civil penalty for violations of provisions that currently apply to a home inspector. In addition, a redundancy would result since two civil penalty provisions would apply to both "contractors", as used in the general sense to include specialty contractors, and to "specialty contractors", as used in a more narrow sense (for violations of home inspection activities).

For these reasons I advise that the second conceptual amendment to substitute the term "specialty contractor" for "home inspector" in section 3 of the bill be reconsidered and, on reconsideration, withdrawn.

Home Builders Protect Consumers From Illegal Contractors

Prepared by John Bitney, ASHBA lobbyist

April 13, 2004

During a meeting of the Board of Directors, the Alaska State Home Building Association (ASHBA) voted in early March to pursue solutions to the growing issue of unregistered contractors providing construction services illegally under the guise of a "handyman license".

Background

A handyman is a person providing construction services without a state registration as a contractor or subcontractor. Instead of meeting qualification standards and insurance requirements, the Division of Occupational Licensing currently has sold 1,678 business licenses in Alaska for "Construction-related EXEMPT from contractor registration" (code 2360).

Under current state law (AS.08.18) there are minimum requirements for persons who represent themselves as either contractors or specialty contractors. For example, contractors and specialty contractor must have a bond, general liability insurance, education/qualifications standards, and may not offer more than three trade services.

There is also an exemption from registering for work on a project where labor and materials and all other items is less than \$10,000. This exemption does not apply when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of the law, but enforcement can sometimes be difficult. For work priced at \$2,500 or more, some public liability and property damage insurance is required.

These exemption areas in state law have allowed the establishment and growth of over 1,600 unregistered contractor businesses in Alaska. Numerous reports have been made about these unregistered businesses offering construction services in violation of these laws, but enforcement efforts have proven to be difficult. The problem is that many consumers are unaware that their contractor may not be qualified to provide construction services, and even worse, have little or no insurance and warranty protections.

Josh Applebee

From: Sally Saddler [sally_saddler@commerce.state.ak.us]
Sent: Wednesday, January 19, 2005 11:57 AM
To: Josh Applebee
Cc: Bill J Rolfzen
Subject: List of Communities
Attachments: PopListforRepAnderson 011905.xls

Hi Josh!

Bill Rolfzen has pulled together the attached list of communities you requested.

This list is our best estimate of the communities that "are" and "are not" connected by road or rail to Anchorage or Fairbanks. The list is sorted by *No* and *Yes* and *Population*. You can change your population cutoff thresholds as you play with this!. The Community list was pulled from our community database which includes Alaska Native Village Statistical Areas (ANVSAs), Census Designated Places (CDPs), Incorporated Cities, and Incorporated Boroughs.

Let me know if you need additional info!

Sally Saddler
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811.0800
Phone: 907.465.2503
Fax: 907.465.5442
Email: sally_saddler@commerce.state.ak.us

1/20/2005

Community	2003 Population	On Road or Rail to Anchorage or Fairbanks
Afognak	0	N
Alpine	0	N
Belkofski	0	N
Bill Moore's Slough	0	N
Chuloonawick	0	N
Council	0	N
Cube Cove	0	N
Ekuk	0	N
Flat	0	N
Hamilton	0	N
Kaguyak	0	N
Kar.atak	0	N
King Island	0	N
Mary's Igloo	0	N
Napaimute	0	N
Ohogamiut	0	N
Paimiut	0	N
Pauloff Harbor	0	N
Port William	0	N
Umkumiute	0	N
Unga	0	N
Woody Island	0	N
Hobart Bay	1	N
Telida	2	N
Georgetown	3	N
Ivanof Bay	3	N
Prudhoe Bay	4	N
Prudhoe Bay	4	N
Solomon	4	N
Pope-Vannoy Landing	10	N
Thom's Place	11	N
Chisana	12	N
Excursion Inlet	12	N
Ugashik	12	N
Meyers Chuck	18	N
Alatna	21	N
Evansville	21	N
Rampart	21	N
Port Clarence	22	N
Lake Minchumina	23	N
Attu Station	24	N
Karluk	24	N
Halibut Cove	25	N
Beluga	26	N
Shemya Station	27	N
Wiseman	29	N
Kupreanof	30	N
Elfin Cove	32	N
Bettles	33	N

Community	2003 Population	Fairbanks
Birch Creek	33	N
Healy Lake	33	N
Point Baker	33	N
Red Dog Mine	35	N
Game Creek	36	N
Lutak	36	N
New Allakaket	38	N
Jakolof Bay	39	N
Platinum	40	N
Nikolski	41	N
Red Devil	41	N
Lime Village	43	N
Edna Bay	45	N
Pedro Bay	45	N
Chiniak	49	N
Stony River	49	N
Igiugig	50	N
Akhiok	51	N
Kasaan	55	N
Aleneva	56	N
Port Protection	57	N
Whitestone Logging Camp	60	N
Portage Creek	61	N
Oscarville	62	N
Takotna	63	N
Nelson Lagoon	64	N
Beaver	65	N
Hughes	65	N
Clark's Point	66	N
Whale Pass	67	N
False Pass	69	N
Pilot Point	70	N
Port Alexander	70	N
Lovelock	71	N
Sleetmule	72	N
Twin Hills	75	N
Hyder	77	N
Egegik	84	N
Chalkyitsik	86	N
Stevens Village	86	N
Port Heiden	87	N
Chignik	89	N
Chignik Lagoon	92	N
Iliamna	92	N
Skwentna	94	N
Atka	95	N
Cold Bay	95	N
Larsen Bay	96	N
Chenega Bay	99	N
Allakaket	102	N
Chuathbaluk	102	N

Community	2003 Population	Fairbanks
South Naknek	102	N
Port Alsworth	105	N
Perryville	106	N
Tenakee Springs	106	N
Pitkas Point	107	N
Anvik	108	N
Naukati Bay	109	N
Koyukuk	111	N
Tatitlek	111	N
Chignik Lake	113	N
Pelican	113	N
Kobuk	125	N
Covenant Life	126	N
Nikolai	127	N
Ekwok	128	N
Diomedea	129	N
Deering	131	N
Te:lin	137	N
Seldovia Village	138	N
Crooked Creek	146	N
Golovin	146	N
Shageluk	146	N
Andreafsky	149	N
Mud Bay	149	N
Saint George	149	N
Adak	150	N
Wales	158	N
Cottman Cove	163	N
Port Graham	165	N
Arctic Village	166	N
Grayling	166	N
Newhalen	167	N
Ruby	169	N
Ouzinkie	170	N
Hollis	178	N
Kokhanok	182	N
Tyonek	193	N
Venetie	199	N
Koliganek	200	N
Nunam Iqua	204	N
Nunam Iqua	204	N
Mokoryuk	205	N
Holy Cross	209	N
Old Harbor	211	N
Nanwalek	214	N
White Mountain	214	N
Nondalton	217	N
Mosquito Lake	219	N
Shaktolik	223	N
Nightmute	228	N
Kaltag	229	N

Community	2003 Population	Fairbanks
Upper Kalskag	231	N
Aleknagik	235	N
Teller	242	N
Goodnews Bay	245	N
Atkasuk	247	N
Port Lions	251	N
Shungnak	264	N
Point Lay	265	N
Lower Kalskag	267	N
Atmautluak	279	N
Eek	290	N
Tanana	290	N
Ambler	291	N
Huslia	291	N
Kaktovik	295	N
Seldovia	300	N
Tununak	304	N
Russian Mission	310	N
Brevig Mission	314	N
Anaktuvuk Pass	319	N
Newtok	329	N
Akiak	337	N
Koyuk	340	N
Elim	341	N
Nulato	342	N
Kwigillingok	343	N
Marshall	368	N
Hydaburg	370	N
Napakiaik	380	N
Tuntutuliak	381	N
King Salmon	385	N
Kivalina	388	N
Kongiganak	401	N
Manokotak	405	N
Kiana	408	N
Buckland	410	N
Saint Michael	413	N
McGrath	415	N
Nuiqsut	416	N
Napaskiak	419	N
Saxman	425	N
Chefornak	434	N
Gustavus	438	N
Tuluksak	464	N
Noatak	469	N
Scammon Bay	470	N
Thorne Bay	480	N
New Stuyahok	493	N
Nunapitchuk	498	N
Angoon	505	N
Kasigluk	529	N

Community	2003 Population	Fairbanks
Saint Paul	539	N
Aniak	551	N
Wainwright	553	N
Fox River	563	N
Pilot Station	564	N
Stebbins	570	N
Toksook Bay	572	N
Fort Yukon	574	N
Quinhagak	579	N
Saint Mary's	585	N
Shishmaref	594	N
Kotlik	609	N
Naknek	614	N
Akiachak	633	N
Gambell	647	N
Kipruk	649	N
Noorvik	649	N
Atakanuk	666	N
Womens Bay	667	N
Take	682	N
Yakutat	691	N
Savoonga	704	N
Point Hope	725	N
Kwethluk	730	N
King Cove	737	N
Unaakleet	741	N
Mountain Village	750	N
Emmonak	763	N
Galena	763	N
Akutan	787	N
Selawik	821	N
Togiak	824	N
Hoonah	851	N
Klawock	851	N
Chevak	884	N
Sand Point	947	N
Bristol Bay Borough	1105	N
Hooper Bay	1115	N
Craig	1174	N
Lazy Mountain	1188	N
Mellakatta	1398	N
Lake & Peninsula Borough	1628	N
Wrangell	2113	N
Kodiak Station	2192	N
Haines Borough	2327	N
Fishhook	2342	N
Cordova	2372	N
Dillingham	2373	N
Aleutians East Borough	2700	N
Butte	2931	N
Petersburg	3060	N

Community	2003 Population	Fairbanks
Kotzebue	3076	N
Nome	3448	N
Unalaska	4388	N
Unalaska	4388	N
Barrow	4417	N
Meadow Lakes	5443	N
Douglas	5483	N
Bethel	5899	N
Kodiak	6138	N
Northwest Arctic Borough	7301	N
Ketchikan	8002	N
Sitka	8891	N
Ketchikan Gateway Borough	13548	N
Kodiak Island Borough	13811	N
Juneau	31283	N
Uganik		N
Miller Landing	0	Y
Fort Greely	6	Y
Alcan Border	13	Y
Petersville	14	Y
Coldfoot	15	Y
Sunrise	15	Y
Livengood	20	Y
Chicken	21	Y
Tolsona	28	Y
Ferry	32	Y
Dot Lake	33	Y
Chase	34	Y
Four Mile Road	36	Y
Dot Lake Village	37	Y
Susitna	38	Y
Paxson	44	Y
McCarthy	53	Y
Eagle Village	59	Y
Nelchina	66	Y
Mendeltna	67	Y
Manley Hot Springs	73	Y
Crown Point	78	Y
Northway	82	Y
Chistochina	85	Y
Primrose	87	Y
Lowell Point	89	Y
Northway Village	95	Y
Circle	96	Y
Gulkana	98	Y
Northway Junction	98	Y
Tonsina	106	Y
Dry Creek	109	Y
Lake Louise	109	Y
Central	113	Y
Central	113	Y

Community	2003 Population	Fairbanks
Klukwan	114	Y
Slana	118	Y
Eagle	126	Y
Chitina	132	Y
McKinley Park	133	Y
Mentasta Lake	143	Y
Eyak	144	Y
Tanacross	144	Y
Silver Springs	148	Y
Hope	161	Y
Willow Creek	174	Y
Clam Gulch	176	Y
Coperville	176	Y
Whittier	178	Y
Tazlina	192	Y
Point MacKenzie	194	Y
Harding-Birch Lakes	210	Y
Gakona	214	Y
Moose Pass	221	Y
Cantwell	226	Y
Minto	234	Y
Chickaloon	242	Y
Glacier View	256	Y
Nikolaevsk	313	Y
Fox	316	Y
Cooper Landing	358	Y
Kenny Lake	369	Y
Copper Center	400	Y
Trapper Creek	426	Y
Eklutna	427	Y
Kachemak	473	Y
Happy Valley	503	Y
Nenana	519	Y
Kasilof	571	Y
Glennallen	574	Y
Moose Creek	574	Y
Anderson	592	Y
Two Rivers	592	Y
Knik River	654	Y
Pleasant Valley	677	Y
Big Delta	699	Y
Funny Rivor	705	Y
Buffalo Soapstone	756	Y
Ninilchik	777	Y
Skagway	845	Y
Talkeetna	847	Y
Salcha	865	Y
Salamatof	902	Y
Delta Junction	984	Y
Healy	1022	Y
Diamond Ridgo	1086	Y

Community	2003 Population	Fairbanks
Farm Loop	1124	Y
Sutton-Alpine	1174	Y
Cohoe	1201	Y
Houston	1339	Y
Tok	1435	Y
North Pole	1646	Y
Dellana	1691	Y
Haines	1715	Y
Fritz Creek	1740	Y
Ester	1774	Y
Bear Creek	1823	Y
Anchor Point	1826	Y
Willow	1838	Y
Girdwood	1850	Y
Denali Borough	1914	Y
Ridgeway	2011	Y
Seward	2733	Y
Big Lake	2839	Y
Gateway	3292	Y
Soldotna	4059	Y
Valdez	4060	Y
Nikiski	4357	Y
Eielson AFB	4437	Y
<hr/>		
Sterling	4888	Y
Homer	4893	Y
Palmer	5474	Y
Tanaina	5843	Y
Kalifornsky	6230	Y
Wasilla	6715	Y
Lakes	6980	Y
Kenai	7125	Y
North Slope Borough	7253	Y
Knik-Fairview	8488	Y
College	11929	Y
Fairbanks	29486	Y
Eagle River-Chugiak	30000	Y
Kenai Peninsula Borough	51220	Y
Matanuska-Susitna Borough	67473	Y
Fairbanks North Star Borough	82214	Y
Anchorage	274003	Y

Note: List includes Alaska Native Village Statistical Areas (ANVSAs), Censi

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



**Alaska State Home
Building Association**

8301 Schoon, Ste 200
Anchorage, Alaska 99518

A Resolution of the Alaska State Homebuilding Association (ASHBA) In Support of legislation to issue civil penalties against first-time violations by unregistered construction contractors

WHEREAS the Division of Occupational Licensing reports that there are over 1,600 business licenses for construction contractors who are not registered to perform construction projects over \$5,000; and

WHEREAS unregistered contractors are not required by state law to obtain general liability insurance or meet educational standards that are required for registered contractors; and

WHEREAS many builders and consumers have reported incidences where unregistered contractors are offering construction services in violation of state law; and

WHEREAS prosecution of violations by unregistered must done by the Department of Law through criminal procedures under current law; and

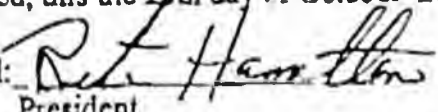
WHEREAS the Department of Law often gives a low priority to prosecuting these types of violations in consideration of budget restraints and the pursuit of more serious criminal violations; and

WHEREAS enforcement officers within the Department of Labor and/or the Department of Community & Economic Development could be given the authority to issue a civil penalty against first-time violations of construction contract laws;

BE IT THEREFORE RESOLVED that the ASHBA supports legislation to allow enforcement officers within the Department of Labor and/or the Department of Community & Economic Development to have the authority to issue civil penalties for first-time violations of construction contract laws by unregistered contractors, and

BE IT FURTHER RESOLVED that the ASHBA Board of Directors requests the Alaska Legislature to sponsor and pass such legislation during the 2005 Legislative Session.

Adopted, this the 28th day of October 2004.

Signed: 

President

Attest: 

Past President

New Handyman Legislation

Under current law, the State of Alaska investigates and enforces violations construction contractor laws. Both the Departments of Labor and Community & Economic Development have authority to pursue violations of work performed by unregistered construction contractors. For the most part, they rely upon the public to complain, and then they investigate (depending on the availability of resources).

Under current laws, these agencies enforce violation by issuing citations. After a citation is issued, it is then up to the Department of Law whether or not to prosecute the matter in Court.

A bill is proposed for next session (2005) that would amend the law to allow DCED to issue civil penalty violations for first-time violations. Instead of going through the Dept. of Law, a violator would either pay a fine (proposed at \$1,000) or appeal to an administrative hearing officer.

This system would be much more effective toward penalizing first-time violations quickly and effectively. Second-time and additional offenses would go through the criminal violation process.

Arguments against this proposal are expected to focus on the availability of due process within the administrative hearing process as opposed to the court system.

Handyman Issue Background

A handyman is a person providing construction services without a state registration as a contractor or subcontractor. In 2003, the Division of Occupational Licensing 1,678 business licenses in Alaska for "Construction-related EXEMPT from contractor registration" (code 2360).

Under current state law (AS.08.18) there are certain requirements for persons who represent themselves as either registered contractors or specialty contractors. For example, each must have a bond, general liability insurance, education/qualifications standards, and may not offer more than three specific construction trade services. There is an exemption for construction work on projects less than \$5,000.

With over 1,600 unregistered contractors operating under this exemption, numerous reports have been made about these unregistered businesses offering construction services in violation of the laws. Enforcement efforts have proven to be difficult. The problem is that many consumers are unaware that their contractor may not be qualified to provide construction services, and even worse, have little or no insurance and warranty protections.

Other Measures That Have Been Taken

HB542

Following the March meeting of ASHBA in Juneau, the House Labor & Commerce Committee introduced HB 542. HB542 lowers the project cost exemption from \$10,000 down to \$5,000, and expands the work that can be done by a specialty contractor.

This bill passed the Legislature and was signed into law by Governor Murkowski. ASHBA issued a letter of support for the legislation during committee testimony.

Elimination of Business License Exemption Code

After hearing from ASHBA and other contractors, the Division of Occupational Licensing announced the elimination of the business license code for "Construction-related EXEMPT from contractor registration" and created the handyman code (8101) and moved it to a different business lines category.

Occupational Licensing confirmed what ASHBA has been saying - there was too much abuse by allowing business licenses for exempt contractors under construction services. Consumers were sometimes easily confused with the reference to construction on the business license.

This new business line will hopefully help clear up any confusion about whether a business should or shouldn't be offering construction services.

Other Ideas

The following is a short of list of potential ways to address this issue that were brought forward by ASHBA Board members and others:

- Require title insurance agencies to establish a residential endorsement on all new-construction home sales

- Increase contractor licensure fees toward additional enforcement officers and efforts
- Eliminate all construction contractor exemptions – require state registration for all construction work

These last few suggestions were discussed by ASHBA's Board, but no actions have been taken to actively pursue them.

Vanessa Tondini

From: Rep. Lesil McGuire
Sent: Tuesday, February 08, 2005 2:41 PM
To: Vanessa Tondini
Subject: FW: HB 81 - Enforcement Actions Against Unlicensed ('Handyman') Contractors

From: Margene [mailto:desmet@alaska.com]
Sent: Thursday, February 03, 2005 7:56 PM
To: Rep. Lesil McGuire
Subject: HB 81 - Enforcement Actions Against Unlicensed ('Handyman') Contractors

Representative Lesil McGuire, Chair:

As a member of the Construction Industry in Alaska for 30 years, I urge you to support HB 81. As you are aware, there are problems with unlicensed contractors building homes in Alaska. These people continue to ignore the current statutes and thumb their noses at professional builders and remodelers. Your support of HB 81 would go a long way to protect Alaskan consumers from illegal contractors and help DOL enforcement officers pressure these individuals into current statute compliance.

As a member of the Board of Directors for the Alaska State Homebuilders Association representing over 250 licensed General Contractors, and as the President of the Southeast Alaska Building Industry Association (Juneau) representing approximately 35 licensed professionals locally in Juneau, I would respectfully urge you to consider support of HB 81 as a sensible solution to the enforcement of unlicensed contractors.

Thank you for your consideration.

Respectfully,

Jeffrey DeSmet

*Owner/ J. DeSmet Construction/Residential Building Contractor
President - Southeast Alaska Building Industry Association (SEABIA)
Board Member - Alaska State Homebuilders Association (ASHBA)*

2/8/2005

Vanessa Tondini

From: Rep. Lesil McGuire
Sent: Tuesday, February 08, 2005 2:40 PM
To: Vanessa Tondini
Subject: FW: HB81

From: Dianne Ireland [mailto:bestmix@alaska.net]
Sent: Thursday, February 03, 2005 3:04 PM
To: Rep. Lesil McGuire
Subject: HB81

- As a member of the construction industry we are very aware of the problems involved with unlicensed contractors. I support HB81 wholeheartedly. Something should definitely be done to protect the consumers.

Thanks for your support
Terry Best
CEO
Best Transit Mix, Inc.
Soldotna



FREE Emoticons for your email! [Click Here!](#)



Jon S. Bittner

From: Rep. Tom Anderson
Sent: Monday, February 07, 2005 6:59 AM
To: Jon S. Bittner
Subject: FW: Houe Bill 81

-----Original Message-----

From: Dennis G Watson [mailto:cwatson@alaska.net]
Sent: Saturday, February 05, 2005 10:57 PM
To: Rep. Tom Anderson; Representative_Pete_Kott@legis.state.ak.us
Subject: Houe Bill 81

Thanks for your support on this important bill.

Sincerely,

Dennis G Watson

Josh Applebee

From: Dave Kerr [Dave_Kerr@ci.juneau.ak.us]
Sent: Thursday, February 03, 2005 9:47 AM
To: Rep. Tom Anderson
Subject: HB81

Tom,
Thank you for supporting HB81
David Kerr, CBJ Building Inspector III

Vanessa Tondini

From: Rep. Lesil McGuire
Sent: Tuesday, February 08, 2005 2:43 PM
To: Vanessa Tondini
Subject: FW: House Bill 81

From: boost empire [mailto:boost79i@yahoo.com]
Sent: Monday, February 07, 2005 3:14 PM
To: Rep. Lesil McGuire
Cc: Rep. John Coghill; Rep. Nancy Dahlstrom; Rep. Max Gruenberg; Rep. Les Gara; Rep. Tom Anderson; Rep. Pete Kott
Subject: House Bill 81

Dear Representatives-

It has come to my attention that House Bill 81 is going to have a hearing on Wednesday, February 9th, 2005. House Bill 81, enforcement actions against unlicensed contractors is of great importance to me in that it affects my business on a daily basis. There are roughly 400 unlicensed "handymen" operating in the Anchorage area who refuse to get permits, refuse to stand by their warranty claims and who refuse to be straightforward with the owner as to what insurance they do or do not carry. We are constantly being called to repair their work after the fact.

It is absolutely crucial that the owner/builder definition be redefined and that handymen be required to be licensed and treated as a specialty contractor across the state. This levels the playing field. I urge you to support the passage of House Bill 81.

Thank You,

N. Claiborne Porter, Jr.
NCP Design/Build LTD

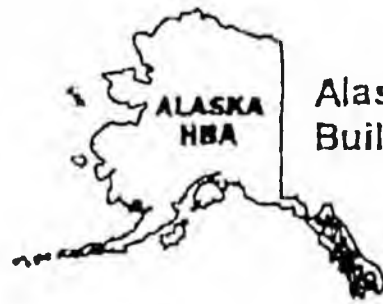
Do you Yahoo!?
Yahoo! Search presents - Jib Jab's 'Second Term'

Lines of Business:

23 - Construction - Total under this code: 7,099 as of January, 2004

Business Activity
TTL % of 23 Code

CONSTRUCTION (Six digit code requires an occupational license)		In AK	% of Total	Outside AK	% of Total	Total	Construction	Cross chk
2331	Land Subdivision, etc. (exempt no occ license required)	113	1.59%	7	0.10%	120	1.69%	120
233200	General Contractors	948	13.35%	39	0.55%	987	13.90%	987
233300	General Contractors (excluding residential)	1074	15.13%	312	4.39%	1386	19.52%	1386
Specialty Contractors								
234100	Road Construction	89	1.25%	13	0.18%	102	1.44%	102
234900	Construction but 234900 not a true code	5	0.07%	5	0.07%	10	0.14%	10
235100	Plumbing Heating and Air	244	3.44%	12	0.17%	256	3.61%	256
235200	Painting and Wall Covering	227	3.20%	19	0.27%	246	3.47%	246
235300	Electrical Contractors	235	3.31%	24	0.34%	259	3.65%	259
235400	Masonry, Drywall, Insulation, Tile Carpentry & Floor	305	4.30%	19	0.27%	324	4.56%	324
235500	Carpentry & Floor	810	11.41%	24	0.34%	834	11.75%	834
235600	Roofing, Siding and Sheet Metal	101	1.42%	16	0.23%	117	1.65%	117
235700	Concrete Contractors	89	1.25%	9	0.13%	98	1.38%	98
235800	Water Well Drilling	53	0.75%	1	0.01%	54	0.76%	54
235900	plaster, welding, gas tank and sewer systems, etc.)	479	6.75%	120	1.69%	599	8.44%	599
235991	Underground Storage Tank Workers	3	0.04%	2	0.03%	5	0.07%	5
2360	Construction-related EXEMPT from contractor registration.	1678	23.64%	19	0.27%	1697	23.90%	1697
2300	Entry Error; nonexistent code	1	0.01%	0	0.00%	1	0.01%	1
Blanks	No Entry	3	0.04%	1	0.01%		0.06%	4
Totals:		6457	90.96%	642	9.04%	7095	100.00%	7099



Alaska State Home
Building Association

8301 Schoon, Ste 200
Anchorage, Alaska 99518

A Resolution of the Alaska State Homebuilding Association (ASHBA) In Support of legislation to issue civil penalties against first-time violations by unregistered construction contractors

WHEREAS the Division of Occupational Licensing reports that there are over 1,600 business licenses for construction contractors who are not registered to perform construction projects over \$5,000; and

WHEREAS unregistered contractors are not required by state law to obtain general liability insurance or meet educational standards that are required for registered contractors; and

WHEREAS many builders and consumers have reported incidences where unregistered contractors are offering construction services in violation of state law; and

WHEREAS prosecution of violations by unregistered must done by the Department of Law through criminal procedures under current law; and

WHEREAS the Department of Law often gives a low priority to prosecuting these types of violations in consideration of budget restraints and the pursuit of more serious criminal violations; and

WHEREAS enforcement officers within the Department of Labor and/or the Department of Community & Economic Development could be given the authority to issue a civil penalty against first-time violations of construction contract laws;

BE IT THEREFORE RESOLVED that the ASHBA supports legislation to allow enforcement officers within the Department of Labor and/or the Department of Community & Economic Development to have the authority to issue civil penalties for first-time violations of construction contract laws by unregistered contractors, and

BE IT FURTHER RESOLVED that the ASHBA Board of Directors requests the Alaska Legislature to sponsor and pass such legislation during the 2005 Legislative Session.

Adopted, this the 28th day of October 2004.

Signed: *Rob Hamilton*
President

Attest: *[Signature]*
Past President

March 3, 2005
House Finance Committee
Fax # 4656813
HB91

To Whom This May Concern:

My Name is Rocky Ward, and I am a Licensed General Contractor with a Residential Endorsement.

I am totally in favor of HB81. I reside, and have my business out of Gakona, Ak., which is in the Glennallen area. I am not sure of the population of Glennallen, but we are on the road system. We are also not a borough. However, most people up here believe that because we are not, that the statutes of Alaska do not apply.

I am for anybody that wants to be in residential construction. They just need to have the proper licensing, Liability Insurance, and the bonding. It should be that we all have it, or none of us has it.

In my area there are particular gentlemen who have a specialty license as a framer and a finish contractor. However, he contracts complete houses. He does all of his own plumbing, (which he does not have a license for) He does not have a residential endorsement, so he shouldn't be doing houses. One of the houses that he built, the foundation went out of sight in the ground. 3 or 4 years later after threatening to be sued, he went in for a retrofit to fix the foundation, however this foundation is also going south. So now there is going to be a lawsuit. This could have been avoided easily. If he would have taken the 16 hours of credits that are required per licensing period he would know that he couldn't have used that particular foundation system. Education is the key to this. He knowingly misrepresents himself. Most everyone of his houses has problems.

Example 2:

Another fellow, misrepresented himself as a general contractor and built his customer a house framed out of rough cut spruce which is way out of line. It has to be #2 or better. There were no inspections for the foundation or the framing. My company is going to repair this mess for this customer. The owners reported him to Mr. Al Nagle who takes care of these kind of matters for the State. He received cease and desist orders but he still does contract work.

I could go on and on. I just felt the need to reach out and hopefully this bill will get passed.

Thank you very much for your time.

Rocky L. Ward
3 Rivers Construction
P.O. Box 354
Gakona, Ak. 99586
907-822-4323
rocko@cvintemet.net



Alaska State Legislature

Please enter into the record my testimony to the House Finance
 Contractor committee name
 Committee on HB 81 / Licensing, dated 3.2.05
 bill # / subject public hearing date

On behalf of the Kenai Peninsula Builders Association, please accept this written testimony as strong support for HB 81. As Executive Officer, calls come into the office on a regular basis from home owners who are faced with sub standard work done by unlicensed builders who were not properly licensed, bonded and insured. The consumer is the ultimate loser who is faced with no recourse. It is our sincere hope you will consider passage of this Bill.

Lindy Heaverley
 Executive Officer
 Kenai Peninsula Builders Assoc.

Signed: L. Heaverley (Lindy Heaverley)
 Testifier
Kenai Peninsula Builders Association
 Representing (optional)
PB Box 1753 Kenai AK 99611
 Address
(907) 283-8071
 Phone number

3-2-05
Mr. Vanden

Various Examples, Questions and Comments Regarding

HB81

Example:

Why wouldn't someone hire A handyman to replace a sink? Why wouldn't they hire him to replace a single counter top? Why wouldn't they hire him to hang some cabinets? Well... if he is replacing cabinets in someone's house, all three of those tasks will have to be completed. The cabinets and countertop alone will be in excess of \$2000 dollars plus a sink and faucet for about \$250 dollars. While most handymen would probably charge less than \$1000 dollars for this job... they would certainly not do it for \$250, which is what they would have to charge to avoid insurance requirements.

My related question is, when is insurance necessary for jobs of this description or even in the case of constructing a personal housing project? The answer is "never"

Explanation:

- 1) For small projects where the workman is on the property at the invitation of the home owner, the existing home policies cover unforeseen damages, leaving the "consumer" out of danger. (the workman is still in danger of suit from the insurance carrier but, that is his/her choice and they have not asked for this legislation)
- 2) For the owner builder the insurance requirement is unnecessary. Why would you buy an insurance policy to protect yourself from yourself? If a bank is involved, project insurance will already be required and no law is needed.

Second point:

This legislation and the corresponding existing statutes are truly an attempted to legislate away competition under cover of "consumer protection". There is not one "consumer protection" in this bill. While the frustration of the fully licensed homebuilder is totally understandable, it is being totally misdirected.

The major contractors should be quite frustrated with the statutory demands set upon them by this and past legislatures. The requirements of existing law have driven their cost burden so high that THE CONSUMER is choosing to look elsewhere to accomplish a building project. The frustration of the major contractors should be focused on removing the unnecessary statutes that add to building costs so that the consumer is again induced to hire the "more qualified" builder.

It is simple really, the legislature has pursued a course of ever broadening regulation in this field and it is failing (as could have been predicted). It is time to pursue a course of low regulation and free markets with the corresponding CIVIL REMEDIES left directly to the consumer. i.e. Drop the criminal statutes in favor of civil statutes that set the basis for civil actions brought by the injured party. If an unqualified builder has caused financial or other hardship to a consumer, they can be held directly liable under statute and the subsequent judgments would put them out of business very quickly. (especially if they are uninsured.)

Comments on the "problem" of the "owner builder":

If owner builders are competent to act as the general contractor for their personal residence then why are they suddenly not competent to build another inside of a two year span? If they are unqualified to build consumer homes then they should be prohibited from building even their own residence. This is the most blatant example of legislating away the competition. Here, the legislature seeks to make outlaws out of people who are pursuing financial independence at no harm to others. If the owner builder were truly dangerous to the consumer then we should outlaw even the practice of building a personal residence. After all, even the "occupied" home will be on the consumer market in two or more years.

We are talking about the Alaskan tradition of buying a few acres in youth and either immediately or later in life subdividing and starting to build a few houses that can be rented or sold. I personally know teachers who made retirement possible and more comfortable by building one or two houses per summer over the last 5 years of their career and never lived in a single one. Why are we about to outlaw the "owner builder" who just wants to sell or rent enough houses to maintain financial independence? There is no danger to the consumer here! If we really want to "protect" the unwitting homebuyer then we should pass a law mandating a 3-year warranty by any builder. But, Oops... you will find that the Alaska Home Builders Association does not want that requirement in the name of "consumer protection".

Qualifications mean very little in this case and occupancy is totally divorced from the subject. This industry is self-regulated by the lenders or city codes. All homes built with borrowed money have to pass a bunch of inspections at each stage in order to receive continued funding. Regardless of qualifications, the home will be constructed correctly or it won't pass. The consumer is protected.

If a consortium of unregistered contractors get together and, at the request of a homeowner, build a house... they may be outside of their license but, what is the danger to the consumer? The owner is definitely in danger of saving at least 40% on construction costs. Should we protect the owner from saving money? Should we stop a property owner

from subdividing and building 3 houses over the next two years without a general contractor? Possibly saving \$120,000 to \$160,000 dollars over the term of those projects? I think not. Each of those houses would still be inspected at each stage of construction.

If you must have an occupancy rule... make a rule that 3 years of rental history can be substituted for owner occupancy. Surely these mythical problems of shotty construction will show up after three years of rental history? When that house is sold and inspected by an engineer, the problems will be corrected before the sale.

In closing:

Consumers are not nearly as uninformed as the legislature has been lead to believe. When a consumer calls two general contractors to renovate the basement and is told that they are too busy or that the cost will be over \$12,000 dollars, they are stunned. When they call a handyman and are told that he is available and will cost half, they realize that the price is lower for some reason. The absence of insurance and state red tape is a big part of that. The consumer who does not admit that they knew a handyman was at least a little less qualified for the job after paying only half the market price... is simply dishonest! Please don't make new laws to accommodate dishonesty. Also, if licensed home builders are constantly being hired to fix the problems left by the "unregistered" contractor, I would think that they should be happy for the work?! That is job security, right?

I don't know how to be more clear than this: HB81 does not protect consumers in any meaningful way. It only protects homebuilders from having to compete with partnerships and owner builders. This bill is not consumer protection; it is special contractor protection at the expense of other contractors, owners and consumers. These facts cannot truthfully be denied.

Please oppose or severely amend this legislation!

Respectfully,

Todd Larkin (trying to earn an honest living.)

Testimony and amendments to HB81(L&C) version 1 Submitted by Todd Larkin

It took three hours of my time to read, reference and create amendments to this bill. This is one bill out of probably 350 bills that will come from the house this session. Is it any wonder that you cannot get good public participation in the committee process?

The reasoning for the following amendments is simple... The legislature should not be engaged in legislating the smallest labor providers out of the market. Citizens who are engaged in this small segment of the market cannot afford the overhead (also created by the legislature) associated with holding more substantial contracting licenses. Also, the "owner builder" is an Alaskan tradition and is an indication of our independence from the suffocating regulations of other states. This bill seeks to substantially outlaw both practices and their cooperation on projects.

Whatever the reasons forwarded in committee, the transparent motivation of this legislation and any like it is to limit competition to the overburdened general contractors and single trade contractors. These contractors have been overburdened by STATE requirements that have driven their costs so high that they cannot co-exist with the low priced sole proprietor or limited partnerships. By attempting to raise the business costs of the smallest labor provider, the legislature substantially increases costs to the consumer; the same consumer that has been forced to seek the *less qualified* labor because they cannot afford the certified contractor. ALL of the problems that will be cited in committee discussion are a market result of the legislature trying to "protect" the consumer in the past by creating unnecessary requirements on legitimate contractors.

In the case of sole proprietors and limited partnerships, we are talking about complete project amounts under \$5000 dollars! Insurance requirements are ridiculous. The citizens engaged in this portion of the market are simply trying to earn enough money to go home and pay their personal bills and I suggest that the great majority do so without incident. The legislature now wants to give that citizen another bill to pay? It is only the *unsatisfied* customers that you will hear of in the legislature. And they would have been very "unsatisfied" if they had to hire tradesmen for their project at substantially higher costs.

My comments and amendments are confined to "owner builders" intending to sell or rent a finished property and "specialty contractors" aka "handyman" license holders. Home inspection is a separate problem of fraud and should be dealt with in that fashion.

Amendments to hb81(L&C) version 1

Page 2, line 8: delete all of section 2

(I am absolutely certain that the majority of voters did not send you to office to institute new fine structures and reduce access to the courts).

Page 4, line 18: After the word "operation" delete the word "whether" and, after the word "same", delete the phrase "or a different" (or restructure the sentence to achieve the same goal).

Page 4, line 21: delete the words "might indicate" and replace with the words "clearly indicates" (the current wording is far too open to interpretation).

Page 4, lines 22-25: starting at the word "a" delete all material.

Page 5, lines 2-3, starting at the word "occupies": delete the phrase "occupies the property after construction for not less than two consecutive years and"

Page 5, lines 5-11, starting with the word "in": delete all material
(Are we now outlawing the "owner builders" of Alaska? Supplemental commentary will show why this section is destructive and totally unnecessary legislation)

The current form of HB81 does not protect consumers from anything except lower prices. Consider optional replacement language to truly accomplish "consumer protection":

On page 5, add language to the "two year occupancy requirement" which allows a substitution of a three year rental occupancy (with the owner acting as landlord). This requirement will allow any serious building defects to be exposed while the builder/owner is still liable. Then, when the home is sold, the owner will be bound by disclosure laws to tell the buyer of any defects. The renter also acts as a deterrent to false disclosures because they may testify in court against a dishonest builder. (REAL CONSUMER PROTECTION)

Strike the provisions relating to issuance of citations, licensing requirements, insurance requirements, misdemeanor classification and occupancy requirements. Then propose language that mandates a three year warranty be offered with every newly constructed home, no matter who builds it. The builder will always be civilly liable for repairs. Unqualified builders will go bankrupt quickly and qualified builders should have little or no expense because they build so well.

This warranty could be a basic limited warranty on workmanship with the terms stipulated in statute so that every builder in the state is bound by the same conditions regardless of licensing. (This is REAL CONSUMER PROTECTION). It is self policing and healthy to the free market which will drive costs down for consumers but, unfortunately, will be apposed by the home builders because the "consumer protection" rhetoric is a disguise for eliminating competition.

Respectfully frustrated,
Todd Larkin

3/7/05
NOT DISCUSSED
replaced By new
AMENDMENT I Amendment #1

24-LS0144V.1
Mischel
3/7/05

OFFERED IN THE HOUSE
TO: CSHB 81 (L&C)

BY REPRESENTATIVE MEYER

- 1 Page 2, lines 10 - 11:
- 2 Delete "and except as provided in (e) of this section"
- 3
- 4 Page 2, lines 28 - 30:
- 5 Delete all material.

HB

83

HFIN

FILE

HOUSE COMMITTEE REPC T

(11)

Date Referred to Committee: March 9, 2005

FURTHER REFERRALS:

Date of Committee Action: April 7, 2005

The FINANCE Committee considered:

HB 83

HOUSE BILL NO. 83

SEISMIC HAZARDS SAFETY COMMISSION

"An Act relating to the Alaska Seismic Hazards Safety Commission."


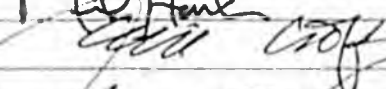
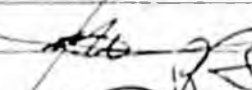


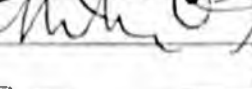

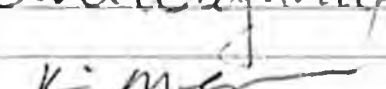
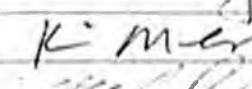
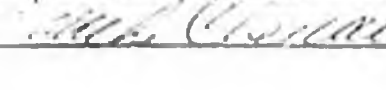
Recommends it be replaced with HCS or CS for HB 83 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DEG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
MVA			✓	

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DNR	2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Hawken			✓	
	CROFT	✓			
	Halim			✓	
	FESTER	x			
	STEVE			✓	
	Kelly			x	
	MOSES	x			
	Weyrauch	x			
Chair: 	Meyer	✓			
Chair: 	Chevraut	x			

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 83 (MLV)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Military and Veterans Affairs
Title Alaska Seismic Safety Commission RDU Military and Veterans Affairs
Sponsor Representative LeDoux Component Homeland Security and
Requester (H) Finance Component No. 2657
Emergency Management

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
Miscellaneous
TOTAL OPERATING

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-Do not abbreviate)	.	.	.	.	.	.
TOTAL	.	.	.	.	.	.

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is indeterminate. Depending on the number of meetings and the locations of the meetings costs would be incurred by the Department of Military and Veterans Affairs for a representative to travel and participate.

Prepared by: John Cramer Phone (907) 465-4602
Division: Administrative Services Date/Time 3/29/05 9:18 AM
Approved by: Commissioner Craig E. Campbell Date 3/29/2005
Agency: Military and Veterans Affairs

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 83(MLV)
 (H) Publish Date: 2/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: An Act relating to the Alaska Seismic Hazards Safety Commission RDU: Resource Development
 Component: Geological Development
 Sponsor: Rep. LeDoux, Rep. Gultenberg
 Requester: (H) MLV Component No.: 1031

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to DNR associated with implementation of this legislation.

Prepared by: Rod Cornbellick Phone: 907-451-5007
 Division: Geological & Geophysical Surveys Date/Time: 2/1/2005
 Approved by: Tom Irwin, Commissioner Date: 2/1/2005
 Agency: Natural Resources

adopted 4-7-05

24-LS0372Y
Bullock
4/7/05

CS FOR HOUSE BILL NO. 83()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES LEDOUX, GUTTENBERG

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Seismic Hazards Safety Commission; and providing for
2 an effective date."

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

4 * Section 1. AS 44.37.065(b) is amended to read:

5 (b) The commission is composed of 11 [NINE] members appointed by the
6 governor for terms of three years. A member holds office until a successor is
7 appointed. A vacancy is filled for the unexpired term.

8 * Sec. 2. AS 44.37.065(c) is amended to read:

9 (c) The governor shall appoint to the commission

10 (1) a representative from the University of Alaska;

11 (2) three representatives [A REPRESENTATIVE] from local
12 governments [GOVERNMENT];

13 (3) a representative from the Department of Natural Resources;

14 (4) a representative from the Department of Military and Veterans'

1 Affairs;

2 (5) a representative from an appropriate federal agency;

3 (6) a representative of the insurance industry; and

4 (7) three members from members of the public who are expert in the
5 fields of geology, seismology, hydrology, geotechnical engineering, structural
6 engineering, emergency services, or planning.

7 * **Sec. 3.** AS 44.37.067 is amended to read:

8 **Sec. 44.37.067. Powers and duties.** (a) The commission shall

9 (1) recommend goals and priorities for seismic and tsunami hazard
10 mitigation to the public and private sectors;

11 (2) recommend policies to the governor and the legislature, including
12 needed research, mapping, and monitoring programs;

13 (3) offer advice on coordinating disaster preparedness and seismic and
14 tsunami hazard mitigation activities of government at all levels, review the practices
15 for recovery and reconstruction after a major earthquake or tsunami, and recommend
16 improvements to mitigate losses from similar future events;

17 (4) gather, analyze, and disseminate information of general interest on
18 seismic and tsunami hazard mitigation;

19 (5) establish and maintain necessary working relationships with other
20 public and private agencies;

21 (6) review predictions and warnings issued by the federal government,
22 research institutions, and other organizations and persons and suggest appropriate
23 responses at the state and local levels; and

24 (7) review proposed seismic and tsunami hazard notifications and
25 supporting information from state agencies, evaluate possible socioeconomic
26 consequences, recommend that the governor issue formal seismic and tsunami hazard
27 notifications when appropriate, and advise state and local agencies of appropriate
28 responses

29 (b) The commission may

30 (1) advise the governor and the legislature on disaster preparedness
31 and seismic and tsunami hazard mitigation and on budgets for those activities and

1 may recommend legislation or policies to improve disaster preparedness or seismic
2 and tsunami hazard mitigation;

3 (2) conduct public hearings;

4 (3) appoint committees from its membership and appoint external
5 advisory committees of ex-officio members; and

6 (4) accept grants, contributions, and appropriations from public
7 agencies, private foundations, and individuals.

8 * Sec. 4. AS 44.37.069(3) is amended to read:

9 (3) "seismic and tsunami hazard mitigation" or "mitigation" mean
10 activities that prevent or alleviate the harmful effects of seismic and tsunami hazards
11 to persons and property, including identification and evaluation of the seismic and
12 tsunami hazards, assessment of the risks, and implementation of measures to reduce
13 potential losses before a damaging event occurs.

14 * Sec. 5. AS 44.37.069 is amended by adding a new paragraph to read:

15 (4) "tsunami" means a large ocean wave produced by an earthquake or
16 undersea volcanic eruption.

17 * Sec. 6. AS 44.66.010(a)(9) is amended to read:

18 (9) Alaska Seismic Hazards Safety Commission (AS 44.37.065) -
19 June 30, 2006 [2005].

20 * Sec. 7. AS 44.66.010(a)(9) is amended to read:

21 (9) Alaska Seismic Hazards Safety Commission (AS 44.37.065) -
22 June 30, 2008 [2006].

23 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 **CONDITIONAL EFFECT.** Section 7 of this Act takes effect only if the governor
26 makes the appointments to the Alaska Seismic Hazards Safety Commission authorized under
27 AS 44.37.065(c), as amended by sec. 2 of this Act, before June 30, 2006. The governor shall
28 notify the revisor of statutes when all appointments have been made.

29 * Sec. 9. If sec. 7 of this Act takes effect under sec. 8 of this Act, it takes effect June 30,
30 2006.

31 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under

1 AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Representative
David Guftenberg



Representative
Gabrielle LeDoux

Sponsor Statement

CS for HB 83

**"An Act relating to the Alaska Seismic Hazards Safety Commission;
and providing for an effective date."**

The CS for HB 83 extends the termination date for the Alaska Seismic Hazards Safety Commission until June 30, 2010 and adds the word "tsunami" to all of the sections addressing the scope of the work of the Alaska Seismic Hazards Safety Commission. This will increase the focus of that Commission to include tsunamis.

With more than 33,000 miles of shoreline, Alaska has been and can be devastated by earthquakes and tsunamis. Since about 1900, Alaska has had 80 magnitude 7 or larger earthquakes. This includes the second- and third- largest worldwide earthquakes, which were larger than the recent earthquake in Indonesia.

Tsunamis can and will greatly affect the fishing industry in coastal Alaska as was evidenced in the 1964 Alaska earthquake, which greatly impacted the coastal communities of Prince William Sound and has caused immense damage recently in the fisheries and aquaculture sectors of the affected countries in the Indian Ocean.

Alaska accounts for more than half of all the earthquakes that occur in the U.S. and about ten percent of all earthquakes worldwide. One of the roles of a Seismic Hazards Safety Commission would be to provide a proactive resource for state and local government officials and Alaskan communities that want assistance in acquiring information and guidance necessary to help mitigate earthquake and tsunami hazards.

Alaska's population is growing and the state's infrastructure is developing. The Alaska Seismic Hazards Safety Commission can play a vital role in reducing earthquake related losses. The Alaska Seismic Hazards Safety Commission is an invaluable asset in promoting the earthquake preparation essential to reducing our earthquake threat and future losses to the state that, without effective mitigation measures, are inevitable.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 83((MLV)
(H) Publish Date: 2/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Military and Veterans Affairs
Title: Alaska Seismic Hazards Safety Commission RDU: Military and Veterans Affairs
Sponsor: Representative Ledoux Component: Homeland Security and
Emergency Management
Requester: (H) Special Committee MLV Component No.: 2657

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
There is no fiscal impact.

Prepared by: John Cramer Phone: (907) 465-4602
Division: Division of Administrative Services Date/Time: 2/1/05 11:58 AM
Approved by: Craig E. Campbell, Commissioner Date: 2/1/2005
Agency: Department of Military and Veterans Affairs

LESSMEIER & WINTERS

LAWYERS - LLC

VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS

TELEPHONE: (907) 796-4999
FACSIMILE: (907) 796-4998
E-MAIL: lw@gcl.net

January 27, 2005

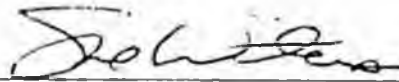
Representative Gabrielle LeDoux
State Capitol, Room 412
Juneau, Alaska 99801

Re: House Bill 84

Dear Representative LeDoux:

I am writing to you on behalf of State Farm Insurance Companies with respect to House Bill 84. State Farm supported the creation of the Alaska Seismic Hazards Safety Commission and supports your proposal to extend the Commission through another five years. If there is any assistance or information we can provide to you, please feel free to call.

Sincerely,



Sheldon E. Winters

SEW/caf
RepLs.Doux01SEW.wpd

Honorable Gabrielle LeDoux
Representative
State of Alaska

Gabrielle

Thanks for the call concerning the State of Alaska Seismic Hazards Safety Commission. I am particularly concerned that the Commission has never been filled and is facing expiration soon unless commissioners are appointed in the near future. Of all the states, none has a greater need for such a group.

Here are several contacts that may be very helpful. I suggest you contact them.

Representative Dave Guttenberg, House District 8 – Fairbanks. Rep. Guttenberg is also interested in the Seismic Hazards Safety Commission and has both information and expertise.

Commissioner Tom Irwin, Department of Natural Resources. I have been told he has reports and documents related to the Seismic Hazard Safety Commission that have not been released to the public but probably could be made available to members of the state legislature. Ph. 907-465-2400, email: <tom_irwin@dnr.state.ak.us>

Dr. Rod Con bellick, Acting Director of the Division of Geological & Geophysical Surveys. Rod is very knowledgeable regarding the Seismic Hazards Safety Commission, the history of its formation, and a lot more. Ph. 907-451-5007, email <rod@dnr.state.ak.us>

Consider the following:

ALASKA IS EARTHQUAKE COUNTRY

Alaska is the most seismically active state in the union. For comparison, California, widely regarded as the benchmark state for earthquake hazards nationally, has experienced 16 magnitude 7 or larger earthquakes historically (since about 1900). A magnitude 7 or larger earthquake is very powerful and if such an earthquake occurs in a populated region will cause widespread and severe damage and may result in casualties. During the same period, Alaska has had 80 magnitude 7 or larger earthquakes, including the second- and third-largest worldwide, the 1964 magnitude 9.2 (Prince William Sound - Kodiak) and 1957 magnitude 9.1 (eastern Aleutian Islands) earthquakes. Both of these were larger than the recent earthquake in Indonesia that generated the catastrophic tsunami in the Indian Ocean, and both generated killer Pacific-wide tsunamis. Indeed, Alaska accounts for more than half of all the earthquakes that occur in the United States and about ten percent of all earthquakes worldwide.

MOST ALASKANS LIVE NEAR BIG ACTIVE FAULTS

Alaska's population is largely concentrated in the seismically active regions of the state. The largest and most active faults in Alaska (and North America) are the Aleutian subduction zone and the Queen Charlotte-Fairweather fault. The Aleutian subduction zone extends from northern Prince William Sound near Cordova and Seward southwest to Kodiak and further

west along the Pacific side of the Alaskan Peninsula and Aleutian chain. This is one of the largest faults in the world and one of the most active. It produced both the 1957 and 1964 earthquakes. The Queen Charlotte-Fairweather fault system extends through southeast Alaska from the Yakutat-Sitka area south past Juneau, Ketchikan and the other communities in the panhandle. The Queen Charlotte-Fairweather fault is the Alaska equivalent of California's San Andreas Fault, just as large, just as active, and for southeast Alaska communities, just as dangerous. Anchorage faces exposure to the Aleutian subduction zone, as illustrated by the damage it caused there in 1964. Anchorage and the Mat-Su valley are in close proximity to the large and highly active Castle Mountain fault and a host of potentially dangerous faults in northern Cook Inlet. Fairbanks also is located in an area of significantly high seismicity from buried active faults that lie beneath the Tanana lowlands.

ALASKANS HAVE BEEN "LUCKY" SINCE 1964

Although a number of strong earthquakes have occurred in Alaska since the devastating 1964 earthquake, all have fortunately been located far away from populated areas. This is somewhat remarkable considering the close correlation between population centers and our largest and most active faults. It is only a matter of time before we experience another serious earthquake that centers on one of our cities. Preparedness is the only antidote we have to mitigate our seismic exposure. The Seismic Hazards Safety Commission is a potentially invaluable asset in promoting the earthquake preparation essential to reduce our earthquake threat and reduce future losses to the state that, without effective mitigation measures, are inevitable.

RECENT LESSONS LEARNED (OR NOT LEARNED)

On Nov. 3, 2002 the Denali fault in the central Alaska Range ruptured and generated a magnitude 7.9 earthquake, the largest "continental" earthquake in North America in the past 150 years. Fortunately the Denali fault is located in a sparsely populated part of the state. However, the fault rupture intersected the Trans-Alaska Oil Pipeline and offset the pipeline about 18 feet. Much to the credit of Alyeska Pipeline Service Company, a thorough study of earthquake hazards to the pipeline was conducted prior to its construction. Where the pipeline crossed the Denali fault special engineering design was incorporated, which allowed the pipe to withstand the 18 feet of offset and strong shaking without failure. The pipeline was only briefly shut down and no oil was spilled. Without the special seismic design considerations the pipeline most certainly would have sustained significant damage and been off line for a much longer period at great cost to the state and the petroleum industry. Since the Denali fault-pipeline crossing is adjacent to the Delta River and the river was thawed and flowing at the time of the earthquake, a large oil spill could have been catastrophic, with oil entering the Delta River, the Tanana and Yukon rivers, and possibly the Bering Sea. The state of Alaska dodged that bullet only because of earthquake preparation in the form of knowledge and engineering design to accommodate the Denali fault hazard. Did we learn anything from this experience? Failure to establish a state Seismic Hazards Safety Commission would suggest we did not.

A REAL AND PRESENT NEED

One of the roles of a Seismic Hazards Safety Commission would be to provide a resource for state and local government officials and Alaskan communities that want assistance in acquiring information and guidance necessary to help mitigate earthquake hazards. For example, presently our community (Kodiak) has determined that there is significant cause to believe some of our schools may not be life-safe in the event of a strong local earthquake. To this end, the Kodiak Island Borough has raised funds through a voter-approved bond issued to investigate the earthquake safety of our schools. Inherent in this process is the need to follow complex FEMA guidelines and understand specialized technical information regarding earthquakes and engineering. Compliance with the FEMA regulations is necessary if we are to qualify for federal funds to accomplish mitigation goals. For almost a year our local government has been struggling with these issues without the necessary expertise and little in the way of sources for advice and guidance. Failure to meet strict FEMA requirements jeopardizes the possibility of federal financial support to mitigate our hazards. The Kodiak community has discovered first-hand how useful a Seismic Hazards Safety Commission would be and how difficult it is for small local governments in the state to dealing with the earthquake mitigation issue.

THE CLOCK IS TICKING

As Alaska grows and our state's infrastructure develops time is passing and the next severe earthquake is drawing closer. Meanwhile, no coherent statewide program is in place to specifically to promote and support earthquake preparedness, and no official group is available to assist Alaska's communities with the mitigation measures needed to reduce our exposure to this threat. Do we need to experience the potentially huge financial losses and casualties a large earthquake in an urban area will bring to our state before we take action to reduce the earthquake hazard? Mitigation pays great dividends and costs very little compared to such losses. However, it is effective only if the mitigation action is done before the earthquake. Alaska cannot afford to stand idly by and wait for the inevitable, the consequences are too great. Establishment of the Seismic Hazards Safety Commission is a powerful first step in saving Alaskan lives, property, and financial well-being. Failure to complete the process by appointing the commission is unconscionable.

Finally, what role could the Commission play in reducing earthquake related losses in the state? According to the Alaska Division of Legislative Audit, Audit Digest #10-20038-05 as posted on the State of Alaska Web Site:

<http://www.legaudit.state.ak.us/pages/digests/2005/20038dig.htm>

- The mitigation of seismic hazards refers to studying, identifying, and prioritizing actions that could be taken to reduce the impact of earthquakes. The most cited tangible mitigation measure has been modification of zoning and building codes. Accordingly, the actual implementation of many of the commission's earthquake mitigation recommendations would have to be done by local governments. Having local representatives as part of the commission may facilitate the implementation of the commission's recommendations.
- Many local governments adopted the International Building Code (IBC) and have, therefore, already been involved in deciding if they believe it is in the public's interest to

update local codes in conformity with IBC changes. Having more local government members would bring, to the commission, a sense of the local concerns about adding or modifying existing local ordinances for improved earthquake mitigation factors."

Local jurisdiction representation on the commission is very important, but I think it is unfortunate that the legislative audit report's emphasis is placed on the use of building codes and zoning to mitigate seismic hazards. Code and zoning regulation is only a small part of a wide range of possible approaches the commission might take to reduce our exposure to seismic hazards. Some critics of the Commission construe such regulation negatively. Other more important and potentially more useful commission approaches could include coordination of state wide education and awareness, development of links with local, state, and federal agencies including FEMA, the US Geological Survey, Association of Structural Engineers, and a host of private and government agencies that could provide a range of assistance to local officials, private industry, and Alaska citizens.



SSA statement in support of improved earthquake and tsunami hazard mitigation

As compassionate people we are all saddened by the death and destruction caused by the Sumatra earthquake and resulting tsunami, but as seismologists we are additionally dismayed by the needless deaths since tsunami warning systems are scientifically and technologically possible. Indeed, many seismologists are reflecting on our discipline's responsibility for the extent of the human suffering. However, this reflection is rarely on what more we could have done scientifically and more often on our inability to translate and disseminate our knowledge in a way that might have made a difference. We have known that very large earthquakes are likely off the coast of Sumatra (as well as many other similar subduction zones). We have known that large, though comparatively rare, tsunamis have been generated there (as well as in most other ocean basins). We have the understanding and technology to rapidly issue warnings for tsunamis based on seismic and oceanographic data (and already issue warnings for the Pacific Basin). We publish scientific papers about our understanding of past events and the way geology works, often with an eye to anticipating future hazardous events. With all of this knowledge and technology how could this disaster have occurred? Unfortunately too often the connection between scientific understanding and practical, applied use of that understanding is lacking or comes too late.

There is no question we seismologists had a responsibility to publicize information about earthquakes and tsunami hazards in the Indian Ocean. Of course, there are hazard studies and maps about this area as well as many other places around the globe susceptible to the rare but very disastrous event. However, it may not be enough to publish technical papers and give presentations at professional meetings. Indeed, all of the major earth science funding agencies in the U.S. (NSF, U.S.GS, NOAA, NASA) have effective education and outreach programs. Educational books, pamphlets, posters and numerous web pages are produced and made available through many channels. Hazard information is available to almost any educated person seeking it. But, is this enough? Do we have more than research and educational responsibilities for hazard mitigation? We also have an advocacy responsibility. In addition to providing the results of our research by producing educational materials we must take these materials to those who can implement hazard reduction programs. We must be willing to go directly to governmental officials and, through the media, to the general public. We must not assume that responsible officials will find, read and act on our publications without us taking an active role. We must insist that the media responsibly report the important hazard mitigation information, not just the sensational aspects of potential disasters.

In the aftermath of this particular disaster the U.S. Government has recently proposed a

new effort to improve tsunami warning systems, primarily for U.S. coastal areas. Discussions have reviewed what we could have done differently and what we can do to prevent a similar disaster in the future. The proposed effort combines the capabilities of two agencies to address the problem. The U.S. administration is proposing to commit \$37.5M to improve tsunami warning systems in the Pacific, Atlantic and Caribbean. This is a good idea and will not only help protect U.S. coastal areas but help protect those of neighboring countries as well. However, this technological solution is just a small part of an effective real solution. There is a real danger that in our haste to fix what was broken in the recent disaster, we will fix the wrong thing for next time. Not only is this plan embarrassingly U.S.-centric it doesn't clearly address the whole problem, even for the U.S.. Detecting the earthquake and generating a warning is one thing but distributing the warning to all at-risk populations who have been educated about what to do is the bigger, more critical mitigation effort. Indeed, education alone, even without a warning system, could save large parts of a coastal population. Effective information could be as simple as, "If you feel a strong earthquake and/or see the ocean level behave in an unusual way, get off the coast as fast, far and high as possible." This plan should contain a much stronger educational component.

There are other dangers of the quick fix. While this is an opportunity to significantly improve mitigation efforts for the very serious yet rare tsunami hazard it is critical that the enormity of the recent tragic event not sidetrack us from other equally dangerous and more common hazards. Earthquakes without tsunamis are still the biggest geologic hazard worldwide. Unfortunately, even a moderate earthquake directly under one of the world's very large but unprepared cities will result in many more deaths than resulted from the Indian Ocean tsunami. The quick fix of a warning system is not applicable in such a case. However, improved hazard mapping and building construction practices would make a huge difference. Science and engineering show both where the hazards are high and propose techniques to significantly mitigate those hazards. U.S. science funding has made great advances; however, again putting the results into practical action is too often forgotten. As one example, while Congress authorized the Advanced National Seismic System to take a lead role in improving earthquake hazard mitigation it has only appropriated 10% of the needed and authorized amount of funding. It would be truly unfortunate if in our rush to fix the tsunami problem we forget about other, even more hazardous situations and wait until after one of those occurs to make serious advances. Similarly, while it is laudable that the U.S. is providing large sums of money and other resources, both public and private, for Indian Ocean tsunami relief efforts, it would be very unfortunate for these funds to be siphoned from programs designed to mitigate future disasters of a similar or greater magnitude. It is critical that we review all potential hazards for their likelihood and impact and distribute precious resources in a way that will maximize the chances of making a big difference next time.

—Stephen D. Malone, President

[Back]

adn.com

Anchorage Daily News

Print Page

Close Window

Tsunami warning system won't end threat to Alaska

BUOYS: Purpose of devices is to warn rest of Pacific of waves from earthquakes here.By TOM KIZZIA
Anchorage Daily News*(Published: January 15, 2005)*

Alaskans shouldn't be lulled by the existence of high-seas buoys in the Pacific Ocean into thinking they are much better protected from danger than residents of Banda Aceh in Indonesia, according to earthquake and tsunami experts here.

 [Photo gallery](#)

The buoys that detect passing waves are subject to breakdown -- as evidenced by the fact that three of the six currently deployed have been out of service for a year.

More significantly, earthquake and tsunami experts said in recent interviews, those buoys are deployed to warn the rest of the Pacific Rim about tsunamis generated by earthquakes in unstable Alaska. An Alaska-generated wave would probably hit the shore here before it reaches the first buoy heading south.

"By the time it gets to the buoy, you better have everybody evacuated," said Paul Whitmore, the scientist-in-charge at the West Coast/Alaska Tsunami Warning Center in Palmer.

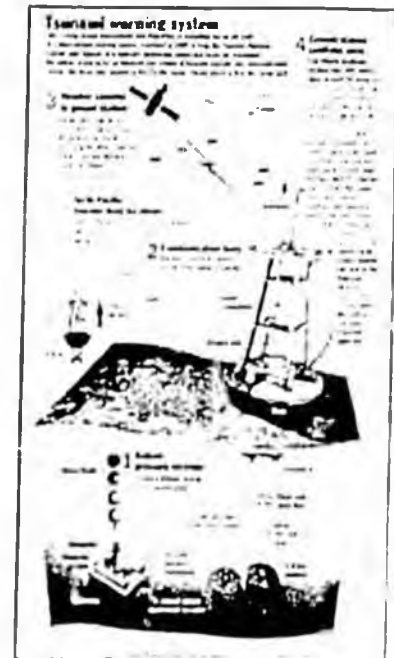
The situation is the same in the Indian Ocean. A buoy warning system there might have provided advance warning to Sri Lanka, which was hit several hours after the triggering earthquake Dec. 26. But it would not have alerted the coast of Sumatra, adjacent to the rift zone in the Andaman Sea.

An expanded buoy system in the Pacific, such as the one proposed Friday by the Bush administration, would provide more notice to Alaska of tsunamis coming from other places. But it would be unlikely to help with Alaska's own waves, whether generated by shifting subsea faults or landslides. Both kinds of waves proved devastating here during the 1964 earthquake.

What Alaska does have going for it, compared with the Indian Ocean nations, is a much more extensive deployment of seismometers and a notification system ready to put out alerts of a possible tsunami in a matter of minutes. Alaska also has a series of tidal gauges in coastal communities, helpful to some extent in confirming the existence of a wave as it passes, and a civil defense system drilled in the potential dangers to coastal towns. People have been told not to wait for a siren to evacuate.

"If the ground is shaking hard enough so that you have trouble standing, it's close," state seismologist Roger Hansen said. "I would say go to higher ground."

How high is high enough? Alaska is now mapping its tsunami danger zones. In Homer, for example, state and University of Alaska experts just released last month a new map showing the



()

[Click on photo to enlarge](#)

expected high-water mark of waves generated by the two likeliest subsea earthquake hazards. The result was surprisingly good news, with only a small segment of the low-lying Homer Spit likely to get washed over. Even so, city officials said, they would evacuate the Spit if the Palmer center reported a wave heading into Cook Inlet.

"We're in the prevention business," Homer fire chief Bob Painter said.

The new "inundation map" is based on mathematical formulas -- accounting for such things as fault lines and sea bottom contours -- first worked out for Kodiak and calibrated against the actual waves that killed six people there after the 1964 Alaska earthquake. The numbers are run through a supercomputer at the University of Alaska Fairbanks. Similar hazard maps are being prepared for Seward and Sitka, Hansen said.

Anchorage is believed to have virtually no danger from long-distance tsunamis because it is at the end of Cook Inlet, whose long shallow straits would dissipate any wave's energy, Hansen said.

The new Homer map doesn't account for what has long been thought the most serious tsunami threat in the area, an eruption and landslide at Augustine Volcano about 60 miles away. Scientists have grown sharply divided over whether the island volcano presents a major tsunami threat.

Apart from Augustine, subsea landslides often trigger local tsunamis with little warning. Chris Waythomas, a hydrologist with the Alaska Volcano Observatory, said five of the seven fatal tsunamis in Alaska history were probably landslide-induced, including the most recent one, in Skagway in 1994.

The Pacific alert system for long-distance waves began to take shape after a 1946 earthquake in the Aleutians produced a wave that surprised Hawaii, killing 159 people along the waterfront in Hilo. Major waves from that quake hit Chile 12 hours later.

Prediction efforts took another big step forward after the magnitude-9.2 earthquake in Alaska in 1964, with establishment of a central information gathering point in Palmer. Most of the deaths caused by the 1964 quake were due to waves, including 10 as far away as Crescent City, Calif.

Today, the Palmer facility is hooked into 150 seismic sites around the world, including 50 outside the Pacific region. When these sites send information of a serious shake, employees notified by beepers are expected on the scene in five minutes. They assess the data and decide whether the quake may have generated a wave. An automatic warning system sends alarms to the National Weather Service, the Coast Guard and various emergency response agencies.

They won't know whether the subsea rumble really created a tsunami until they start to pick up information from tidal gauges at docks in a scattering of coastal towns. Some of those gauges feed information to Palmer via satellite steadily, while others beam data only every half hour, Hansen said.

The deep-sea buoys in the Pacific can pass along more precise measures of a wave's size. But their most important role may be in calling off false alarms. Presumably a tsunami alert has already been issued by the time the wave passes the so-called DART buoys (for "Deep-ocean Assessment and Reporting of Tsunamis"), which are set in water several miles deep. The DART buoys have sensors on the ocean floor capable of gauging the pressure change of waves only half an inch tall as they pass. If no wave is detected, the alarms are called off, saving coastal evacuations that may cost tens of millions of dollars, officials say.

Indeed, the buoy system won kudos in November 2003 when they allowed Hawaii to cancel an evacuation after an ominous 7.5-magnitude quake in the western Aleutians.

"They're better for canceling warnings than issuing them," said Whitmore, at the Palmer center.

Unfortunately, the western Aleutian DART buoy that gave the all-clear in 2003 is currently out of service, as is the buoy off Unalaska and one other off the Oregon coast.

"Some of us on the steering committee are concerned that half the system is down now," state seismologist Hansen said, referring to a national tsunami hazard group made up of five Pacific rim states and three federal agencies.

One of the three broken DART buoys has already been pulled and repaired and is ready for redeployment when winter sailing weather allows, according to National Weather Service spokesman Greg Romano.

"We are taking steps to make it a more rugged system," Romano said.

Increasing the number of deep-sea buoys would provide faster information and would also help triangulate the source and direction of waves, Whitmore said. The wave off Sumatra was over a 600-mile zone, not simply from the quake's epicenter, he said.

For Alaskans near the source of a wave, though, more buoys may not be much help. The first seismographic report of a potential tsunami may be the only useful warning Alaska gets.

[Print Page](#)

[Close Window](#)

Copyright © 2005 The Anchorage Daily News (www.adn.com)

SEAFOOD.COM NEWS [FAO Press statement] 13 January 2005, Washington and Rome -- The tsunami waves have had a devastating impact on the fisheries sector in many countries of the Indian Ocean, FAO said today.

In Sri Lanka, more than 7 500 fishers have been killed by the tsunami and over 5 600 are still missing. More than 5 000 Sri Lankan fishing families have been displaced and 80 percent of coastal fishing vessels have been completely destroyed or very seriously damaged, including around 19 000 boats. Ten out of the 12 main fishing harbours in the country have been completely devastated including infrastructure such as ice plants, cold rooms, workshops and slipways.

FAO has already sent fisheries experts to Sri Lanka to advise the government on the repair and rehabilitation of fishing harbours and infrastructure, fishing boats and fishing gear.

In the Nanggroe Aceh Darussalam Province of Indonesia, where 42 000 fishers and their families live, 70 percent of the small-scale fishing fleet have been destroyed. In Nias Island, about 800 fishing canoes have been destroyed. Two thirds of local fisherfolk from the capital Banda Aceh were killed by the waves.

Fish farming was severely affected in northern Sumatra with about 1 000 fish cage farms having been completely destroyed.

'FAO is currently assessing the damage and will help the government and local authorities to repair and replace fishing boats and gear and start with the initial repair of water fishponds and infrastructure so that fish production can be resumed as soon as possible,' said Jeremy Turner, Chief of the Fishery Technology Service.

In the affected coastal areas of Thailand, 386 fishing villages with a population of around 120 000 people have lost about 4 500 fishing boats, or their fishing gear has been seriously damaged. Most fishing boats are owned by small-scale, traditional fishers. The total damage to marine capture fisheries alone is estimated at around \$16.6 million.

Eight fishing harbours and their infrastructure have been seriously damaged. The affected aquaculture industry has suffered a serious setback. A total of around 15 800 fishing cages have been damaged, this has caused losses of about \$33 million. In some areas, seafood supplies have dropped by 90 percent since the tsunami.

FAO is preparing support measures for fisherfolk in six southern Provinces of Thailand providing essential fisheries inputs and assisting in the repair of damaged fishing vessels and damaged fishery infrastructure.

In the Maldives, where a very large part of the population depends on fishing for their livelihood, more than one third of all inhabited islands were severely damaged and hundreds of boats and harbours were destroyed. FAO is planning to assist the country with the repair and replacement of fishing boats, engines and fishing gear as well as with

the repair and rehabilitation of fisheries infrastructure.

In the state of Andhra Pradesh in India, fishers along the 1 000 km coastline were the worst hit by the tsunamis. Around 2 000 fishing boats and about 48 000 fishing gears were lost, about 300 000 fishers have lost their jobs. In the state of Tamil Nadu, 591 fishing villages and 30 islands of the Andaman and Nicobar islands have been badly affected by the tsunamis. India's seafood exports may decline by around 30 percent as a result of the tsunami.

In Myanmar, some 200 villages spread along the southern coast and heavily relying on fishing have been hit by tsunamis and lost fishing vessels, fishing gear and infrastructure. Some 17 seaside fishing villages have been reported as destroyed and at least 53 people as killed by the tsunamis. FAO is preparing for a long-term participation in relief and rehabilitation measures for the affected fishing communities.

In Malaysia, the livelihoods of about 6 000 fishers have been affected by the disaster.

In Somalia, around 2 000 fishing boats have been destroyed. FAO is assisting in damage and needs assessments and making preparations for the repair of damaged fishing vessels and for the provision of essential fishing inputs in six southern provinces of the country. FAO will also provide short-term financial aid and training in improved fishing techniques and boatbuilding to about 2 000 fishers.

In the Seychelles, coastal fish farms and the artisanal fisheries sector suffered extensively. A great number of fishing vessels were damaged or lost. The two fish processing plants and cold storage facilities located at the fishing port in Victoria were also affected by the tsunamis. FAO is preparing assistance programmes for the repair and replacement of fishing vessels and landing facilities and for the restoration of sustainable livelihoods in the fisheries sector.

The damage caused by the recent tsunamis in the fisheries and aquaculture sectors of the affected countries is worse and more complex than expected, Turner said.

FAO's Fisheries Department has embarked on a concerted effort to assist the fisheries and aquaculture sectors of the tsunami effected countries through relief and rehabilitation measures and projects.



Alaska Division of Legislative Audit Audit Report #10-20038-05

Audit Report PDF Format *	Back to the Digest Summary	2005 Audit Report List	Legislative Audit Home Page
------------------------------	-------------------------------	---------------------------	--------------------------------

* Requires Acrobat Reader

November 10, 2004

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF NATURAL RESOURCES ALASKA SEISMIC HAZARDS SAFETY COMMISSION

October 22, 2004

Audit Control Number

10-20038-05

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 44.66.010(a)(21), the Alaska Seismic Hazards Safety Commission is scheduled to terminate on June 30, 2005. If the legislature takes no action to extend the termination date, the commission would be allowed one year in which to conclude its administrative operations. Because the commission has been inactive since it was created in 2002, we recommend its termination date not be extended.

The sunset review was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing this report are set out in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS**OBJECTIVES, SCOPE, AND METHODOLOGY****ORGANIZATION AND FUNCTION****BACKGROUND INFORMATION****REPORT CONCLUSIONS****FINDINGS AND RECOMMENDATION****AGENCY RESPONSE**

Department of Natural Resources

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of, and circumstances surrounding, the Alaska Seismic Hazards Safety Commission (ASHSC). As required by AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process involved in determining if the commission should be reestablished. Currently, AS 44.66.010(a)(21) states that the commission will expire on June 30, 2005. If the legislature does not extend the termination date for the commission, ASHSC will have one year to conclude its administrative operations.

Objectives

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

1. To determine if the termination date of ASHSC should be extended.
2. To determine if ASHSC is operating in the public interest.

Scope and Methodology

The assessment of the operations and performance of the commission is to be based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the commission. However, since the Alaska Seismic Hazard Safety Commission was never actually constituted, we are unable to provide an evaluation of the commission's activities in accordance with AS 44.66.050(c).

Therefore, the major areas of our review were legislative committee minutes and various documentation developed and presented in the course of deliberations involved in the passage of legislation establishing ASHSC. Additionally, we:

- Reviewed applicable statutes related to ASHSC.

- Reviewed minutes of legislative committee hearings related to the legislation that established ASHSC.
- Reviewed Executive Order 105, issued by Governor Murkowski in January 2003.
- Reviewed the activities and publications of state organizations in the western United States with missions and objectives similar to that of ASHSC.
- Interviewed the Department of Natural Resources' commissioner and the manager responsible for activities related to the mission and objectives of ASHSC.
- Interviewed local government building officials regarding how various communities in the states deal with seismic issues through adoption and enforcement of building codes.
- Reviewed correspondence of Commissioner Irwin of the Department of Natural Resources regarding his position and comments on the public policy objectives related to both the past and the future of ASHSC.

ORGANIZATION AND FUNCTION

In 2002, the legislature established the Alaska Seismic Hazards Safety Commission (ASHSC). In committee testimony, the primary sponsor of the legislation characterized the commission as having an "umbrella status" over various state agencies that would permit it to coordinate a seismic hazard mitigation policy for the state.

To better promote intergovernmental coordination, the commission was originally established in the Office of the Governor. ASHSC was transferred to the Department of Natural Resources by Executive Order Number 105, issued by Governor Murkowski in January 2003.

ASHSC is comprised of a cross section of members from government, business, and academia.

The Seismic Hazards Safety Commission was designed to be made up of individuals from a wide cross section of government and private sector representatives. The nine commission members were to be representatives from:

1. the University of Alaska;
2. local government;
3. Department of Natural Resources;
4. Department of Military and Veterans' Affairs;
5. an appropriate federal agency;
6. the insurance industry; and,
7. three members from the general public "*who are expert in the fields of*"
 - a) geology,
 - b) seismology,
 - c) hydrology,
 - d) geotechnical engineering,
 - e) structural engineering,
 - f) emergency services, or
 - g) planning.

ASHSC was structured in such a way to address what the legislature saw as a "*pressing need to provide consistent*

policy framework and a means for continuing coordination of programs and public safety practices related to seismic hazards at all governmental levels and in the private sector."

The legislature mandated that the commission recommend goals and priorities for seismic hazard mitigation to both governmental agencies and the private sector. ASHSC was also to recommend policies to the governor and legislature related to such things as research, mapping, and monitoring programs necessary for effective seismic mitigation.

Department of Natural Resources, Division of Geological and Geophysical Surveys

Alaska Statute 41.08.010 establishes in the Department of Natural Resources (DNR), a division of geological and geophysical surveys under the direction of the state geologist. The state geologist is appointed by the commissioner of DNR, and responsible for conducting geological and geophysical surveys to determine the potential of Alaskan land for:

1. production of metals, minerals, fuels, and geothermal resources;
2. the locations and supplies of groundwater and construction materials; and,
3. the potential geologic hazards to buildings, roads, bridges, and other installations and structures.

The state geologist is also responsible for conducting other surveys and investigations necessary to advance the geology of the State. With the approval of the commissioner, the state geologist may acquire, by gift or purchase, geological and geophysical reports, surveys, and similar information.

State law further specifies that the Division of Geological and Geophysical Surveys shall:

1. *collect, record, evaluate, and distribute data on the quantity, quality, and location of underground, surface, and coastal water of the state;*
2. *publish or have published data on the water of the state;*
3. *require the filing with it of the results and findings of surveys of water quality, quantity, and location;*
4. *require of water well contractors, the filing with it of basic water and aquifer data normally obtained, including but not limited to well location, estimated elevation, well driller's logs, pumping tests and flow measurements, and water quality determinations;*
5. *accept and spend funds for the purposes of this section, AS 41.08.017, and 41.08.035 and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies, and agencies of the federal government;*
6. *collect, evaluate, and distribute geologic data on seismic events and engineering geology of the state;*
7. *identify potential seismic hazards that might affect development in the state;*
8. *inform public officials and industry about potential seismic hazards that might affect development in the state.*

BACKGROUND INFORMATION

Mitigation of seismic hazards refers to studying, identifying, and prioritizing actions that could be taken to reduce the impact of earthquakes. Accordingly, seismic hazards mitigation can involve everything from considering where earthquakes are most likely to strike to how buildings, bridges, other infrastructure, and even topography can be built or modified to reduce damage.

Mitigation involves studying seismic risks and coordinating action to minimize damage

Similar organizations in other states have taken such actions as studying earthquake-prone areas and evaluating infrastructure and topography in regions that have been identified as being at highest risk. These other state commissions work with local, state, and federal governments in addition to private sector interests to construct or modify buildings, bridges, highways, and power lines to reduce the damage earthquakes may cause. Such commissions also coordinate activities such as the evaluation of the topography of high risk areas. From such evaluations the organization considers what measures could be taken to avoid such things as flood damage from rivers and lakes or other damage from landslides or avalanches that may be precipitated by an earthquake.

Mitigation is distinguished from response because it involves trying to anticipate earthquake damage and taking steps to reduce or avoid damage and loss of human life. Response, in contrast, involves actions taken after an earthquake strike, which are necessary to restore and protect public health and safety. Response stems from preparedness, and the legislature made a formal finding in the enabling legislation that

[Although the state has made significant improvements in disaster preparedness since the great earthquake of 1964, there has been little corresponding improvement in measures to reduce the disaster potential of major earthquakes and, consequently, to reduce the dependence on disaster relief.

Legislation establishing the Alaska Seismic Hazards Safety Commission (ASHSC) had extensive legislative support

The legislation setting up ASHSC passed with overwhelming support. In April 2001 the bill, HB 53, was adopted by the House of Representatives by a vote of 36-2. In May 2002 the legislation was adopted by the Senate by a vote of 17-3. The measure was signed into law by Governor Knowles in August 2002 - with an effective date of September 29, 2002. The 2002 legislature also made an FY 03 appropriation of \$33,500 for commission operations.

Outgoing Governor Knowles did not make any appointments to the commission prior to the November 2002 elections. In March 2003, Governor Murkowski issued an executive order transferring ASHSC from the Office of the Governor to the Department of Natural Resources (DNR). Governor Murkowski, however, made no appointments and, at the end of FY 03, the commission's entire appropriation lapsed unspent and was swept into the

[1]

state's Insurance Catastrophe Reserve Fund.

In FY 04, the \$28,900 in funding for ASHSC was transferred to DNR and included in the general fund base budget for the Geological Development allocation. While there was no financial activity related to ASHSC, the Geological Development general fund allocation is lapsing just under \$10,000 which is less than \$28,900 intended for ASHSC. In FY 05, there were no budgetary transactions specifically related to the commission that either increased or decreased the portion of the Geological Development allocation related to ASHSC.

It is likely no appointments were made because DNR Commissioner Irwin recommended ASHSC statutes be repealed. The commissioner's recommendation was based on his belief that the cost of ASHSC was too high. In

correspondence with Legislative Audit, the commissioner stated that after receiving further information regarding ASHSC – and satisfying himself that the annual operating costs could be kept to \$10,000 rather than a previous budget projection of \$28,000 – he had changed his opinion and recommendation with regard to continuance of the commission.

Accordingly, he recommended that the Boards and Commission staff in the Office of the Governor proceed with appointments. In the view of the commissioner, there is a need for active coordination of earthquake-hazard mitigation activities between all levels of government and the private sector in the state. Having ASHSC in place to advise the governor, legislature, local governments, and the private sector on ways to reduce future economic losses and casualties from earthquakes is a valuable and necessary function. As of mid-October 2004, Governor Murkowski has yet to make an appointment to the commission.

REPORT CONCLUSIONS

Under state law, the burden of demonstrating a continuing public need for a given board, commission, or agency that is subject to termination rests with the entity subject to sunset review. [2] Accordingly, since the commission has not been active since it was created in 2002, it is difficult to make the argument there is a demonstrated public need for the commission's termination date to be extended.

Since there is no functioning commission, we recommend that the legislature not extend the termination date of the commission. By not extending the termination date the Commission will have one year to administratively conclude its operations, and will cease to exist at June 30, 2006.

We recognize when the commission was created it received overwhelming support from the legislature. Additionally, other western states that are prone to earthquakes have created boards and commissions with duties similar to that of the Alaska Seismic Hazards Safety Commission. If there is legislative interest in continuing the commission, we offer a recommendation regarding the composition of the commission that would enhance its operational effectiveness.

FINDINGS AND RECOMMENDATION

Recommendation No. 1

The legislature should consider, if it extends the termination date of the Alaska Seismic Hazards Safety Commission, altering the composition of the commission to provide more representation of local government.

Much of the testimony heard in support of the commission's enabling legislation (HB 53) stressed the importance of communicating policy and possible mitigation measures that could be taken by all levels of government. A major area of concern involved the development of local community zoning ordinances and building code requirements to minimize the impact that the seismic shock would have on residential, government, and commercial buildings. Staff working with similar seismic mitigation agencies, in other western states we surveyed, often cited improvements to local planning requirements and building code restrictions as a major, if not primary, tangible benefit of their organization's accomplishments.

As mentioned in the Background Information section, it was the finding of the 2002 legislature that there had been little "improvement in measures to reduce the disaster potential of major earthquakes..." since the great earthquake of 1964. In many respects, at both the state and local government level this may be the case. However, the evolution of building codes as reflected in the recently developed 2003 International Building Code (IBC) has resulted in increasingly stronger seismic-related construction requirements – primarily in response to the devastating destruction of earthquakes outside of the United States in recent years.

At the present time the standard code that is increasingly being recognized and adopted by local governments is the 2003 IBC. All building officials we spoke to commented that extensive seismic-related requirements were already incorporated into the IBC and that they varied depending on a region's seismic risk rating. One local building official adamantly maintained that the IBC seismic requirements were already too stringent for his region, and any statewide policy group that would want more extensive requirements would not be welcomed.

We contacted numerous local government building officials in the State regarding how the recommendations of the Alaska Seismic Hazard Safety Commission could be put in place through local building codes. Most communities have a building code advisory commission that makes recommendations about local construction codes. A modification of the code generally involves making local exception to the "standard" code, which most communities have adopted by reference.

The commission would benefit from additional representation by local government for two primary reasons:

- As discussed above, the mitigation of seismic hazards refers to studying, identifying, and prioritizing actions that could be taken to reduce the impact of earthquakes. The most cited tangible mitigation measure has been modification of zoning and building codes. Accordingly, the actual implementation of many of the commission's earthquake mitigation recommendations would have to be done by local governments. Having local representatives as part of the commission may facilitate the implementation of the commission's recommendations
- Many local governments adopted the IBC and have, therefore, already been involved in deciding if they believe it is in the public's interest to update local codes in conformity with IBC changes. Having more local government members would bring, to the commission, a sense of the local concerns about adding or modifying existing local ordinances for improved earthquake mitigation factors.

The commission membership is currently defined as a nine-member commission with one representative of local government. If the legislature is considering continuation of the commission, we believe that a statutory revision or expansion to the commission membership should include at least three local government representatives from seismically different geographic areas of the state.

AGENCY RESPONSES

Department of Natural Resources

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- 400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

December 27, 2004

Ms. Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
P.O. Box 113300
Juneau, AK 99811-3300

Re: Seismic Hazards Safety Commission Report
10-20038-05

Dear Ms. Davidson:

Thank you for the opportunity to review the Alaska Seismic Hazards Safety Commission (ASHSC) Preliminary Report to the Legislative Budget and Audit Committee. As I stated in my prior letter to Mr. Griffen the draft report is very thorough and actually emphasizes the need for the ASHSC. I disagree with the conclusion that the ASHSC has not been active and it is therefore difficult to argue that there is not a demonstrated public need. I support the ASHSC and I urge the Legislature to extend the sunset date.

Alaska is the most seismically active state in the country. The legislature approved the ASHSC because they listened to the concrete arguments provided by professionals for the need for the commission. They recognized the success of similar commissions in other states for reducing earthquake losses and they took assertive action to address the issues in Alaska.

The risk of earthquake losses is steadily increasing and it should be clear as we witness the devastation caused by the earthquake in Asia that we need to minimize the state's risk as Alaska's population and infrastructure expand. Reducing losses at reasonable cost requires public commitment at the highest levels to earthquake-conscious siting, design, and construction. I believe that the ASHSC will provide the focus for this commitment. Governor Murkowski is currently reviewing nominees for appointments.

I concur with the Report's Recommendation No. 1 to increase representation of local government. Hazard mitigation occurs primarily at the local level and I agree that local governments in diverse regions of the state should be represented on the commission. This will ensure that proposed mitigation measures are appropriate, reasonable, and effective.

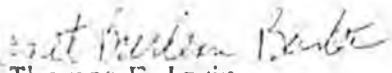
The report states that it is likely that no appointments were made to the commission because I initially recommended that the enabling statutes be repealed. As recognized in

Ms. Davidson
December 27, 2004
Page 2 of 2

state of affairs if a commission of this type is not extended because of my intent to be fiscally responsible. I take my job as Commissioner seriously and I weigh the benefits of an issue in light of the budget and my stewardship responsibilities. To act otherwise would be irresponsible. Once I was assured that the commission could be supported with a reduced budget I fully supported the commission and I recommend that the sunset date be extended. I expect the ASHSC's future recommendations to enhance public safety in our seismically active state.

Please contact me, Rod Combellick (451-5007; rod@dnr.state.ak.us) or Janet Burleson Baxter, 465-4730, if you would like further clarification on the department's recommendation on this issue.

Sincerely,


Thomas E. Irwin
Commissioner

cc: Rod Combellick
Janet Burleson Baxter
Marty Rutherford
Lorraine Derr
Linda Hay

[1]

State law, AS 37.05.289 (b), allows a sweeping of certain funds at the end of each fiscal year under the following provision:

If the amount necessary to satisfy claims or judgments for which payment may be due under the state insurance program in a fiscal year exceed the unexpended balance of the amounts allocated to the account, the department may charge an additional amount from the unencumbered balance of any appropriation that is determined by the commissioner of administration to be available for lapse at the end of the fiscal year.

[2]

AS 44.66.050(b) states

During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest. [emphasis added]

[PDF Audit Report
PDF Format *](#)[Back to the
Digest Summary](#)[2005 Audit
Report List](#)[Legislative Audit
Home Page](#)

* Requires Acrobat Reader 