

674 SC FILE NO. 43 - FILE NO. 46

624

BILL ANALYSIS

ASSIGNMENT DATE 2/23/79

UNASSIGNED _____

DEPARTMENT Commerce	SPONSOR (PRINCIPAL) Colletta, Kerttula and Bradley	BILL NO. SB 133
DEPARTMENT POSITION		
DIVISION DIRECTOR Carolyn S. Guess Alaska Public Utilities Commission	DATE	COMMISSIONER <i>Carolyn S. Guess</i> DATE <i>2/23/79</i>
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED
BY: _____ DATE: _____		
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL
(3) PROGRAM EFFECTS OF BILL		
(4) FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		
(6) COMMENTS:		

APUC COMMENTS ON SB 133

Senate Bill No. 133 would exempt from economic regulation the following non-profit cooperative corporations:

Alaska Village Electric Cooperative, Inc. (AVEC)
Chugach Electric Association
Copper Valley Electric Association
Glacier Highway Electric Association
Golden Valley Electric Association
Homer Electric Association
Kodiak Electric Association
Kotzebue Electric Associaton
Matanuska Electric Association
Naknek Electric Association
Nushagak Electric Cooperative
OTZ Telephone Cooperative, Inc.

Bristol Bay Telephone Cooperative
Copper Valley Telephone Cooperative, Inc.
Matanuska Telephone Association
Nushagak Telephone Cooperative, Inc.

The number of customers served by the above named electric cooperatives is approximately 72,000 and the telephone cooperative consumers who would be affected by this bill are approximately 20,000. Under the existing statute the Commission provides public protection to these 92,000 consumers in the determination of reasonable and fair rates

and the resolution of consumer complaints regarding billing practices, rates and charges, quality and availability of service. In addition the Commission has provided a streamlined procedure for approval of rate increases necessitated by an increase in the cost of fuel, guaranteeing to the consumer that documented increases in fuel costs have been received by the Commission.

An analysis of the action taken by the Commission during the past two years in regard to cooperative utilities indicates minimum discrepancies between the revenue requirement requested by a utility and granted by the Commission. In the area of rate design, however, the Commission has responded to innovated requests by both electric and telephone cooperatives. The Staff has and is currently performing analysis of and recommendations for the following specific rate design requests:

- (1) A reserve capacity charge for residential, commercial and large power consumers of Matanuska Electric Association
- (2) The elimination of electric heat promotional rates;
- (3) Changes in the traditional electric declining block rate structures;
- (4) Elimination of numerous rate schedules for various types of electric consumers;
- (5) The "unbundling" of telephone rates of Matanuska Telephone Association;
- (6) Seasonal electric rates.

In addition, the Commission was directed and funded by the 1977 State Legislature to provide a cost-of-service and management audit of AVEC in order to avert an economic crisis created by the refusal of the REAA schools to sign purchase power contracts with AVEC because the schools believed the rate structure to be discriminatory.

The position of the Consumer Protection and Information Section of the Commission may be of interest in that it specifically provides assistance to the consumers of all utilities, when a customer, after first contacting the utility, has been unable to resolve a problem or complaint. The attached table provides information regarding the number of complaints received by the Commission in 1978 and a breakdown of those customer complaints of cooperative electric and telephone utilities. When asked to provide input in regard to SB 133, the Consumer Protection and Information Section provided the following opinion:

"This Section does not perceive any difference between REA cooperatives or any other public utility even though their Boards of Directors are elected by consumer members of the Association. The consumer complaints reaching the Staff are identical to those of the investor-owned utilities. It is evident that the customers of REA cooperatives experience the same problems in the resolution of their complaints as do the customers of privately-owned utilities. Further, it is apparent to this Section that customers of the cooperatives do not perceive a difference between utilities regardless of

the ownership structure. The question as we perceive it is not one of who "owns" the cooperative but who "controls" the cooperative.

There are a number of issues that the Legislature may wish to consider in making a determination of whether this bill is in the public interest. They include:

1) The Public Utilities Regulatory Policies Act of 1978, a part of the National Energy Act requires that at least one electric cooperative, Chugach Electric Association, if not regulated by a State Commission, submit to FERC regulation for the purpose of considering standards to carry out the Federal purposes conservation of energy supplied by utilities efficient use of utility resources; equitable rates. Those ratemaking standards that either a federal or state regulating agency must address for an electric utility selling more than 500 million kwh annually, include;

- cost of service
- declining block rate
- time of day rates
- seasonal rates
- interruptable rates
- load management techniques

Five additional regulatory policy standards must also be addressed, including:

- master metering
- automatic adjustment clauses
- information to consumers
- procedures for termination of electric service
- advertising.

2) The recent and rapid developments in telecommunications indicate possible confrontations between CATV and local exchange telephone utilities which could, in the absence of regulation, result in wasteful duplication.

3) Funding

The Commission has no knowledge at this time of whether the passage of this Legislation would jeopardize REA funding to any of the telephone and electric cooperatives in the State. During the year 1978, the former field representative of REA indicated that one-quarter of the annual monies available to cooperatives in the U.S. was allocated to utilities within the State of Alaska.

As some of the legislators are aware, the Tlingit Haida Regional Electric Authority (THREA) which, although not effected by this bill, has been exempt from regulation since its inception. However, to receive additional REA loan monies, in order to avoid bankruptcy, REA required THREA to submit to regulation by the Alaska Public Utilities Commission.

The Commission is available to answer any questions of the Legislature in its determination of whether the public interest would be served by the economic deregulation of electric and telephone cooperatives within the State of Alaska.

CONSUMER COMPLAINTS RECEIVED BY APUC-1978

	<u>All Regulated Utilities</u>	<u>Coop-Electric and Telephone Utilities</u>
Billing practices	274	107
Rates and Charges	262	108
Quality of Service	464	93
Line extensions or service availability	<u>268</u>	<u>160</u>
Total	1,268	468

Table II All REA Cooperative electric and telephone utilities

	<u>Electric</u>	<u>Telephone</u>	<u>Total</u>
Billing practices	88	19	107
Rates and Charges	86	22	108
Quality of Service	53	40	93
Line extension or service availability	<u>96</u>	<u>64</u>	<u>160</u>
Total	323	145	468

SENATE BILL 133

Testimony by David Hutchins, Executive Director
Alaska Rural Electric Cooperative Association

SENATE COMMERCE COMMITTEE
March 8, 1979

The purpose of SB 133 is to scale down APUC regulation of non-profit electric cooperatives to the same level of regulation now provided by law for municipally owned utilities.

The current responsibility of the APUC to provide very intensive regulation is more than can be adequately performed by the commission with the resources that have been provided.

The Legislature needs to make a very basic policy decision:

- (1) The responsibilities of the APUC must be reduced or,
- (2) Very substantial increases in funding and staff salaries must be made in order for the APUC to attract and retain the expertise needed to make intensive regulation work.

In his resignation statement as Administrator of the APUC in January, Mr. Ronald Lindes stated that "he believes the agency's control of utility businesses is excessive."

Certainly, in so far as electric cooperatives are concerned, we believe Mr. Lindes is correct. We believe that the reduction of regulation contemplated by SB 133 is the clear choice in resolving the current problems rather than investing large new sums of money in the present level of regulations.

We believe that the public interest would be well served by de-regulating the electric cooperatives because:

- (1) THE MEMBER OWNED NON-PROFIT COOPERATIVE IS INHERENTLY SELF-REGULATING.

The affairs and business practices of the cooperative are directly controlled by a member - consumer Board of Directors which is elected by and reports to the membership at least annually.

- (2) A BOARD OF DIRECTORS COMPRISED OF CONSUMERS IS A BETTER REGULATOR THAN A GOVERNMENT AGENCY.

When the applications to the APUC for rate changes are examined, it is found that in nearly every case the rate increases requested have been less than the facts justified based on rates of return allowed by the APUC.

- (3) ANY RATES WHICH MIGHT BE CHARGED BY A COOPERATIVE IN EXCESS OF THOSE ALLOWED BY THE APUC WOULD SIMPLY INCREASE THE CONSUMER'S EQUITY IN THE COOPERATIVE.

No profits are paid to any outside investors. All assets are used for the benefit of the consumers, and each consumer's equity is returned to him when he ceases to be a member.

- (4) REGULATION BY THE APUC SUBSTANTIALLY INCREASES THE COSTS OF THE COOPERATIVE WHICH MUST BE PAID BY THE CONSUMERS.

The attached sheet provides examples of recent costs of regulation incurred by Alaska's electric cooperatives.



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

801 W. Fireweed, Suite 101, Anchorage, Ak. 99503

Sample Costs of APUC Regulation

<u>Cooperative</u>	<u>Direct Cost</u> <u>'75 - '78</u>	<u>Remarks</u>
Golden Valley	\$ 116,591	\$8.75 per Consumer "Regulatory Lag" cost estimated at \$2.5 million
Matanuska	\$ 68,563	\$7.20 per Consumer
Copper Valley	\$ 31,275	\$14.40 per Consumer
Nushagak	\$ 4,700	\$9.40 per Consumer
Glacier Highway	\$ 11,472	\$15.40 per Consumer

David Hutchens
March 1, 1979

SENATE BILL 133

Testimony of David Hutchens, Executive Director
Alaska Rural Electric Cooperative Association

Senate Commerce Committee
March 13, 1979

The bulk of the testimony given by Commissioner Carolyn Guess of the APUC on March 8 dealt with the need perceived by the Commission to retain jurisdiction over telephone service and to retain authority to provide consumer protection and information services for the consumers served by the electric cooperatives.

In response to these comments from Commissioner Guess, a proposed substitute for SB 133 has been drafted. This proposal restricts its application only to non-profit electric cooperatives. Also, the exemption for these electric cooperatives would apply only to rates. The APUC would still retain all other jurisdiction including certification of territories to be served (Article 3), standards of service and facilities (Article 4), accounts, records, and reports (Article 6), financial and management regulation (Article 7), penalties and enforcement (Article 8), and miscellaneous provisions (Article 9).

The only exemption which this proposal would grant the electric cooperatives is an exemption from the APUC ratemaking process. Commissioner Guess testified that there have been "minimum discrepancies between the revenue requirement requested by a utility and granted by the Commission." But despite the fact that we have eventually been granted the rates which the APUC concedes have been reasonable, it is this rate making process which provides a financial burden on the electric cooperatives.

If the proposed substitute is adopted, the only issue remaining among those raised by the Commissioner is the question of rate design. As a member of the APUC, the Commissioner would like to retain full control over exactly how the rates should be structured. We believe that this is a matter which should properly be left to the discretion of the elected representatives of the consumers. We know that our consumers are intelligent people who are quite capable of running their own cooperatives.

I would close by reiterating the point I made on March 8. The APUC is not now able to attract and retain the expertise required to make the current scheme of intensive regulation work. The Legislature needs to decide either to provide the additional funds the APUC needs to do the job it now has, or reduce the job required of the APUC. We believe that the rate regulation of non-profit electric cooperatives is one area in which the public interest would be well served by reducing the responsibility of the APUC, and I urge the adoption of the proposed substitute for SB 133.

SENATE BILL 133

Testimony of David Hutchens, Executive Director
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SUBSTITUTE FOR SB 133

Amend AS 42.05.711 by adding a new subsection to read:

Non-profit electric cooperatives shall be exempt from the provisions of Article 5 of this chapter in regard to any rates or rate schedules which have been adopted by representatives of the consumers serving as the board of directors of that cooperative and which have been approved by the Rural Electrification Administration or its successor.



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David Hutchens
March 1, 1979



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David Hutchens
March 1, 1979

February 14, 1979

Ms. Karen Bernstein
Information Officer
Department of Commerce
and Economic Development
Pouch D
Juneau, Alaska 99811

Dear Ms. Bernstein:

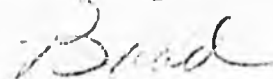
Enclosed is SENATE BILL 133 relating to public utilities.

I would appreciate your comments/position papers on this SENATE BILL to include a fiscal note, if appropriate. If you decide that a fiscal note is not required, please make such a statement in your reply. If your Department recommends specific changes, in addition to general comments, I would prefer that they be keyed to page and line numbers.

If you know of other departments or agencies that have an interest in this legislation, please let me know so that I may get the benefits of comments from all knowledgeable and interested parties.

In consideration of a productive and expeditious session, we request that your comments/position be returned to the Senate Commerce Committee within 10 days.

Sincerely,



Brad Bradley
State Senator
Chairman
Senate Commerce Committee

WEB/bm

Encl

TESTIMONY

NAME: RONALD LINDER
LIVINGSTONE CITIZEN OF ANCHORAGE, ALASKA
PAST EXECUTIVE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION

Speaking as a private citizen with close personal knowledge of public utility regulation in Alaska

^{strongly} I support Senate Bill #133 as a first step in the direction of sorely needed restraint on the regulatory powers of the Alaska Public Utilities Commission. The present degree of ^{utility regulation} regulation is excessive. This proposed bill affords a modest degree of deregulation in an area where safeguards to protect the public interest are more than adequate.

Cooperatives organized under Alaska statute are member owned, non profit entities. The management of these cooperatives is carefully supervised by boards of directors that are elected by members of the cooperatives. There are certainly few social endeavors that are more democratic illustrative of our system of democracy in action than cooperatives organized and managed for the benefit of the people. A well run cooperative will prosper and offer a vitally necessary service to its members. Certainly the public interest is well served by cooperatives. Not everyone in a cooperative will be completely satisfied but ~~on~~ on balance it is truly democracy in action.

The regulators, through their spokesperson Commissioner Gross, have spoken in ^{general} opposition to ~~any~~ the relaxation of regulation.

The commissioners have taken the approach that ^{only} they know best what is in the "public interest" of the consumer. This attitude of paternalism is running counter to the ~~national~~ state and national feeling that government is too deeply involved in our personal and local affairs. While we in Alaska decry the overbearing paternalism of the federal government in ~~dictating~~ dictating what is best for Alaskans, we have been applying the same paternalism on a state government basis over local governments and cooperatives through the APUC. The right to succeed comes with it the right to fail. I trust more in the ^{probability that} ~~right of~~ cooperatives to succeed in their own affairs than I do ^{in the} ~~in the~~ commission with less interest ⁱⁿ ~~in~~ success or failure. Who knows best what is in the public interest? Is it the public or bureaucratic government?

The legislature has the power to regulate commerce in Alaska. ~~You have delegated this power~~ In the area of utilities and other businesses you have delegated this authority to the Alaska Public Utilities Commission. ~~It~~ Your

guidance to the Commission is in the form of AS 42.05
~~which~~ of which ~~the~~ Senate Bill # 133 is an amendment.

AS 42.05 is very broadly written legislation that grants
extensive powers to the commissioners to ~~act in~~
exercise the powers of the legislature. Commissioners are
nominated by the governor and confirmed by the legislature
for terms of 6 years. ^{This means that the commissioners do not have to come back}
written as to ~~give~~ ^{to the legislature to review.} permit central state control over more than
~~stage~~ ~~stage plays~~ dramatic performances and
outdoor rock concerts if the commissioners so decide.

Your commissioners have not been reluctant in using the
heavy powers of this legislation. It has been an activist
Commission body in need of constraint, either self imposed or
imposed by the legislature. I suspect that this

will be an issue you will address next year as the
AFUC comes up for review under the Aloha Sunset
law with help from the legislature. Audit report of
the Commission ^{activities} which ~~should be~~ is presently in progress.

of deregulation of the cooperatives is not ~~the~~ ~~state~~ ~~power~~
 by the legislature, you are paying to your constituents that
 some state office is ~~better~~ knows better what is in ~~the~~ ~~interest~~ ~~of~~ ~~the~~ ~~state~~
 their public interest than they do themselves. ^{What is not true then}
 is the power of their board of directors. Is it only the
 power to prepare. While the APDC has the power to dispose.
 Is it the will of the people to improve services, expand
 facilities or plan for the future thwarted by this approach?
 The commissioner has exercised hindsight. What is required
 is foresight and that a more difficult task better left
 to those with ~~the~~ economic ~~and~~ social interest at the
 local level. Those that deal with their cooperative
 on a daily basis are far better judges of what is in their
 best interest. They don't need a political commission in
 Anchorage to tell them what is best.
 From
 firsthand knowledge I can tell you that the capability of the
 APDC ^{to manage} financial purposes of utilities does not
 exist. It has not existed for years and it is not
 likely to exist for sometime in the future.

In summary, I support the proposed legislation as the first and most obvious ^{immediate} step in rectifying regulatory ills that have plagued utilities and other businesses in

Alaska. A thorough review of ~~the~~ the legislature that grants regulatory powers to the IPUC is sorely needed!

The partial deregulation of cooperatives is a prudent very low risk step in the ~~partial~~ ^{both electric & telephone} reversal of the ominous movement towards ~~overregulation~~ governmental control over our daily lives.

Henry David Thoreau said in 1848 "That government ~~that~~ is best that governs least."

Governor Hammond was reelected ~~with~~ espousal, a similar philosophy. If you agree with this premise, then I urge you to return power to the people by ~~approving~~ voting, this proposed legislation out of committee today with your unanimous do pass recommendation.

I Thank you for your attention Q?

Introduced: 2/12/79
Referred: Commerce

1 IN THE SENATE BY COLLETTA, KERTTULA AND BRADLEY

2 SENATE BILL NO. 133

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public utilities."

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

8 * Section 1. AS 42.05.711(b) is amended to read:

9 (b) Public utilities owned and operated by a political subdivision
10 of the state or by a nonprofit cooperative corporation (AS 10.25) and
11 none of whose utilities, excepting the furnishing of collection and
12 disposal service of garbage, refuse, trash or other waste material, is
13 in competition with any other utility, are exempt from the provisions of
14 this chapter, other than the provisions of AS 42.05.221 - 42.05.281,
15 unless the owner and operator elects to be subject to all provisions of
16 this chapter. Notwithstanding any other provisions of this chapter,
17 municipalities providing collection and disposal service of garbage,
18 refuse, trash or other waste material within their corporate boundaries
19 are not subject to regulation by the Alaska Public Utilities Commission
20 unless the municipality elects to be subject to the provisions of this
21 chapter.

22 (f) → Amendment →

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24
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29

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Have Bill Check

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OK
by Ken
Rosenstein

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ASSIGNMENT DATE 2/23/79

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- procedures for termination of electric service
- advertising.

2) The recent and rapid developments in telecommunications indicate possible confrontations between CATV and local exchange telephone utilities which could, in the absence of regulation, result in wasteful duplication.

3) Funding

The Commission has no knowledge at this time of whether the passage of this Legislation would jeopardize REA funding to any of the telephone and electric cooperatives in the State. During the year 1978, the former field representative of REA indicated that one-quarter of the annual monies available to cooperatives in the U.S. was allocated to utilities within the State of Alaska.

As some of the legislators are aware, the Tlingit Haida Regional Electric Authority (THREA) which, although not effected by this bill, has been exempt from regulation since its inception. However, to receive additional REA loan monies, in order to avoid bankruptcy, REA required THREA to submit to regulation by the Alaska Public Utilities Commission.

The Commission is available to answer any questions of the Legislature in its determination of whether the public interest would be served by the economic deregulation of electric and telephone cooperatives within the State of Alaska.

CONSUMER COMPLAINTS RECEIVED BY APUC-1978

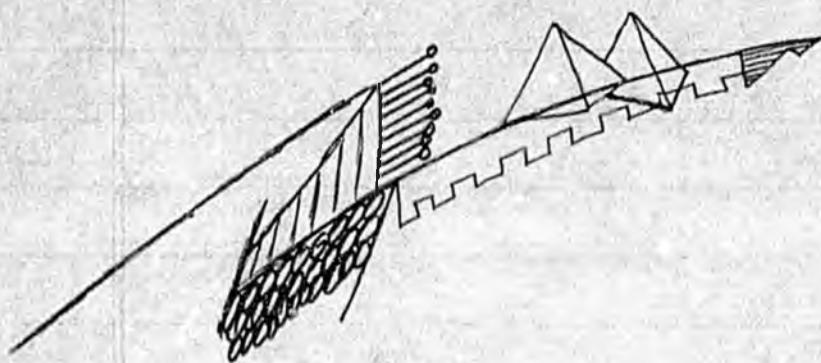
	<u>All Regulated Utilities</u>	<u>Coop-Electric and Telephone Utilities</u>
Billing practices	274	107
Rates and Charges	262	108
Quality of Service	464	93
Line extensions or service availability	<u>269</u>	<u>160</u>
Total	1,268	468

Table II All REA Cooperative electric and telephone utilities

	<u>Electric</u>	<u>Telephone</u>	<u>Total</u>
Billing practices	88	19	107
Rates and Charges	86	22	108
Quality of Service	53	40	93
Line extension or service availability	<u>96</u>	<u>64</u>	<u>160</u>
Total	323	145	468

SB-133 David Hutchens.

Past Director AK P.U.C.



SB-133

✓ Sharon Walker
279-3923

Noted 3/12
6:10
recording

3/11

6:10
6:15
6:20
x^o

Choi,
I see Sharon

Walker's name &
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for a Telephone Company.
Have her to testify after
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SB

224

Introduced: 2/13/79
Referred: Commerce and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 224

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the motor fuel tax; and providing
7 for an effective date."

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

9 * Section 1. AS 43.40.010(a) is amended to read:

10 *wants to* (a) There is levied a tax of 19 per cent of the retail value of
11 each [EIGHT CENTS A] gallon on all motor fuel sold or otherwise trans-
12 ferred within the state, except that

13 (1) the tax on aviation gasoline is 14 per cent of the
14 retail value of each [FOUR CENTS A] gallon,

15 (2) the tax on motor fuel used in and on watercraft of all
16 descriptions is six per cent of the retail value of each [FIVE CENTS
17 A] gallon, and

18 (3) the tax on all aviation fuel other than gasoline is
19 nine per cent of the retail value of each [TWO AND ONE-HALF CENTS A]
20 gallon.

21 * Sec. 2. AS 43.40.010(b) is amended to read:

22 (b) There is levied a tax of 19 per cent of the retail value of
23 each [EIGHT CENTS A] gallon on all motor fuel consumed by a user,
24 except that

25 (1) the tax on aviation gasoline consumed is 14 per cent of
26 the retail value of each [FOUR CENTS A] gallon,

27 (2) the tax on motor fuel used in and on watercraft of all
28 descriptions is six per cent of the retail value of each [FIVE CENTS
29 A] gallon, and

*Don Ferguson
delete the
entire
bill
except
this*

1 (3) the tax on all aviation fuel other than gasoline is
2 nine per cent of the retail value of each [TWO AND ONE-HALF CENTS A]
3 gallon.

4 * Sec. 3. AS 43.40.010 is amended by adding a new subsection to read:

5 (1) The Department of Revenue shall annually determine the
6 retail value of the motor fuels taxed under this chapter and, after
7 applying the percentages set out in this section, shall, by regulation
8 adopted no later than May 1 of each year, establish the applicable
9 cents-per-gallon rates to be applied on a uniform, statewide basis to
10 each category of motor fuel. These rates become effective on the
11 first day of the next tax year.

12 * Sec. 4. AS 43.40.030(a) is amended to read:

13 (a) Except as specified in sec. 10(j) of this chapter, a person
14 who uses motor fuel to operate an internal combustion engine is
15 entitled to a refund of 40 per cent of the state tax on each [SIX
16 CENTS A] gallon if

17 (1) the tax on the motor fuel has been paid;

18 (2) the motor fuel is not aviation fuel, or motor fuel used
19 in or on watercraft; and

20 (3) the internal combustion engine is not used in or in
21 conjunction with a motor vehicle licensed to be operated on public
22 ways.

23 * Sec. 5. AS 43.40.100 is amended by adding new paragraphs to read:

24 (4) "retail value" means the average retail price of motor
25 fuel in each category for the previous calendar year, calculated by
26 the Department of Revenue, based on a statewide statistical sample
27 taken from, at least, 10 representative communities in the state on a
28 monthly basis and published in a report to be submitted each year to
29 the legislature no later than January 30 for that year;

1 (5) "tax year" means the period commencing on July 1 and
2 ending on June 30 of the following calendar year.

3 * Sec. 6. TRANSITION. For the first tax year under this Act, the
4 Department of Revenue shall determine the applicable retail values and
5 rates of taxation under this Act for the 1979 tax year, calculated on the
6 basis of statistical data compiled by the department in accordance with AS
7 43.40.100(4) for the period between the effective date of this Act and
8 September 1, 1979. The Department of Revenue shall promulgate those rates
9 no later than November 1, 1979. These rates become effective January 1,
10 1980, and remain in effect until substituted rates are established for the
11 tax year commencing on July 1, 1980.

12 * Sec. 7. This Act takes effect immediately in accordance with AS
13 01.10.070(c).

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AUTOMOBILE OPERATORS would face heavy new tax burdens if the Legislature adopts a proposal to change the gasoline taxes from a flat rate to a sliding scale based on retail prices. The new tax measure was recommended by Gov. Jay Hammond as one way to build up the general fund so that the state can have more money in its operational budget.

Gasoline that now retails at 75 cents a gallon would cost 79.7 cents a gallon under the new law. The present eight-cent tax that is included in the 75 cents would become a big 12.7 cents bite out of the 79.7 cent price. This would be a 59 percent tax increase for the motorist.

More frightening would be the prospect of paying higher and higher state taxes as the retail prices of gasoline increase this spring and summer. Gas that would sell for 80 cents under the present law would cost 85.6 cents under the new law. As prices continue to rise, the motorists would find their tax load increased 117 percent by the time gas is \$1 a gallon. Gas that would sell for \$1 under the present law would cost \$1.09½ under the proposed law.

The new law would hit the motorist's pocketbook this way: a 20-gal. tankful that now costs \$15 would cost \$15.94 immediately and as the retail price exceeded 75 cents a gallon, the total cost would increase further. When the retail price gets to \$1 a gallon, the same 20-gallon tankful would cost \$21.83.

STATE STATISTICS show that 62 percent of all motor vehicles are registered in Anchorage. Another 18 percent are registered in Fairbanks, Juneau and Ketchikan. Thus 80 percent of them are in the four cities.

Collections from motor fuel taxes were \$24.5 million during the year ended last June 30. A 5 percent increase in this tax revenue would take \$14.5 more away from the motorists than at present. If the retail price climbs and the tax rate is increased 117 percent, the extra pinch on the taxpayer would be \$28.7 million.

Fuel for aircraft and boats would also come under the new tax with automatic escalation as the retail prices climb. Aviation gas is taxed under existing law at a flat rate of four cents a gallon. Under the new law this would be replaced by a tax of 14 percent of its retail price.

Thus aviation gas that now retails at \$1 a gallon would become \$1.09½ a gallon. If aviation gas prices climb, the gas that would under present law cost \$1.30 a gallon would be \$1.53½ under the proposed law. This would mean the operator of a small plane that burns 15 gallons an hour would have his operating costs increased \$1.41 an hour immediately and \$2.04 if the gas price

climbs to \$1.30.

Other aviation fuels, for jet aircraft, would also be subject to an escalating tax. Domestic airlines would be hit hard. Many international airlines would escape this tax because they use fuels brought to Anchorage under bond and delivered free of state taxes.

THIS TAX CHANGE would be obnoxious to all motor vehicle operators. It discriminates against them by compelling them, as a special category, to provide additional funds for the general operations of the state.

The state budget is already slanted against the urban centers and in favor of rural areas. Everybody is facing the pinch of local tax increases from their local governments because the state is not providing a fair share of the state revenue-sharing funds.

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Urban residents are getting to be like the big oil companies that have been the target of the legislature for discriminatory taxation. A difference is, however, that oil companies can leave Alaska. Alaskans can't. Another difference is that Alaskans vote and that makes elected officials more sensitive them.

An organized presentation should be made by gasoline users — and that includes most all urban residents — of their opposition to the proposed changes in the gasoline tax. Indeed, some kind of rebellion against the unfair budgeting of state funds, as well as discriminatory taxation, is long overdue.

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ALASKA AIR CARRIERS ASSOCIATION

Jim Wilson

SB 224

FOR THE MAJORITY OF THIS TESTIMONY, I AM REPRESENTING THE ALASKA AIR CARRIERS ASSOCIATION, WHICH REPRESENTS AN \$83 MILLION GROSS REVENUE INDUSTRY OF THIS STATE. THE MEMBER CARRIERS REPRESENT 85 TO 90% OF THE TOTAL REVENUE GENERATED, AND WE ARE OPPOSED TO SB 224.

I AM OPPOSED TO SB 224 AND ANY INCREASE IN MOTOR FUEL TAX.

WITH THE COST OF FUEL INCREASING ALL TOO FREQUENTLY, I BELIEVE WE WOULD BE CREATING AN UNDUE ADDED EXPENSE TO ALL USERS. THIS PROPOSED CHANGE IN MOTOR FUEL TAX WOULD COST OUR INDUSTRY AN ADDITIONAL 2.9 MILLION ACCORDING TO DEPARTMENT OF REVENUE FIGURES. I BELIEVE THAT FIGURE IS LOW BECAUSE THEIR FIGURES ARE NOT EVEN ON CURRENT RETAIL PRICES, THAT IS AVIATION FUELS ONLY.

THE DEPARTMENT OF REVENUE HAS HAD A SUBSTANTIAL INCREASE IN MOTOR FUEL TAX COLLECTED DURING THE PAST 10 YEARS, SOMETHING ON THE ORDER OF 42% PER YEAR. OUR BUSINESS HAS HAD LESS THAN 6% PER YEAR. IN 1968 TOTAL REVENUE FROM AVIATION MOTOR FUEL TAX WAS \$778,000; IN 1978 IT WAS \$3.3 MILLION - THAT'S OVER 400%. THERE ARE SEVERAL AREAS IN THE STATE WHERE THIS TAX IS NOT ALWAYS COLLECTED.

(EXAMPLE: PEOPLE HAVE BBL FILLED AT BULK PLANT, NOT PUT INTO AIRCRAFT)
IF ALL DISTRIBUTORS WERE REQUIRED TO COLLECT THE TAX, IT WOULD CREATE AN INCREASE IN REVENUE, WITHOUT AN INCREASE IN TAX.

THIS BILL WOULD ENPOWER THE DEPARTMENT OF REVENUE TO ESTABLISH AVERAGE RETAIL VALUE. I QUESTION THEIR ABILITY TO DO THIS, THEY ARE USING THE AIRLINE CONTRACT PRICE FOR JET FUEL IN THE ESTIMATE AND I DON'T THINK THEY KNOW WHERE THEY GOT THE PRICE FOR AVIATION GAS.

(EXAMPLE: JET - DEPT. OF REVENUE PRICE \$.45

LIVINGSTON BULK RATE \$.497

JUNEAU AIRPORT RETAIL W/O TAX \$.692 UNDER 50 GALLONS

\$.597 ~~UNDER~~ 50 GALLONS
OVER

I CAN SEE ADDITIONAL PERSONNEL NEEDED TO ADMINISTER THIS EXTRA WORK LOAD, WE DON'T NEED TO ADD TO THE BUREAUCRACY.

I WILL GIVE AN EXAMPLE OF WHAT THIS PROPOSED CHANGE IN TAX STRUCTURE WILL DO. USING 100,000 GALLONS, WHICH WILL REPRESENT ABOUT 4000 FLIGHT HOURS. TODAY WE PAY \$4000.00 TAX ON AVIATION GAS. UNDER PROPOSED CHANGES, USING CURRENT BULK PRICE (NOT RETAIL PRICE) OF \$.66 PER GALLON, TAX WOULD BE \$9240.00, OR MORE THAN DOUBLE. USING RETAIL PRICE WOULD ADD MORE THAN AN ADDITIONAL \$1500.00 (JUNEAU AIRPORT).

EXAMPLE ON JET FUEL: 100,000 GALLONS REPRESENT ABOUT 3000 FLIGHT HOURS. TODAY WE PAY \$2500 TAX. UNDER PROPOSED CHANGE, USING CURRENT BULK PRICE (NOT RETAIL PRICE) \$.497 PER GALLON, TAX WOULD BE \$4473. USING RETAIL PRICE WOULD INCREASE THIS OVER \$1800 (JUNEAU AIRPORT).

AS YOU CAN SEE, THIS TAX CHANGE WOULD DOUBLE THE EXISTING TAX COLLECTED, ASSUMING NO INCREASE IN VOLUME. ALSO, AS PRICE OF FUEL ESCALATES, TAX WOULD ESCALATE ALSO, A VICIOUS CIRCLE.

THE DEPARTMENT OF REVENUE IS ESTIMATING THIS TAX WILL GENERATE ^a\$10,000,000 INCREASE IN MOTOR FUEL TAXES. I QUESTION THOSE FIGURES. EXAMPLE: \$.45 ON JET, AND OUR BULK PRICE IS \$.497. JET IS RETAILING AT THE JUNEAU AIRPORT AT \$.692 + TAX.

THE EXTRA EXPENSES WILL HAVE TO BE PASSED ON TO THE CONSUMER, YOUR CONSTITUENTS - OUR CUSTOMERS. WE ARE ALREADY FACED WITH HIGH INFLATION, ALL THESE REVISED TAXES WOULD DO IS ADD FUEL TO OUR RATE OF INFLATION.

AGAIN, THE ALASKA AIR CARRIERS ASSOCIATION AND ALL MEMBERS, REPRESENTING 80 TO 95% OF THE AIR TRANSPORTATION SYSTEM IN THIS STATE, ARE OPPOSED TO SB 224. WE ARE MORE THAN PREPARED TO DO WITHOUT WHATEVER SERVICES, IF ANY, THIS TAX WOULD CREATE. THERE IS NO GUARANTEE WE WOULD SEE ANY OF THE TAX [#] BECAUSE IT GOES TO THE GENERAL FUND.

THANK YOU

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING - GEOLOGY - LANDS

PHONE 907-586-1383

326 FOURTH STREET No. 1009
JUNEAU, ALASKA 99801

February 25, 1979

Mr. William I. Waugaman
P. O. Box 80589
College, Alaska 99708

Dear Bill:

There has been no action on SB 224 to date but am requesting an opportunity to testify if it comes up in Sen. Bradley's Commerce Committee. As I interpret the bill the following would result:

Sec. 431401010(a) - Motor fuel tax.

Gasoline - 8¢ to 17¢ or a 112.5% increase
Diesel - 8¢ to 10¢ or a 25% increase

(a)(1) - Aviation gasoline.

4¢ to 12.6¢ or a 215% increase

(a)(2) - Watercraft use.

Gasoline - 5¢ to 5.1¢ or a 2% increase
Diesel - 3¢ to 3.2¢ or a 36% decrease

(a)(3) - Aviation other than gasoline.

2.5% to 4.8% or a 92% increase

Sec. 43.40.030(a) - Refund on off-highway use.

Present law - 6¢ on an 8¢ tax or 75%

New law - Gasoline 6.8¢ on a 17¢ tax or 40%
Diesel - 4¢ on a 10¢ tax or 40%

Where the present law results in a final tax of 2¢ per gallon for off-highway use, the new law would result in a tax of 10.2¢ for gasoline and 6¢ for diesel, or an increase of 410% and 200% respectively.

From the above you can see that the hardest hit are the off-highway users of gasoline. Next are the users of aviation gasoline, followed closely by the off-highway users of diesel.

These latter two groups are certain to register strong objections to the proposal, particularly when bush plane service and heavy equipment operations for road construction and mining are essential to maintain the present level of travel and employment.

The other two groups who will also oppose this legislation are the highway travelers (over 100% tax increase), and the scheduled airlines using jet fuel (a 92% increase). The only users who would have their present tax reduced are commercial fishermen, tug boat operators, etc. using diesel for fuel (a 36% decrease). Overall I would say that the passage of this legislation could result in "unequal treatment" of various classes of users, and could probably be shot down on that basis.

SB-224.

Jimm. Wilson.

Alaska Air Carriers.
Livingston Chapter.
\$183,000, 100 goose Revenue.

Oppose SB-224.

Ex.

→ 100,000 gal. = 4,000 flight hours.
some cases will > cost 100%

(Ben - Ben)

50% of fed tax comes from the
trucking industry.

Ben is concerned about the word "Average"
in the bill. You can determine your own average!

John Messenger D. of Renew →
Projected Revenue 216 mil.

Phil Holsworth

Motor fuel
7¢ to 14¢

Aviation gas.
4¢ to 12.6¢

Water Use fuel
gas 5¢ to 5.1¢
diesel 5¢ to 3.2¢ 36% ↓

off highway use.

now 75% refund
if passed this refund is reduced!

DO-T. - In favor of Tax >

New Tax On Motorists

AUTOMOBILE OPERATORS would face heavy new tax burdens if the Legislature adopts a proposal to change the gasoline taxes from a flat rate to a sliding scale based on retail prices. The new tax measure was recommended by Gov. Jay Hammond as one way to build up the general fund so that the state can have more money in its operational budget.

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The new law would hit the motorist's pocketbook this way: a 20-gal. tankful that now costs \$15 would cost \$15.94 immediately and as the retail price exceeded 75 cents a gallon, the total cost would increase further. When the retail price gets to \$1 a gallon, the same 20-gallon tankful would cost \$21.68.

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Contact. on This Bill.

Mike Faith

AIECA

Refer to Board
of Elec. Exam.

Lunsel

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

5825
AUDIT DIVISION
POUCH W--ALASKA OFFICE BUILDING

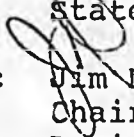
FINANCE DIVISION
POUCH WF--STATE CAPITOL

JUNEAU, ALASKA 99811

February 28, 1979

M E M O R A N D U M

TO: The Honorable Clem V. Tillion
President of the Senate
State of Alaska

FROM:  Jim Duncan
Chairman
Legislative Budget and Audit Committee

SUBJECT: Transmittal of a Bill recommending designated
programs be subject to termination under the
Sunset Review Law.

In accordance with AS 44.66.030 of the Sunset Law the enclosed bill is forwarded.

This bill contains programs and activities recommended by the Legislative Budget and Audit Committee that will be subjected to the "Sunset" process. If enacted into Law, designated programs and activities will terminate July 1, 1980.

Introduced: 3/1/79
Referred: Commerce and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 232

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act designating programs and activities for review
7 and termination under AS 44.66; and providing for an
8 effective date."

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

10 * Section 1. AS 14.56.250 - 14.56.290 (relating to the responsibility and
11 authority of the Department of Education, division of state libraries, to
12 publish the Alaska Blue Book) are repealed.

13 * Sec. 2. The following laws relating to mechanical inspection functions
14 of the Department of Labor are repealed:

15 (1) AS 18.60.220 - 18.60.395 (boiler and pressure vessel
16 inspection);

17 ← (2) AS 18.60.600(a)(2), 18.60.600(b), and 18.60.610 - 18.60.-
18 650 (electrical wiring inspection);

19 (3) AS 18.60.715(b), 18.60.720(b), 18.60.725, 18.60.730 and
20 18.60.740(4) (plumbing code inspection);

21 (4) AS 18.60.800(b)(2) and 18.60.820 (elevator safety inspec-
22 tion).

23 * Sec. 3. AS 18.65.130 - 18.65.290 and AS 44.62.330(a)(34) (Police
24 Standards Council) are repealed.

25 * Sec. 4. AS 18.80 and AS 39.50.200(9)(E) (State Commission on Human
26 Rights) are repealed.

27 * Sec. 5. AS 23.35 (Fisherman's Fund) is repealed.

28 * Sec. 6. AS 28.05.011(8) (authority of the Department of Public Safety
29 to operate motor vehicle weighing stations and to enforce size, weight and

1 load limitations) is repealed.

2 * Sec. 7. AS 44.19.870 - 44.19.881 (division of policy development and
3 planning) are repealed.

4 * Sec. 8. AS 45.50.491 - 45.50.521 (consumer protection - Department of
5 Law) are repealed.

6 * Sec. 9. AS 45.50.531(b) is amended to read:

7 (b) A person entitled to bring an action under this section may,
8 [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the
9 unlawful act or practice has caused similar injury to numerous other
10 persons similarly situated and if he adequately represents the similarly
11 situated persons, bring an action on behalf of himself and other
12 similarly injured and situated persons to recover actual damages. [A
13 PERSON PLANNING TO BRING AN ACTION UNDER THIS SUBSECTION SHALL FIRST
14 SUBMIT TO THE ATTORNEY GENERAL A COPY OF HIS PROPOSED COMPLAINT, AND HE
15 MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S
16 APPROVAL.] In an action brought under this subsection, the court may in
17 its discretion order, in addition to damages, injunctive or other equit-
18 able relief.

19 * Sec. 10. The responsibility of the Department of Law under AS 45.45
20 (regulation of motor vehicle repairs) is terminated.

21 * Sec. 11. AS 47.10.150, 47.10.160, and 47.10.180 - 47.10.220 (programs
22 of the Department of Health and Social Services relating to the confinement
23 of juveniles) are repealed.

24 * Sec. 12. The Alaska Growth Policy Council, established within the
25 division of policy development and planning, Office of the Governor, by
26 Administrative Order No. 26, under the authority of AS 44.19.880(c), is
27 terminated.

28 * Sec. 13. A claim for an injury compensable under AS 23.35, repealed by
29 this Act, may be paid by the commissioner of labor if claim for compensation

1 is made within one year of the effective date of this Act. A claim shall be
2 paid in accordance with the provisions of AS 23.35 as the provisions read at
3 the time of repeal. On July 1, 1981 the balance in the fishermen's fund
4 (AS 23.35.060, repealed and AS 37.05.155(a)(6)) lapses into the general fund.

5 * Sec. 14. This Act takes effect July 1, 1980.
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BILL ANALYSIS

ASSIGNMENT DATE _____

UNASSIGNED _____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Commerce & Econ. Develop.	Commerce Committee	SB 257
DEPARTMENT POSITION		
Opposed.		
DIVISION DIRECTOR	DATE	COMMISSIONER
<i>S. A. Hartak</i> Occupational Licensing	03-23-79	
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED
BY:	DATE:	
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)		
(2) OTHER AGENCIES AFFECTED BY BILL		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL Unknown		(2) b. ORGANIZATIONAL OPPOSITION TO BILL State Board of Architects, Engineers, and Land Surveyors
(3) PROGRAM EFFECTS OF BILL		
Would add another regulated group to an existing regulated profession.		
(4) FISCAL IMPACT: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		

(6) COMMENTS:

It has not been demonstrated that nonregulation of landscape architecture adversely impacts the public health, safety or welfare. This profession is concerned with esthetics and does not involve activities related directly to human life or well being. Actual need, not imagined need, should be established.

Consumers of these services are most likely to have substantial resources and recourses. Practitioners may be presently certified by the National Association of Landscape Architects if they wish such status. Nothing in AS 08.48 prohibits or restricts the profession. It does not appear that either the public or the profession requires governmental regulation of another group of practitioners.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 257
 Title Relating to the State Bd. of Registration for Arch., Eng., and Land
 Requested by Commerce Committee Date Surveyors
March 22, 1979

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Regulation and Licensing of Professions

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	2.0	2.1	2.1	2.2	2.2
300 CONTRACTUAL	0	1.0	1.1	1.1	1.2	1.2
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC	0	0	0	0	0	0
TOTAL	0	3.0	3.2	3.2	3.4	3.4

FUNDING (Thousands of Dollars)

GENERAL FUND	0	3.0	3.2	3.2	3.4	3.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

TRAVEL

Boards, Commissions & Legislators	
3 Trips	In-state transportation 495
12 per diem days	In-state per diem 660
1 Trip	Out-of-state transportation 550
6 per diem days	Out-of-state per diem 300

CONTRACTUAL

Communications, including printing and advertising	500
Professional fees and services	
Council dues and examination fees	500

In-state travel for one board member assumes 4 meetings per year with 1/4 being held in the member's home town. Inflation is computed at 6% per annum. Assumes an effective date of July 1, 1979.

IV. DATE March 23, 1979 PREPARED BY Don Hostak, Director
 AGENCY Division of Occupational Licensing
 PHONE 465-2534

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Feb. 13 (noon)

Brad ---

① Robert Cacy of the ATC is the first Exec. Director. *Thanks. We need some info from him*

② At 1:30 today the Senate Judiciary Committee is hearing the Bill on Guides. They called to make certain that you are aware of this. *I made it & did O.K!*

③ Please call Ross Hart about legislation regarding the registration of Landscape Architects. 586-6400 Attached is the Senate Bill from last year regarding this topic. *I'll see him some weekend.*

Christian

Chris

OK

Too late for this year. Tuesday was last day. I introduced my full quota. Can introduce for next year, but cannot get on calendar this year so might as well wait.

Thank you
Brad

27

Background
Information

1978?
I think

Admin does not support this legislation.

We have consistently suggested that occupational regulation is an inappropriate ~~and~~ use of the state's police power in the absence of evidence of overt public abuse.

The proponents of this legislation argue in its favor that the service is concerned with public health, welfare and safety. That incompetence can result in damage. We concur. Damages ^{can} result to the consumer from incompetence in any occupation. That premise is insufficient in our viewpoint to require government regulation. Actual, not imagined, need should be established.

2. They will argue that there is no way for the average consumer of landscape architectural services to discriminate between the competent and incompetent. We do not agree.

~~It is~~ First the average consumer is unlikely to be given any man in the street. It is most likely a person with other substantial private resources, such as EXXON or public resources, such as the State.

General, private institutions, profit which already provide substitute ability - the Nat Soc of Landscape Architects will write any person meeting its requirements which are rigorous. Educational institutions routinely attract the investment and achievements of their graduates in request of the graduate.

3. They will argue that Black's A. Page Gov for H. C. & S. initiatives them from working by requiring their designs be approved by a Negro kind program. H. S. O. 48. 331(7) "The operationally exempt ~~from~~ the use of any other ~~method~~ although recognized & approved although

"lawfully recognized" is not defined, surely this language was intended to exempt ~~with~~ ~~other than~~ more than just regulated occupations. We do not regulate traffic engineers nor do we attempt to prevent them from practicing. The situations are analogous.

~~That includes my testimony~~
~~if you have any questions~~

In short, it does not appear that either the public or the profession requires government intrusion into this area of private enterprise.

~~Bob Bradley~~
approximately 25 members - less than half
of those practicing -

Washington incident - Washington
" " Oregon

Minch recommends exemption under 321

landscape project that doesn't substantially
affect public health, safety and welfare.

recommends 341 (7) be expanded to include
~~sites and grounds~~ "works and projects"

Dougherty - one of the most difficult areas of
administration is in overlap.

wants to delete word "buildings"
from engineering definition.

SOME PRACTICAL QUESTIONS RELATING TO LICENSURE OF LANDSCAPE ARCHITECTS

TO: THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE - SECOND SESSION

RE: SENATE BILL NO. 416
HOUSE BILL NO. 655

PREPARED BY: ALASKA CHAPTER, AMERICAN SOCIETY OF LANDSCAPE
ARCHITECTS - CONTACT: MR. ROSS HART - 586-6400

SOME PRACTICAL QUESTIONS

1. WHY IS LICENSURE NEEDED?

Grounded in the responsibility of the State of Alaska to maintain means for protecting health, safety, and welfare of their citizens, licensure provides a basis for making a determination of minimum competency. When that determination has been made, the state may then confer the privilege of doing some thing(s) or engaging in certain practices as indicated on a license issued to the person proven competent. The most widely known is the driver's license issued upon an individual's passing a driving test.

In essence, a license holder has been granted permission to do something that, if done improperly, could harm others. Such permission must be granted by a duly established authority in order to protect the public, assure competence, weed out incompetence, and to provide discipline, redress, or revocation where bad practice has been proven. Moreover, since an average client cannot be reasonably expected to have the level of sophistication necessary to adequately evaluate either the specialized services offered by Landscape Architects or the level of competence of a given practitioner, that client needs the specialized protections provided by licensure. In addition, since certain elements of specialized practice may already have been legally sanctioned as being under the purview of other more established professions whose requirements to sit for examination may prohibit members of younger professions from qualifying, due process must be available to applicants whose newer area of expertise is not provided for by the older boards or the examinations they administer.

2. HOW IS LANDSCAPE ARCHITECTURE INVOLVED WITH HEALTH, SAFETY, AND WELFARE?

"Clear and direct" relationships between protection of the public and the practice of Landscape Architecture may be seen in the following examples:

- a. Improperly specified relationships between water supplies, such as to artificial ponds, fountains, etc., and water drainage facilities could result in contamination of a water supply system of an entire community.
- b. Improper design of outdoor lighting systems and their supply lines could present undue fire and/or shock hazards.
- c. Inadequate design of outdoor structures such as those used in parks and other recreational facilities could result in injury should those structures fail. Such structures can include small shelters, footbridges, gazebos, kiosks, decks, rest facilities, among others.
- d. Specification of unsafe playground equipment could result in injury and consequent liabilities.

- f. Inadequate provision for drainage can result in flooding of foundations, basements, wal ways, highway rights of way, recreation areas, and other kinds of fa lities used by the public. This could present particularly serious hazards under the freezing conditions of Alaska.
- g. Lack of adequate knowledge of plant materials and their functional characteristics and interrelationships with various kinds of soils and other environmental elements can present at least these kinds of hazards:
 - i. trees placed in soils whose structural characteristics do not provide its root system adequate physical support . under stress of certain wind conditions.
 - ii. root systems placed too near foundations of structures will ultimately weaken the structure.
 - iii. certain toxic or otherwise harmful species could harm childern in a variety of ways.
 - iv. specification of hardwood trees on highway medians or otherwise too close to rights-of-way present a serious hazard to motorists and their passengers.
 - v. specification of plant materials on incompatible soils can result in deadwood that provides fire hazards.
- h. Improper specifications for grading and filling can result in soil slippage and washing or even massive erosion.

3. HOW HAVE LANDSCAPE ARCHITECTS BEEN PREVENTED FROM PRACTICING UNDER PRESENT LAW?

Restraint from practice has ocured:

- a. under those conditions when Landscape Architects may not even submit a bid for contract because some portion of work they are trained to do has been allocated jurisdictionally to the purview of regulatory boards of related environmental design professions.
- b. under those conditions where a call for bids specifies or falls under more general policy provisions of given private and public agencies requiring that the bidder hold a valid license as proof of minimum competency.

Existence of either or both of the two conditions given above not oniy by themselves may constitute a restraint of trade impediment within given jurisdictions but also becomes a particularly severe restraint on Landscape Architects seeking out of state work while their home state provides no licensure through which they may present a legally sanctioned proof of competence.

4. DON'T LANDSCAPE ARCHITECTS JUST WANT LICENSURE AS A STATUS SYMBOL?

Landscape Architects want licensure in order that the profession will not be marred by the adverse effect of not insuring competence of all practitioners whose work directly affects public safety. They recognize that their service-oriented activities are not readily evaluated by the lay public; average citizens may not be expected to have adequate knowledge to protect them from manifestations of bad practice.

Landscape Architects want licensure in order that they may compete, without restraint, for work both within as well as outside of their home jurisdictions.

5. WHY CANNOT LANDSCAPE ARCHITECTS BECOME LICENSED UNDER PRESENT LAW AS ARCHITECTS, ENGINEERS, OR LAND SURVEYORS?

The critical elements here are the separate and distinctly different definitions of the respective professions which reveal activities of often overlapping but quite distinct scope or range. There would be legally indefensible inconsistencies in not recognizing the horticultural background underlying the distinctly unique body of knowledge, and concomitant skills, through which their knowledge is manifested in the contemporary practice of Landscape Architecture. The specialized services offered by architects, engineers, and land surveyors do not derive from knowledge developed out of horticultural context. However, among the things Landscape Architects often do have in common with architects and with some kinds of engineers are design-oriented activities. Among the things Landscape Architects have in common with surveyors are knowledge and skills in topography and grading.

Another critical element lies with the educational background and other qualifications necessary for a candidate to fulfill in order to even sit for licensure examination of other professions. No person should be obliged to face unreasonable requirements that would prevent his sitting for examination. We should recall that provisions of due process must apply not only to license holders but also to applicants.

6. WHAT IS THE FORMAL TRAINING OF LANDSCAPE ARCHITECTS?

After completing high school, there are several levels of education available in Landscape Architecture. These include vocational programs (certificates or Associate degrees), pre-professional programs (Baccalaureate degrees), undergraduate professional degree programs (Bachelor of Science in Landscape Architecture), and graduate professional degree programs (Master of Science in Landscape Architecture or Master of Landscape Architecture). Vocational programs entail about two academic years of study and a summer of field experience. These programs normally focus on residential and commercial scale projects and emphasize practical knowledge, such as construction detailing, grading, horticultural practices, grounds maintenance, and business practices. The purpose of these programs is to train leaders for the landscape industry, thus studio courses stress detail scale design such as surfacings,

planting composition and minor structural elements. Upon completion, graduates of vocational programs enter supervisory roles in nursery or contracting firms and relatively few continue their formal education.

In recent years, undergraduate pre-professional degree programs have been developed at several universities to provide an academic foundation for advanced work in any one of several design disciplines. Seven schools, all with graduate level landscape programs, have instituted "generalist" programs that award either a Bachelor in Environmental Design or a Bachelor in Environmental Studies degree. These programs stress broad-scoped social science and natural science course work and offer only limited amounts of design studies and technical material, for graduates are expected to continue their professional development in the Master's program.

By contrast, other undergraduate programs award professional degrees in Landscape Architecture and have a full complement of design and technical education in their curricula. These programs are either four or five years in length with the latter generally providing for more elective opportunities and some individual specialization. It is estimated that about 80% of the graduates from these programs enter practices in professional offices or planning agencies. Of the remaining 20%, about half pursue graduate studies and the rest find employment in the landscape industry.

Graduate degrees, either M.S. or M.L.A., are available at approximately twenty schools in this country, frequently at the same institution as professional degree undergraduate programs. These advanced programs require from one to three-and-one-half years of study depending on the applicant's background. For those with an undergraduate professional degree in Landscape Architecture, the advanced program usually amounts to a year-and-one-half or two years. For students coming with pre-professional degrees as well as those with non-design backgrounds, Master's programs normally require a residency of three to three-and-one-half years.

7. WON'T LICENSURE OF LANDSCAPE ARCHITECTS ADVERSELY AFFECT NURSERYMEN?

Nurserymen who are engaged in raising and selling plant materials to their customers will not be adversely affected by passage of a licensure law for Landscape Architecture. Activities of the two occupations, while related, are entirely different: a nurseryman's products are botanical, and a Landscape Architect's products are designs for envisioned works which usually include, but are not limited to, botanical elements. Moreover, the one deals in products while the other often provides only services; goods can be inspected by a prospective buyer, generally services cannot.

If some nurserymen are adversely affected by a licensure law, then it may be because they are engaged in design activity for which they may not have appropriate training or experience through which they obtain competence.

8. HAVE ANY LANDSCAPE ARCHITECTS BEEN DENIED HAVING PLANS ACCEPTED BY PRIVATE OR GOVERNMENT AGENCIES FOR LACK OF LICENSURE?

Yes. However, the more frequent consequence of lack of licensure is that firms which cannot afford to prepare plans for private or government agencies requiring licensure of its bidders simply do not enter the bidding process when they know they will be excluded under existing regulations.

9. DOES THE LICENSING BOARD OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS FEEL LANDSCAPE ARCHITECTS SHOULD BE LICENSED?

The answer is yes. At a meeting at the board on September 22, 1977 a resolution was unanimously passed "that the board support the concept of registration of Landscape Architects".

10. PRESENT LAW RESTRICTS LANDSCAPE ARCHITECTS FROM JOINING OTHER PROFESSIONALS IN A PROFESSIONAL CORPORATION. IF THIS RESTRICTION WERE ELIMINATED, WHY SHOULD LICENSURE BE NEEDED FOR LANDSCAPE ARCHITECTS?

In some states that kind of restriction exists. However, its elimination would still not remove the fundamental need for licensure of Landscape Architects for these reasons:

- a. The basic purpose of licensure protecting public health, safety, and welfare would remain unachieved.
- b. Without licensure Landscape Architects could not be principals of such a firm. In consequence, engineers and architects would continue doing Landscape Architectural work in an activity where they have not been proven competent.
- c. Removal of this restriction would not provide for licensure needs of individual private practitioners who are not members of such firms. Absence of benefit of licensure would discourage or prevent many one-man offices from being located on a given jurisdiction.

11. IS IT TRUE THAT ONCE LANDSCAPE ARCHITECTS ARE LICENSED, THEY THEN AMEND THE LAW TO RESTRICT THE OPERATION OF NURSERYMEN?

Under provisions of the law, no persons should be restrained from practicing Landscape Architecture so long as those individuals are able to prove their competence. Moreover, no persons should be required to face unreasonable requirements that would prevent their sitting for examination. However, where there are unqualified people engaged in the practice of Landscape Architecture, and thereby impinging on public safety, those people should be proven competent.

12. HOW MANY STATES CURRENTLY LICENSE LANDSCAPE ARCHITECTS? HOW MANY HAVE HAD LICENSURE REPEALED?

Thirty-eight states currently provide licensure for Landscape Architects. One state has, under provision of a hastily enacted sunset law, repealed an inadequate title act and is currently drafting a practice law that would replace it.

13. DO LANDSCAPE ARCHITECTS DESIGN BUILDINGS?

Landscape Architects do design some buildings such as park structures. However, Landscape Architects do not design habitable buildings.

14. WON'T LICENSURE OF LANDSCAPE ARCHITECTS INCREASE THE COST OF LANDSCAPE ARCHITECTURAL SERVICE TO THE PUBLIC?

It is possible that the cost of licensure may initially cause a small increment on some fees. However, experience indicates that these will soon become insignificant by comparison with the much larger effects of cyclical swings of economic cycles.

Here, again, a licensure operation should be of such effectiveness on fulfilling its stated societal purpose that it would be judged cost-effective.

LAKE & BOSWELL

CONSULTING ELECTRICAL ENGINEERS

JAMES M. LAKE, P.E.
ROBERT B. BOSWELL, P.E.

543 THIRD AVENUE, ROOM 206
FAIRBANKS, ALASKA 99701
PHONE 907-452-1441

January 30, 1979

Mr. Don Hostak, Director
Division of Occupational Licensing
Department of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811

Dear Don:

I have again reviewed the committee substitute for Senate Bill No. 416, introduced in the last session of the Legislature, pertaining to the Licensing of Landscape Architects.

I am opposed to the Licensing of Landscape Architects for three reasons:

1. In my judgement the practice of Landscape Architecture does not impact the public health, safety or welfare as, in its simplest terms, Landscape Architecture is concerned basically with esthetics. There is a very definite trend, both in the state of Alaska and Nationally, to abolish unnecessary licensing requirements and to create another licensed profession which has no demonstrated need for protection of the public is, in my opinion, imprudent.
2. Paragraph 15 of 08.48.341 as written is in conflict with the presently defined areas of expertise of Architects, Civil Engineers and Land Surveyors. Each of these three established disciplines are involved with various phases of "preservation, enhancement, or improvement of natural land features" and it would appear that the act would create numerous areas of overlapping jurisdiction with resultant problems.
3. Since the public Safety, Health and Welfare is not affected by the discipline of Landscape Architecture, I see no need to require the public to pay for such services. The addition of a Landscape Architect to the design team for a commercial building, for instance, would increase the design costs for no tangible reason.

Very truly yours,

James M. Lake, P.E.

JML/vg

STUTZMANN ENGINEERING ASSOC., INC.

P. O. BOX 1429

FAIRBANKS, ALASKA 99707

907 452-4084

RECEIVED
DEPARTMENT OF
LICENSING

JAN 29 2 13 PM '79

OCCUPATIONAL
LICENSING

January 25, 1979

State of Alaska
Dept. of Commerce and Economic Development
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99811

Attn: Erma Norlund

Dear Erma:

I have received the copy of CS for Senate Bill 416 which you sent me. As to my comments thereon, I am still opposed to licensing of landscape architects for the same reasons as I stated last year when this came up. At a time when we are in the process of paring down boards under the Sunset Law, why add another branch of individuals of this sort?

Also, I cannot see how their activities effect "health and safety" of the public. Their work is mainly cosmetic, like that of a hairdresser. I do not believe they belong on a common board with architects, engineers and land surveyors in any event.

I firmly oppose their registration as proposed under this bill.

Please convey my comments to Mr. Hostak by copy of this letter.

Very truly yours,

Paul E. Stutzmann

Paul E. Stutzmann, P.E. and R.L.S.

THE LEGISLATURE OF THE STATE OF ALASKA
 TENTH LEGISLATURE

FISCAL NOTE

REQUEST

Bill/Resolution No. SB 416 / HB 655

Title Relating to State Board of Registration for Architects, Engineers &

Requested by _____ Date Land Surveyors

1/16/78

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Public Protection

Budget Request Unit(s) Affected Regulation & Licensing of Professions

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		0	0			
200 TRAVEL		0	4.1	4.3	4.6	4.9
300 CONTRACTUAL		0	1.0	1.1	1.1	1.2
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0	5.1	5.4	5.7	6.1

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND		0	5.1	5.4	5.7	6.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

TRAVEL

Boards, Commissions & Legislators		
8 Trips	In-State Transportation	1,320
36 Per diem Days	In-State Per diem	1,980
1 Trip	Out-of-State Transportation	550
6 Per diem Days	Out-of-State Per diem	300

CONTRACTUAL

Communications, including Printing and Advertising	500
Professional Fees and Services	
Council Dues and Exam Fees	500

In-state travel for two board members assumes 6 meetings per year with 1/3 being held in the members home town. Inflation is computed at 6% per annum. Assumes an effective date of 7/1/78.

IV. DATE 1/23/78

PREPARED BY Margaret Anderson

AGENCY Department of Commerce & Economic Development

PHONE 545-2535

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

HEWITT V. LOUNSBURY & ASSOCIATES
ENGINEERS PLANNERS SURVEYORS

723 W. 6th. Avenue, Anchorage, Ak. 99501 Telephone 272-5451

RECEIVED
DEPARTMENT OF
COMMERCE
FEB 6 1 36 PM '79

OCCUPATIONAL
LICENSING

MEMORANDUM

TO: Mr. Don Hostak
RE: Landscape Architects Bill
DATE: January 31, 1979
FROM: Loren H. Lounsbury

I am opposed to the regulation of landscape architects as proposed by the bill to be introduced to the Alaska Legislature. In my opinion there is no need to register landscape architects as the work they perform does not endanger the health, safety or welfare of the public. Therefore, it is inappropriate to include them with architects, engineers and land surveyors.

Since the legislature passed Sunset Legislation it appears they are concerned with limiting regulation to those professions that have a direct affect on the health, safety and welfare of the public.

It would seem to me that the landscape architects should make a showing that they do affect the health, welfare and safety of the public before this legislation is considered.

If this bill is passed every nursery operator, gardener, or anyone who has ever done any landscaping would have to be registered to practice under Grandfather Rights. I am not aware of any move by the public or the people who have provided landscape services in the past to be concerned about the registration and regulation. Therefore, it would appear to me that unless there is a huge outcry by the public that they need protection by the practicers of landscaping, we would be just adding another costly regulation to the State Statutes.

MEMORANDUM

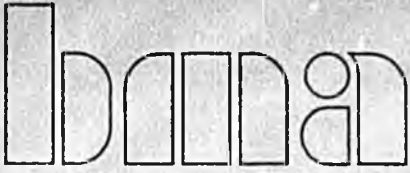
TO: Mr. Don Hostak
RE: Landscape Architects Bill
DATE: January 31, 1979
FROM: Loren H. Lounsbury

I am opposed to the regulation of landscape architects as proposed by the bill to be introduced to the Alaska Legislature. In my opinion there is no need to register landscape architects as the work they perform does not endanger the health, safety or welfare of the public. Therefore, it is inappropriate to include them with architects, engineers and land surveyors.

Since the legislature passed Sunset Legislation it appears they are concerned with limiting regulation to those professions that have a direct affect on the health, safety and welfare of the public.

It would seem to me that the landscape architects should make a showing that they do affect the health, welfare and safety of the public before this legislation is considered.

If this bill is passed every nursery operator, gardener, or anyone who has ever done any landscaping would have to be registered to practice under Grandfather Rights. I am not aware of any move by the public or the people who have provided landscape services in the past to be concerned about the registration and regulation. Therefore, it would appear to me that unless there is a huge outcry by the public that they need protection by the practitioners of landscaping, we would be just adding another costly regulation to the State Statutes.



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OCCUPATIONAL LICENSING

January 31, 1979

Mr. Don Hostak
Director of Licensing
Department of Commerce and Economic Development
State Board of Registration for Architects,
Engineers and Land Surveyors
Pouch D
Juneau, Alaska 99811

Dear Don,

I received a memorandum from Erma Norland indicating that you would like comments and reasons for favoring or opposing the proposed legislation.

I have reviewed last year's Senate Bill #416 to add landscape architects to the present Board of Registration for Architects, Engineers and Land Surveyors. I am not opposed to the concept of requiring professional registration for landscape architects. There are, however, many questions to be answered before I could support adding landscape architects to our present registration statutes.

As we are registered for the health, welfare and protection of the public, I believe it is imperative that it be clarified how the public is threatened by the lack of professional registration for landscape designers.

An acceptable definition of landscape architecture must be prepared for review. The definition submitted last year literally carved out professional requirements from existing services provided by civil engineers and architects. The proponents of the Landscape Architecture Bill have stated that there is an existing deficiency and that they are filling an existing void. This should be established prior to legislation being proposed for legislative action.

There are many architects, engineers, landscape planners and landscape companies presently offering services that may be restricted with a Landscape Architects Bill. I believe the

Mr. Don Hostak
Director of Licensing
January 31, 1979
Page 2

bill should speak more directly to the effects of such a bill on existing companies. There are approximately forty of these companies listed under landscape architects and contractors in the Anchorage Telephone Directory. I do not believe that all of these can qualify for professional registration, as civil engineering and surveying knowledge is required for topographic design. I also do not believe that these companies providing lesser services should be forced into hiring a registered professional on their staff or close their businesses.

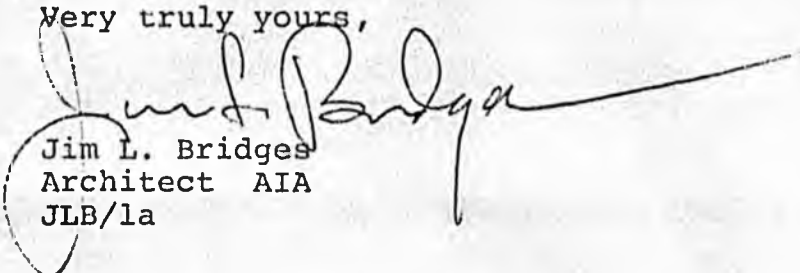
Internally, the bill proposed would create havoc, in my opinion, for the Board of Registration. The new regulations will be in immediate conflict, and the proponents of the Landscape Architects Bill have not, so far as I know, attempted to establish regulations compatible with the presently registered professionals. I believe that a task force working with the Alaska Professional Design Council, an organization which represents all registered professionals, could probably satisfy the conflicts by introducing proposed regulations to be implemented as quickly as possible upon passage of any bill creating registration for landscape architects.

All Alaskan professionals are registered through examination or comity based upon examination. I believe more information should be presented concerning the testing and a review by the Board of Registration of the national tests given landscape architect trainees. The contents of that examination would help verify qualifications and conflicts with existing professional registrations.

Finally, as we are presently in a struggle to justify our very existence, I find it very untimely that consideration is given to expanding the Registration Board with another discipline within a year of the time required to justify the existence of the existing Board of Registration.

I shall be in Juneau February, 22nd, 23rd, 24th for the next scheduled meeting of the Board of Registration. I hope to have the opportunity of visiting with you on the morning of the 22nd. I would appreciate the opportunity to discuss the landscape architect and other Board related subjects with you at that time, if your schedule permits.

Very truly yours,



Jim L. Bridges
Architect AIA
JLB/la

W. J. WELLENSTEIN • ARCHITECT • A.I.A., INC.

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JANUARY 25, 1979

MR. DON HOSTAK, DIRECTOR
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL
LICENSING
POUCH D
JUNEAU, ALASKA 99811

TO MR. HOSTAK:

ERMA NORLUND SENT ME A COPY OF THE LANDSCAPE ARCHITECTS BILL
FOR MY COMMENT.

I AM NOT IN FAVOR OF LICENSING LANDSCAPE ARCHITECTS. ATTACHED
IS A COPY OF A LETTER I WROTE LAST YEAR AND MY OPINION HASN'T
CHANGED.

SINCERELY

W. J. WELLENSTEIN
MEMBER, BOARD OF REG.
A. E. AND L.S.

WJW/DG

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W. J. WELLENSTEIN - ARCHITECT - A.I.A., INC.

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JANUARY 22, 1978

W. J. WELLENSTEIN, PRESIDENT
ALASKA STATE SENATE
ANCHORAGE, ALASKA

TO SENATOR RADER:

I APPRECIATE BEING GIVEN THE OPPORTUNITY TO COMMENT ON THE PROPOSED
A.S.S. 366 AND S.B. 416.

I AM OPPOSED TO THE LICENSING OF INDIVIDUALS AS LANDSCAPE ARCHITECTS
FOR THE FOLLOWING REASONS:

1. PROTECTION LAWS, AS YOU ARE AWARE, ARE WRITTEN FOR THE
PROTECTION OF HEALTH, WELFARE AND SAFETY. I SEE
NO HARM TO THE PUBLIC IN ANY OF THESE AREAS IF THEY ARE
UNLICENSED.

2. THERE IS A DIFFICULTY ENFORCING OUR PRESENT LAW WITHOUT
HOLDING ANOTHER DISCIPLINE.

3. I CAN SEE ADDITIONAL PROBLEMS FOR THE BOARD IN COMPLAINTS
EITHER THE CIVIL AND/OR LANDSCAPE ARCHITECT AS TO WHOSE
DISCIPLINE THE SHAPING OF THE TERRAIN WILL BE.

4. ROAD CONTROL, SETTING GRADES, DETERMINATION OF PROPER LAND
USE, APPROACHES TO BUILDINGS, ETC., ARE NOT IN A LANDSCAPE
ARCHITECTS DOMAIN.

5. TWO MEMBERS ON THE BOARD WOULD NOT BE IN PROPORTION TO THE
REAL DISCIPLINES AND THE MEMBERS THEY REPRESENT.

6. I AM AWARE, WE ARE PRESENTLY REVISING THE STATE BOARD OF
REGULATION FOR ARCHITECTS, ENGINEERS, AND LAND SURVEYORS
CHAPTER 36. WE HAVE REPEATEDLY BEEN INFORMED
BY THE ATTORNEY GENERAL'S OFFICE THAT WE ARE UNABLE TO POLICE
OUR MEMBERS WITH THE PRESENT REGULATIONS AS THEY NOW EXIST.
OUR MEMBERS SHOULD BE HELD TO THE SAME