

99 HJ BAR ASSN SUNSET REVIEW FILE NO. 10

Wills would like to see
bell help up til Puley
speaks to committee.

status of rec. made by
commission - as to what
can be done this session
(more detail)

part of current - said they
were going to see as to
to do for this year

[Fried]

Liberal and conservative (at)
the same time in government
to be done:

to be done - with all kinds
to be set down

the way to do it
not a great public bill
the way to do it - a
to be done - a
to be done - a
to be done - a

Law - think about victims of
Crimes. Rt. to secure an
life + property.

for sentence reports
training - this project
has been started by
Judicial Council.

Health Hospital bill -

to the

the

Dean Guarelli

use my language

for treatment
in institution

1. likes increase in Bd 5-7
from ethnic groups.
very under APA.

standards

distances

providing good time while
on parole.

not fatherhood
not...

Reg should not have
to enforce laws.

Septemic program needs
to be kept up staff
helpful.

(Mr London)

Why Hume Rd not able
to in action - focus
of hearing.

[Faint, illegible handwritten notes]

From the end of 1944
of adults of ...
DBP ...

[Faint, illegible handwritten notes]

Case of person gone through
Calif. - baby, bear + big exam -
might have an exception
or those person.

*Atty for Califor - atty.
apple 1 - make them
as the entire era

valued in 4 years →

valued in 4 years →

valued in 4 years →

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valued in 4 years →

valued in 4 years →

look to other states or
ABA for definition of
practice of law.

3rd point

Sec. 1 existence only for

1 yr.

4th point

reference to other laws here
part of

is a law in practice
within 1 yr. in practice
in 1 yr. in practice
within 1 yr. in practice

is a law in practice
within 1 yr. in practice
in 1 yr. in practice
of 1 yr.

vt. of membership
to Amend bylaws.

Regulations they do
make - want to
keep "Power of Board
to make or change
bylaws AND regulations"

Main pt.

APA accredited

5 pt. automatic hearing

Confidentiality of hearing

30 day notice of meetings

(no problem with regular meetings).

Board as never in session

no committee report regarding
disciplinary procedures

Ex 10 all Executive 100

meeting for session

by the board

at the time of

1-7 - write letter

from official records

general location - board

at the time of

ABA thought Bar's definition
too permissive for will, etc.

Consider to fill vacancies
in the Board

Have elected members
in the process

April 4, 1960



HB 5271

would like to go beyond
the 12 hour hold. To 24
hours or becomes sober.

would like to see Washington
Program - proceed.

defense + extra time

170

Washington Center

presenting to

local

"item or items"

Hugh 3:00
Nels 812

Separate out from Adoption
Statutes - the relinquishment
stuff.

limit to licensed agency / or state - wants
to limit



Must give custody of child to
someone.

Accredited law schools

at last meeting - a consensus seemed to exist for 2 standards - accredited law school graduation required to take exam if person is not an experienced attorney and non-accredited law school graduation, if an experienced attorney, desires to take the exam.

propose following amendment to § 12

reinsert AN ACCREDITED on line 17

add the words

"Applicants who have not graduated from an accredited law school but who have ^{been licensed to} practiced law in another jurisdiction as ^{an} admitted attorney for ^{5 years or cumulative} 2 years are eligible to take the ~~an~~ examination in the US

§ 13 reinsert A/AS/A BAR on line 22
reinsert AN APPROVED on line 23

§ 14 reinsert EITHER AN APPROVED OR A NONAPPROVED on lines 3 & 4

§ 15 ~~law school means~~ delete ^{words} "whether or not" from line 9

§ 17 reinsert deleted material on line 2

Coon complaint against Alaska Bar Assn.

Date: Mar. 12, 1980

907

Telephone conversation: 745-4520

investigator Gary Martin - (Dep. Sheriff - H Sed. no speed
degrees, wanted to go hunting)

CLASS - not have a case, Doc. SA D ylo.

Workman's Comp. - fired 1st.

\$160,000 Award.

1st. Atty Alz

waited one week before going to
Court.

has Atty.

some wait answer complaints.

① haven't heard anything

③ Link is a drunk, malpractice case ← nothing come
of it
Keever - law partner took it over ← called by phone
+ asked of
extension.

Mar
12, 1980
Mar.
17,
1980

Glass - made him answer - complaints.

How discipline him.

Gary Martin - can't do
anything about him.
he's his boss.

George
Teenage girl

prefers state agency - not courts
or attorneys themselves.

Accredited law schools

At last meeting - a consensus seemed to exist for 2 standards - accredited law school graduation required to take exam if person is not an experienced attorney and non-accredited law school graduation, if an experienced attorney, desires to take the exam.

propose following amendment

to § 12

reinsert AN ACCREDITED on line 17

add the words

"Applicants who have not graduated from an accredited law school but have practiced law in another jurisdiction as an admitted attorney for 5 years are eligible to take the examination"

in the US

§ 13 reinsert A/AS/A RAR on line 22

reinsert AN APPROVED on line 23

§ 14 reinsert EITHER AN APPROVED OR A NONAPPROVED on lines 3 & 4

§ 15 ~~law school means~~ delete "whether or not" from line 9

§ 19 reinsert deleted material on line 2

UPDATED
MAY 21, 1980

Committee Markup
April 28, 1980
from: M.W. Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CSfa HOUSE BILL NO. AB 984

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

BERCK

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar
7 Association and amending the statutes relating to the
8 practice of law in the state; amending Alaska Bar Rule
9 ? and 7; and providing for an effective date."

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

11 * Section 1. AS 08.03.010(c) is amended by adding a new paragraph to
12 read:

13 (2) Board of Governors of the Alaska Bar Association
14 (AS 08.08.040) - June 30, 1981.

15 * Sec. 2. AS 08.08.010 is amended to read:

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar
18 Association, referred to in this chapter as the Alaska Bar. The Alaska
19 Bar shall have a common seal, may sue and be sued, and may, for the
20 purpose of carrying into effect and promoting the objects of the Alaska
21 Bar, enter into contracts and acquire, hold, encumber and dispose of
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar
24 is subject to statutory requirements imposed on state agencies including
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -
26 44.62.320 and AS 44.66.

27 * Sec. 3. AS 08.08.020 is repealed and re-enacted to read:

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the
29 state ~~may~~ ^{shall} become a member of the Alaska Bar.

* Sec. 4. AS 08.08.040 is amended to read:

2 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) Ther
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be
4 elected under bylaws AND REGULATIONS PROMULGATED by the boar
5 (b) The board consists of ~~two~~^{eight} [NINE] ACTIVE members elected by t
6 ACTIVE members of the Alaska Bar and three persons who are appointed
7 by the governor and who are not attorneys.

* Sec. 5. AS 08.08.050 is amended to read:

9 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a)
10 TWO MEMBERS of the board shall be elected by and from among t
11 members of the association resident in the first judicial district;
12 FOUR members of the board shall be elected by and from among the
13 members of the associator resident in the third judicial district;
14 and TWO MEMBERS by and from among the members of the associa-
15 tion resident in the combined area of the second and fourth judicial
16 districts .
17 Three members who are not attorneys shall be appointed by the governor
18 and are subject to confirmation by the legislature in joint session.

19 (b) Members of the Board of Governors shall hold office for three
20 years and until their successors are elected or appointed and qualifie

21 (c) Board members shall be selected [ELECTED] annually, or
22 the following triennial rotation: [.]

23 (1) in the first year, one member shall be appointed, one
24 member shall be elected from and ~~one~~^{two} members shall be elected [TWO
25 MEMBERS] from the third judicial district;

26 (2) in the second year, one member shall be appointed, one
27 member shall be elected from the combined area of the second and fourth
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]
29 one member shall be elected from the first judicial district, and
one member shall be elected from the third judicial district; and

1 (3) in the third year, one member shall be appointed,
2 one member shall be elected

3 FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-
4 TRICTS , and one member shall be elected from the third judicial dis-
5 trict.

6 * Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska
8 Bar shall elect their officers annually from the membership of the Board
9 of Governors.

10 * Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy
affecting an elected membership position on the board shall be filled
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 * Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.3
19 apply to the meetings of the board. Members of the Alaska Bar and the
20 public shall be given 30 days notice of ^{regular} meetings of the board. Meeting
21 of the board shall take place in the state. ^{other than those}
^{dealing with the executive}
^{administration of the}
^{ALASKA BAR EXAMINATION}

22 * Sec. 9. AS 08.08.080 is amended to read:

23 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise
24 provided in this chapter or the Alaska Bar Rules, the board may adopt
25 reasonable provisions

26 (1) concerning membership and the classification of member-
27 ship in the Alaska Bar;

28 (2) providing for employees of the Alaska Bar, the time,
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

3 (4) concerning the establishment, collection, deposit, in-
4 vestment, and disbursement of membership and admission fees, penalties,
5 and all other funds;

6 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL
7 SUBDIVISIONS OF THE ALASKA BAR;]

8 * (6) providing for all other matters affecting in any way the
9 organization and functioning of the Alaska Bar;

0 (7) providing for continuing legal education and certification of
1 continuing legal education programs;

2 (8) establishing and maintaining a program for the certification
3 of attorneys as specialists.

4 (b) The board may

5 (1) approve and recommend to the Alaska legislature changes
6 to this chapter and to the provisions of state law generally;

7 (2) approve and recommend to the state supreme court
8 rules for promulgation by the court including rules concerning admission,
discipline, licensing and continuing legal education;

9 (3) adopt reasonable bylaws and regulations consistent with
0 this chapter and the Alaska Bar Rules;

1 (4) sue in the name of the Alaska Bar in a court of competent
2 jurisdiction to enjoin a person from doing an act constituting a vio-
3 lation of this chapter;

4 (5) fix the annual membership fee for active, inactive,
5 judicial and honorary members.

6 * Sec. 10. AS 08.08.085 is amended to read:

7 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of
8 Governors shall report annually to the judiciary committees of the
9 legislature on all matters concerning admissions, discipline of members

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

repealed
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SL 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

* Sec. 11 AS 08.08 is amended by adding new sections to read:

~~Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:~~

- ~~(1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or~~
- ~~(2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or~~
- ~~(3) Giving counsel as to any person's legal rights or obligations;~~

1 * Sec. 11. AS 08.08 is amended by adding new sections to read:

2 Sec. 08.08.105. THE PRACTICE OF LAW (a) A person who is an
3 attorney, or who is not an attorney but who represents himself to be an
4 attorney, and who performs any of the following acts on behalf of
5 another person, with or without compensation, is engaged in the prac-
6 tice of law:

7 (1) appearance in or conduct of litigation or performance of
8 any act in connection with proceedings, pending or prospective, before
9 a court of this State unless otherwise provided by court rule; or

10 (2) appearance in or conduct of litigation or performance of
11 any act in connection with proceedings pending or prospective before
12 any other body constituted by law to settle controversies; or

13 (3) giving counsel as to any person's legal rights or obli-
14 gations; or

15 (4) preparation or procurement of instruments or other
16 papers creating, limiting, claiming, granting, terminating, or other-
17 wise securing legal rights; or

18 (5) engaging in any act or other practice determined by
19 the Supreme Court to constitute the practice of law.

20 (b) A person who is not an attorney and who does not represent
21 himself to be an attorney and who for compensation performs any of the
22 acts set forth in ~~(2) - (5)~~ of subsection (a) of this section is en-
23 *he performs any of the acts set forth in (2) - (5) of subsection (a) and*
24 gaged in the practice of law unless such acts are performed as part of
25 the regular conduct of business the primary purpose of which is other
26 than the performance of any of the acts set forth ~~in (1) through (5) of~~
27 subsection (a) of this section and if such acts do not consume a
28 majority of the person's work time.

29 (c) The provisions of (b) of this section do not apply to a
person working under the direct supervision of an attorney in the

*motion
to delete
failed.*

1 course of that employment, or to a government employee in the course
 2 of his employment. In addition, the provisions of (b) of this section
 3 do not apply to a person employed by a nonprofit corporation that is
 4 engaged in public interest activities during the course of his employ-
 5 ment by such nonprofit corporation. However, notwithstanding AS 22.20.
 6 040, a nonprofit corporation may be represented in court by an officer
 7 or director who is not an attorney upon a showing to the court that
 8 the corporation cannot afford the expense of hiring an attorney for
 9 the action or proceeding and that the officer or director is competent
 10 to represent the nonprofit corporation before the court.

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2 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board
3 of Governors shall administer the bar examination under the Alaska Bar
4 Rules.

5 (b) The Board of Governors may contract with another state or a
6 testing organization for the preparation and grading of a portion of the
7 Alaska Bar examination.

8 (c) The Board of Governors shall contract with persons experienced
9 in the administration of bar examinations for advice on the preparation
10 or grading of the portion of the bar examination prepared under the
11 direction of the board.

12 (d) The Board of Governors shall establish and maintain standards
13 for experience or training of persons who administer the portion of the
14 bar examination prepared under the direction of the board.

15 * Sec. 12. AS 08.08.205 is amended to read:

16 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicant
17 who have not graduated from a [AN ACCREDITED] law school but are other
18 wise qualified may take the bar examination if they have completed a
19 clerkship in the manner prescribed by AS 08.08.207.

20 * Sec. 13. AS 08.08.207(a) is amended to read:

21 (a) Every person who desires subsequently to qualify as a general
22 applicant for admission to the practice of law [ALASKA BAR] without
23 having been graduated from a [AN APPROVED] law school shall register
24 as a law clerk as provided by this section. He must be a bona fide resi-
25 dent of the state and shall present satisfactory proof that he has been
26 granted a bachelor's degree (other than bachelor of laws) by a college
27 or university offering the degree on the basis of a four-year course
28 of study and has successfully completed his first year of studies at a
29 school.

* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended [EITHER AN APPROVED OR A NONAPPROVED] law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school, whether or not accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska AND IS AN ACTIVE MEMBER OF THE ALASKA BAR . A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and
3 whose activities would constitute the practice of law under this chapter
4 [AND UNDER ALASKA BAR RULES], until the results are released of the
5 third Alaska Bar examination following that person's employment.

6 (d) Employees of the Department of Law whose activities would
7 constitute the practice of law under this chapter [AND UNDER ALASKA BAR
8 RULES] are required to obtain a license to practice law in Alaska, no
9 later than 10 months following the commencement of their employment.

10 * Sec. 17. AS 08.08.230(a) is amended to read:

11 (a) Any person not AN ACTIVE MEMBER OF THE ALASKA BAR AND NOT
12 licensed to practice law in Alaska who engages in the practice of law
13 under this chapter or [REPRESENTS HIMSELF AS ENTITLED TO ENGAGE IN THE
14 PRACTICE OF LAW AS THAT TERM IS DEFINED IN THE ALASKA BAR RULES, OR AN
15 ACTIVE MEMBER OF THE ALASKA BAR] who wilfully employs such a person
16 knowing that the [SUCH] person is engaging in the practice of law or
17 representing himself to be entitled to so engage is guilty of a class
18 w misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
19 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH

20 * ~~Sec. 18. AS 22.05 is amended by adding new sections to read:~~

21 ~~ARTICLE 2. ATTORNEYS.~~

22 ~~Sec. 22.05.180. LICENSE FOR THE PRACTICE OF LAW. (a) The annual~~
23 ~~fee for a license to engage in the active practice of law in the state~~
24 ~~is \$25. The annual fee for inactive practice is \$10. and the annual fee~~
25 ~~for members of the judiciary is \$20. Fees are payable to the clerk of~~
26 ~~the supreme court. Fees collected by the supreme court under this~~
27 ~~section shall be deposited in the general fund.~~

28 ~~(b) The supreme court may define the active and the inactive~~
29 ~~practice of law for the purposes of (a) of this section.~~

1 ~~Sec 27 05 190 REGISTER OF LICENSED ATTORNEYS. (a) The clerk~~

2 ~~the supreme court shall maintain a register of each attorney licensed~~
3 ~~practice law in the state.~~

4 ~~(b) The clerk shall suspend the license of an attorney who is~~
5 ~~delinquent in the payment of his annual fee under rules adopted by the~~
6 ~~supreme court.~~

7 ~~(c) The supreme court may adopt by court rule a schedule of pena-~~
8 ~~ties for late payments of fees. An attorney suspended under (b) of th-~~
9 ~~section may be readmitted to practice under the rules of the supreme~~
10 ~~court.~~

11 * Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12 (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATI
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED
15 GRADUATED] or submit proof that the law course required for graduation
16 from [SUCH] a law school will be completed and that a degree will be
17 received as a matter of course before the date of examination.

18 Graduates of law schools in which the principles of English common law
19 are taught but which are located outside the United States and beyond
20 the jurisdiction of the American Bar Association and the Association o
21 American Law Schools, may qualify for examination upon proof that the
22 foreign law school from which they graduated meets the American Bar
23 Association Council of Legal Education Standards for approval;

24 * Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25 Section 1. An applicant who has been denied an examination permi
26 or who has been denied certification to the Supreme Court for admissio
27 to practice shall have the right within thirty days after notice of su
28 denial to file with the Board a written verified statement of appeal.
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds
2 upon which he intends to rely and may:

3 (a) object to the form of notice from which such appeal is taken
4 on the ground that it is so indefinite or uncertain that he cannot
5 reasonably prepare his statement;

6 (b) present new matter on which he relies to establish his eli-
7 gibility for admission to practice.

8 An applicant who is denied an examination permit or who is denied
9 certification shall allege facts which, if true, would establish an
10 abuse of discretion or improper conduct on the part of the Board, the
11 Executive Director, the Committee or a master. If the allegation in t
12 verified statement is [ARE] found to be sufficient by the Board, a
13 hearing shall be granted. A hearing shall be granted to an applicant
14 denied certification if his score on the bar examination is within five
15 points of the passing grade of the bar examination.

16 *Sec. 21. Section 7 of Alaska Bar Rule 3 is repealed.

17 * Sec. 22. AS 08.03.010(b)(11), ~~AS 08.03.010(b)(11)~~, 08.08.220 ~~and 08.03.220~~ a
18 AND
19 repealed.

20 * Sec. 23. Section 3 of Alaska Bar Rule 2 is repealed.

21 * Sec. 24. AS 08.08.050 as amended by sec. 5 of this Act takes effect a
22 the first election of members of the Board of Governors of the Alaska Bar
23 after January 1, 1981. The governor shall appoint one member of the board
24 each year to replace an elected member whose term expires.

25 * Sec. 25. Sections 1, 2 and 24 of this Act take effect immediately in
26 accordance with AS 01.10.070(c).

27 * Sec. 26. Sections 3 - 23 and 25 of this Act take effect January 1,
28 1981.

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

repealed

Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 172 SLA 1960; am § 8 ch 181 SLA 1976)

* Sec. 11 AS 08.08 is amended by adding new sections to read:

make separate sections

Sec. 08.08.105. THE PRACTICE OF LAW. (a) ~~Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:~~

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(b) A person who is not an attorney and who does not represent himself to be an attorney and who for compensation performs any of the acts set forth in (2)-(5) of subsection (a) of this section is engaged in the practice of law unless such acts are performed as part of the regular conduct of business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of this section and if such acts do not consume a majority of the person's work time.

(c) The provisions of (b) of this section do not apply to a person working under the direct supervision of an attorney in the course of that employment, or to a government employee in the course of his employment.

*will and how they
but who*

THE PRACTICE OF LAW. (a) A person who is an attorney or who represents himself to be an attorney and who performs any of the following acts on behalf of another person with or without compensation is engaged in the practice of law:

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(1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or

(2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or

(3) Giving counsel as to any person's legal rights or obligations;

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or

(5) Engaging in any act or other practice determined by ^{Supreme} ~~the courts of~~ ^{Court} law to constitute the practice of law.

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise **Securing** legal rights; or

(5) Engaging in any act or other practice determined by ^{Supreme} ~~the courts of~~ ~~law~~ to constitute the practice of law.

(b) Any person, other than a person working under the supervision of a person licensed to practice law in this state or permitted by the Supreme Court to practice law in this state, not included in subsection (a) of this section who for compensation performs any of the acts set forth in (2) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of the section, *and which do not consume a majority of the person's work-time.*

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment.

(d) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as natural person.

Change grammar

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Change grammar



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 18, 1980

TO: Legislative Affairs

FROM: Margaret W. Berck, Staff

RE: Request for bill by the House Judiciary Committee

Pursuant to the sunset obligations of the House Judiciary Committee, the Committee intends to continue the Alaska Bar Association for one year and amend the statutory provisions regarding the association. The amendments to the statutory provisions are expressed in the attached rough draft. Please draft in final version form a bill that would accomplish the intent of the Committee.



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

March 12, 1980

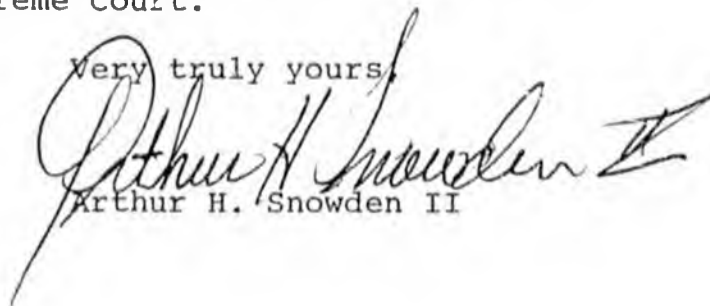
The Hon. Charles Parr, Chairman
House Judiciary Committee
Room 126, State Capitol Building
Juneau, Alaska 99811

Dear Representative Parr:

In my letter of March 4, 1980, with reference to the sunset of the Alaska Bar Association, I stated in the last sentence that the Court hopes that the Bar Association and the Legislative Budget and Audit Committee can reach a reasonable accommodation of their present dispute.

I wish to make it clear that in commenting on this subject, in no way did I intend to comment or convey any information on the merits of the controversy between the Legislative Budget and Audit Committee and the Alaska Bar Association before the Supreme Court.

Very truly yours,


Arthur H. Snowden II



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Staff

DATE: March 11, 1980

RE: Issue #9, Memo of March 10, 1980

The attached materials pertain to issue number 9 (coverage of non-litigation activities of lawyers by Consumer Protection) of my memo to you of March 10, 1980.

What do you want me to do regarding this issue ?

for their fees in order to do - if the fee in question is potentially true

Attorney Investigation Bill

On February 5, 1980, Anchorage Representative Joseph McKinnon introduced House Bill No. 674 entitled: "An Act Relating to Unfair Trade Practices and Consumer Protection."

McKinnon's Bill would have the Legislature amend A.S. 45.50.495 by adding a new subsection to read:

"(c) The Attorney General may investigate complaints of unlawful acts and practices of attorneys which constitute violations of A.S. 45.50.471 and bring actions under A.S. 50.501 to restrain the unlawful acts and practices notwithstanding A.S. 45.50.481(1)."

Consumer Protection

Commenting on McKinnon's proposed legislation, Connie Sipe, Chief of the Consumer Protection Section of the Attorney General's Office stated that although she had not thoroughly analyzed McKinnon's Bill, she had always believed her office to have jurisdiction to investigate complaints of unlawful acts and practices of professionals, including attorneys. However, Ms. Sipe cautioned that her belief that the legal profession was not exempt from her office's jurisdiction did not necessarily reflect the official administration position.

Ms. Sipe added that pending further analysis of the ramifications

of McKinnon's Bill, she could not comment on the likelihood of the Attorney General's Office supporting Mr. McKinnon's proposed legislation.

Public Interest

According to Ms. Sipe, her office has not handled any complaints of unlawful acts and practices of attorneys. She explained that when her office does receive a complaint against a professional, the complainant is referred to the licensing body or appropriate professional organization. Ms. Sipe explained that the usual professional misconduct complaint is highly individualistic and ordinarily would not involve a pattern of conduct which the Attorney General's Office looks for in determining whether or not to institute a public interest investigation or litigation. Ms. Sipe explained that absent a pattern of conduct affecting many consumers or a practice of either an especially egregious nature or involving a substantial amount of money, her office would not deem an investigation or litigation to be in the public interest.

However, if a complaint involving deceptive advertising by an attorney were brought to her office, and the complaint met the public interest criteria, Ms. Sipe stated that she would not hesitate to investigate the matter.

from Alaska Bar Log, Feb. 1980

amendment to BAR

Sec. 08.08.130. ELIGIBILITY FOR ALASKA BAR EXAMINATION. (a) Every applicant for examination shall:

(1) File an application in a form prescribed by the Alaska Bar and produce and file the evidence and documents prescribed by the Alaska Bar in proof of eligibility for examination;

(2) Be a graduate of a law school or submit proof that a law course required for graduation from a law school will be completed and that a degree will be received as a matter of course before before the date of examination. Graduates of ^{foreign} law schools in which the principles of English common law are taught may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(3) Have attained the age of 19 years;

(4) Be of good moral character;

(5) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of examination.

(b) An applicant who meets the requirements (1) through (5) of subsection (a) of this section and:

(1) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(2) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or

subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall be required to pass the attorney bar examination as prescribed by the Alaska Bar.

*100-2140
100-2140*

Original sponsor: McKinnon

Offered: 2/20/79
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 85

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 bar examination review procedures;

7

and amending Alaska Bar Rule 7, Section 1."

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

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* Section 1. Alaska Bar Rule 7, section 1 is amended to read:

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bar examination.

* Sec. 2. Section 1 of this Act amends the Rules of Court (Rule 7 of Part I of the Alaska Bar Rules).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 31, 1980

SUBJECT: The practice of law in Alaska
(Work Order Number 8357)

TO: Representative Charles H. Parr
Chairman, House Judiciary Committee

FROM: Richard A. Bradley
Legislative Counsel *B*

We have delivered to you the bill responding to your request for a bill disestablishing the integrated bar in Alaska.

Since it was delivered to you, an omission from the bill has come to our attention which should be corrected in any committee substitute requested.

In a series of places in the statutes, the law requires that certain things be done by a "member of the Alaska Bar Association." This phrase has historically been synonymous with "admitted to the practice of law in Alaska" but the bill requested will change that.

Accordingly, I proposed to add amendments to these sections in a committee substitute:

- (1) AS 09.43.200;
- (2) AS 18.85.060;
- (3) AS 41.17.130; and
- (4) AS 41.17.140.

Several sections already contain the appropriate language and would not be changed. See, AS 24.20.075, AS 42.06.060, and AS 47.37.080.

These sections turned up in a quick computer search. Others may exist and we will seek to identify them if a committee substitute is requested.

RAB:ljb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1980

SUBJECT: The practice of law in Alaska
(Work Order No. 8357)

TO: Representative Charles H. Parr
Chairman, House Judiciary Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

A bill responsive to the request of the committee is enclosed. Because the matters involved in the bill are complex, I have prepared this memorandum to offer observations to the committee on what it has requested and what I have delivered to you.

I chose not to follow the format of your request, a suggested repeal and reenactment of AS 08.08; rather, I have amended existing law where possible to reflect the changes made in AS 08.08.

The request of the committee directs that a bill be prepared abolishing the integration or unification of the Alaska Bar Association. The request then confers extensive police powers on the governing board of the resulting voluntary association.

I am concerned with the allocation of substantial police powers to a voluntary association. In my view, the mixed character of the resulting Alaska Bar Association offers the substantial possibility that what results will be found by the courts to be unconstitutional.

The bill imposes the responsibility of a public agency on a voluntary association. It is required to act in the same manner that a public agency would act. These safeguards cloud, in my judgment, the otherwise clear prohibition of the grant of police powers to a private, voluntary organization.

And I must confess, in candor, to the committee that the co-mingling of public responsibilities on a voluntary association has made difficult the task of drafting the bill before you. I will seek to identify the issues that have concerned me in the following analyses:

Section 10. The only change requested in this section is the substitution of "agency" for "instrumentality". The change is essentially semantic; I recognize, however, as does the committee, that "agency" is the customary word used to describe a unit of government. The change should help resolve the apparent concern of the committee which I discuss subsequent in this memorandum. For added emphasis, a subsection (b) is added to the section in place of the section requested by the committee as sec. 150.

Section 20. The provision is repealed and reenacted and the essential change is from a law requiring membership of all attorneys admitted to practice to a voluntary association.

Section 30. The provisions of sec. 30 are unchanged and the section does not appear within this draft.

Section 40(a). The only change in (a) is the deletion of any authority to the board regarding regulations. To my knowledge the bar has not adopted any regulations since statehood. What other regulatory agencies adopt as regulations, it proposes to to the Supreme Court as bar rules; by definition, "bar rules" are not administrative regulations.

The board has adopted by-laws regarding its internal procedures, particularly on the responsibilities of officers of the board and procedures for their election.

Note that I propose no amendment to AS 08.08.100, a section which excludes the bar from the application of the Administrative Procedures Act and that I propose to repeal AS 08.08.090 as inconsistent with Alaska Bar Rule 62.

Section 40(b). This subsection is amended consistently with the committee's request. See, sec. 50.

March 29, 1980

Section 50(a). An amendment decreasing the attorney members of the board from nine to six and providing nonattorney members to be appointed by the governor and confirmed by the legislature is added.

Section 50(b). The section is amended to implement the provisions of sec. 50(a).

Section 50(c). This section establishes the procedure for the selection of members, both appointed and elected, over a three year period.

This provision must be read with sec. 23 of the bill which establishes a transitional period for the implementation of sec. 50.

Section 60. The apparent request of the committee was that the officers of the association not be selected at the associations annual convention.

Section 70(a). This amendment was not requested by the committee in its present format. Elections [except under sec. 60] have traditionally been held by mail. As such, it seems logical to call a special election by mail to fill vacancies in the elected positions on the board. Whatever delay results from the conduct of the election by mail ballot is insignificant and the result seems preferable.

Section 70(b). The language of this subsection is as requested by the committee.

Section 70(c). The language is as requested by the committee.

Section 75. This section is added to the chapter and responds to the what was sec. 70 in the committees request. The language of the section is essentially as it was requested by the committee.

The request of the committee asked that the language be amended to require notice to the public of board meetings as is required of other professions. I checked certain other professional codes, including AS 08.04, regarding accountants; AS 08.36, regarding dentists; AS 08.40, regarding architects, engineers and land surveyors; AS 08.34, relating to the

practice of medicine; and AS 08.68, relating to the practice of nursing, and found no similar provision. Notwithstanding this conclusion, the language of the committee's request is included in the bill.

Section 80. This section brings into focus my difficulty in determining what powers, particularly what police powers, are proper to a voluntary association.

Section 80(a). I added the reference to "this chapter" as requested by the committee.

Section 80(a)(1). I retained the provision regarding the "classification of membership." A voluntary association may well have levels of membership but they are typically not set out in statute. Because of the mixed status of the Alaska Bar, I retained the language.

Section 80(a)(4). I added the authority to establish fees to this subsection. The provision regarding investment, as requested by the committee, is also added. I deleted the reference to licensing fees because of my transfer of these responsibilities to the Supreme Court. See, sec. 20 of the bill, infra, which adds amendments to AS 22.05.

I omitted the draft sec. 80(a)(5) relating to the maintenance of a register of attorneys. The Supreme Court typically exercises this responsibility in states without an integrated bar. See, here also the provisions relating to the authority of the Supreme Court in sec. 18 of the bill.

I added (a)(7) [continuing legal education] and (a)(8) [specialization] in a format different from the request by the committee.

Section 80(b). The provision requested by the committee directing the board to make recommendations for amendments to this chapter as well as to law of a general nature are incorporated into sec. 85, the section dealing with the annual report of the board of governors.

Section 80(b)(1). The provision relating to "continuing legal education" is incorporated in sec. 80(a)(7) and is not repeated here.

Similarly, the "licensing" function is transferred to the Supreme Court and is not duplicated here.

Section 80(b)(4). The concept of fees for inactive members seems unnecessary to a voluntary association. Licensing fees as such are collected by the Supreme Court under the fees set by the legislature. See, sec. 22.05.180, added in this bill by sec. 20.

Section 85. This section reflects the elements contained within draft sec. 90.

Section 90. I do not believe the committee proposed to amend sec. 90. I propose to repeal it.

The section does very little other than provide that the active members of the association may amend the by-laws and regulations prescribed by the board of governors. This power has sometimes been exercised by the membership at the annual convention. The provision appears to be superceded by Alaska Bar Rule 62 which provides for "adoption of recommended rules, by-laws, and regulations."

Section 95. This provision defines the "practice of law" and contains the material proposed in draft sec. 14).

The language is minimally unchanged from the draft.

I offer no endorsement of its content; I consider it altogether inadequate as a definition of the practice of law. Several further comments may be made:

(1) For many, the practice of law is essentially undefinable. To a large extent, this premise concedes that large aspects of commercial activity exist in the shadow of the legal profession, but for historical, practical, or other reasons have been left unregulated or included in the regulation of other professions.

(2) Sec. 95(b) is a somewhat cynical statement suggesting that bankers, realtors, and others may practice law so long as they do not do it on a full-time basis. From a public policy perspective, the provision seems to suggest that incompetence will be implicitly permitted so long as it is not a full-time activity.

(3) The provisions of sec. 95 totally ignore paralegal activity; they also ignore the field of increasing economic importance occupied by individuals in narrow fields of expertise where assistance is offered to the public in obtaining licenses, permits, and the like.

(4) I offer no provision to the committee which are better than those suggested in sec. 95. I am personally aware that the bar association locally, as well as the bar association nationally, has been concerned for some time with the practice of law and has not been able to come up with a better definition than that offered. I suggest it would be better to delete this provision than it would be to believe that it is comprehensive and effective.

Section 205. This section responds to sec. 170 of the committee's request.

This section and several other sections that follow it delete the requirement that applicants for admission to the Alaska Bar be a graduate of an accredited law school. These sections are contained within the draft identically to the committee's request. And, I offer no comment on their significance or implications.

Section 207. This section responds to sec. 180 of the committee's request and it is contained within the bill in the format requested by the committee.

Section 210. This section responds to sec. 150 of the committee's draft and is contained in the bill in the format requested by the committee.

Section 220. This section is repealed. The section is obsolete.

Section 230. This section responds to sec. 200 of the committee draft and is included within this bill in the format requested by the committee.

Section 18 of the bill adds a new article to AS 22.05. to deal with the responsibility of the Supreme Court over the annual license of attorneys and the maintenance of the register of licensed attorneys.

These sections are a substitute for sec. 120 and sec. 130 of the committee draft. I discussed my difficulty with Peggy Berck on the inclusion of the responsibilities to a voluntary association and suggested that the responsibilities be transferred to the Supreme Court. She agreed.

Section 45.50.495. The section cannot be fitted within the single subject requirement. It does not deal with the practice of law but rather with anti-trust activities of attorneys.

If the committee is concerned with the problem, I suggest repealing AS 45.50.481(1) in a separate bill.

Section 19 and section 20 amend Alaska Bar Rules in the format requested by the committee.

Section 21 repeals secs. 220, and 250.

Section 22 repeals sec. 3 of Alaska Bar Rule 2.

Section 23 is a transitional section which is designed to enable AS 08.08.050(c) added by sec. 5 by the bill to work.

Section 24 provides that the effective date of the act is January 1, 1981.

As noted, several sections of this bill amend Alaska Bar Rules. I wish to call to the committee's attention the question of whether the legislature may amend Alaska Bar Rules.

The source of the question is, of course, Article IV, sec. 15, of the Alaska Constitution, which provides:

SECTION 15. The supreme court shall make and promulgate rules governing the administration of all courts. It shall make and promulgate rules governing practice and procedure in civil and criminal cases in all courts. These rules may be changed by the legislature by two-thirds vote of the members elected to each house.

The Supreme Court has had a number of opportunities to comment on the implications of this section, and it has

generally limited its comments to the judicial embellishment that the provision of the bill amending rules, either directly or indirectly, must be indentified in the bill and must be voted on separately. [It is for this reason that the fact of the Alaska Bar Rules amendment is noted in the bill title.]

We assumed that based on the logic of the Bradner v. Hammond decision, 553 P.2d 1 (1976), the Supreme Court will determine that the provisions of this section will constitute the outer limits of the authority of the legislature to amend rules of the Supreme Court. Since the Alaska Bar Rules may not fairly be described as either "rules governing the administration of all courts," or "rules governing practice and procedure in civil and criminal cases in all courts," we believe that conservative legal advice to the committee would suggest that the legislature is without the authority to amend the Alaska Bar Rules.

If we may assist further, please advise.

RAB:ljb

Enclosure



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 18, 1980

TO: Legislative Affairs

FROM: Margaret W. Berck, Staff

RE: Request for bill by the House Judiciary Committee

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Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Counsel to the Committee

DATE: March 12, 1980

RE: Recodification of the Alaska Integrated Bar Act.

*Section 1.

Chapter 08. Alaska Bar Act.

Sec. 08.08.010. CREATION OF THE ALASKA BAR ASSOCIATION. There is created an agency of the state known as the Alaska Bar Association, referred to in this chapter as the Alaska Bar. The Alaska Bar shall have a common seal, may sue and be sued, and may, for the purpose of carrying into effect and promoting the objects of the Alaska Bar, enter into contracts and acquire, hold, encumber and dispose of real and personal property. (§ 2 ch 196 SLA 1955)

Sec. 08.08.020. MEMBERS. A person licensed to practice law in the state may become a member of the Alaska Bar.

Sec. 08.08.030. GOVERNANCE OF THE ALASKA BAR. The Alaska Bar is governed by the Board of Governors of the Alaska Bar. The board has the powers and duties conferred by this chapter and by the Alaska Bar Rules. Members of the board shall receive no salary. (§ 6 ch 196 SLA 1955; am § 3 ch 181 SLA 1976)

Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR; ELECTION AND APPOINTMENT. The Board of Governors of the Alaska Bar shall consist of nine members, six of whom shall be elected by and from among the members of the association and three non-attorney members who shall be appointed by the governor.

(b) Of the elected members, one shall be elected by and from among the members of the association resident in the first judicial district; two shall be elected by and from among the members of the association resident in the third judicial district; one shall be elected by and from among the members of the association resident in the combined area of the second and fourth judicial districts; and two shall be at large from the entire state.

(c) Members of the Board of Governors shall hold office for three years and until their successors are elected or appointed.

(d) Two members of the Board of Governors shall be elected annually and one member of the Board of Governors shall be appointed annually on the following triennial rotation:

(1) in the first year, one member shall be appointed, one member shall be elected at large, and one member shall be elected from the third judicial district;

(2) in the second year, one member shall be appointed, one member shall be elected from the combined area of the second and fourth judicial district, and one member shall be elected from the first judicial district;

(3) in the third year, one member shall be appointed, one member shall be elected at large and one member shall be elected from the third judicial district.

Sec. 08.08.050. ELECTION OF BOARD OFFICERS. The active members of the Alaska Bar Association shall elect annually by a majority vote the association's officers from among the membership of the Board of Governors.

Sec. 08.08.060. VACANCIES ON THE BOARD. A vacancy affecting an elected membership position on the board shall be filled by appointment by the remaining board members until the next annual election. A vacancy

same manner as other state boards.

note to drafter -
make this a 30 day
notice to be provided in

affecting an appointed membership position on the board shall be filled by appointment by the governor. Vacancies affecting appointed membership positions shall be filled for the unexpired term.

Sec. 08.08.070. MEETINGS OF THE BOARD. All meetings of the Board of Governors of the Alaska Bar shall be in compliance with AS 44.62.310, et. seq. Reasonable notice to the general public shall be provided.

(Furthermore all meetings shall take place within the geographical boundaries of this state.)

Note to drafter - amend AS 44.62.310 to include intent of language contained in parentheses.

Sec. 08.08.080. POWERS OF THE BOARD. (a) Except as may be otherwise provided in the statutes or the Alaska Bar Rules, the board may adopt reasonable provisions:

(1) concerning membership and classification of membership in the Alaska Bar;

(2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers, duties, terms of office, and compensation;

(3) concerning annual and special meetings;

(4) concerning the collection, deposit, investment, and disbursement of membership, admission or licensing fees, penalties, and all other funds;

(5) providing for the maintenance of the register of each attorney admitted to practice as an attorney at law in the courts of this state;

(6) providing for continuing legal education and certification of continuing legal education programs;

(7) providing for the specialization of attorneys admitted to practice as an attorney at law in the courts of this state;

~~(8) providing for the organization and government of local~~

~~subdivisions of the Alaska Bar;~~

(8) ~~(7)~~ providing for all other matters affecting in any way the organization and functioning of the Alaska Bar.

(b) The board may:

(1) Approve AND recommend to legislature statutory w. ^{visions to ALASKA BAR ACT}
(1) approve and recommend to the state supreme c. ^{additional AS well AS}

rules for promulgation by the court including rules concerning ^{legislation of a general nature} admission, discipline, licensing and continuing legal education;

(2) adopt reasonable bylaws and regulations consistent with statutes and Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active, inactive, judicial, and honorary members.

Sec. 03.08.090. ANNUAL REPORT TO LEGISLATURE. The Board of Governors shall report annually to the Chairmen of the Senate and House Judiciary Committees of the Alaska State Legislature on all matters concerning admissions, discipline, and disbarment proceedings, except for those matters defined as confidential by court rule. Furthermore this report shall address any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal, or addition to the rules of court.

Sec. 08.08.100. POWER OF THE ALASKA BAR TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

Power of the bar to make or change bylaws and regulations. Any bylaw ^{repealed} regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.110. ADMINSTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

*Note to Drafter -
Add a provision that would require BAR TO accept the tender of license fees*

Sec. 08.08 120. LICENSE FEES. The fee for the initial issuance and the annual renewal of a license ^{to practice law in the state} shall be \$25.00. License fees are due and payable to the Alaska Bar.

Sec. 08.08.130. SUSPENSION FOR NONPAYMENT OF LICENSE FEES. (a) Any attorney-at-law failing to pay the license fee within 30 days after it becomes due shall be notified in writing by certified or registered mail that the Executive Director of the Alaska Bar shall petition a Justice of the Supreme Court of Alaska for an order suspending such person for nonpayment of license fees.

(b) The Executive Director of the Alaska Bar shall annually notify the clerks of court of the names and date of suspension of all persons who have been then or previously suspended and not reinstated.

(1) Any person who has been suspended for less than one year, upon payment of the license fee, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the clerks of court that the license fees and penalties have been paid.

(2) Any person who has been suspended for a year or more, upon determination of good character by the Board, and upon payment of all accrued license fees, in addition to a penalty of \$10.00 per month of delinquency, shall be reinstated upon certification by the Executive Director of the Alaska Bar to the Supreme Court and the

clerks of court that the person is of good character and that the license fees and penalties have been paid.

Sec. 08.08.140. DEFINITION OF THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or ^{intentionally} causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
- (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
- (3) Giving counsel as to any person's legal rights or obligations; or
- (4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or
- (5) Engaging in any act or other practice determined by the courts of law to constitute the practice of law.

under
other than a person working under the supervision of a person licensed to practice law in this state or

(b) Any person not included in subsection (a) of this section who, for compensation, performs any of the acts set forth in (1) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of this section. The practice of law shall not include actions by government employees in the course of their employment within the agency by which they are employed.

(c) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as a natural person.

Sec. 08.08.150. WHO MAY PRACTICE LAW.

Who may practice law. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska, ~~and is an active member of the Alaska Bar.~~ A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

~~(b) The practice of law shall be defined in the Alaska Bar Rules.~~
(b) ~~(a)~~ This section and § 200 of this chapter do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a contractual or fee basis; or

(3) is employed by or under contract to the legislature and whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~, until the results are released of the third Alaska Bar examination following that person's employment.

(c) ~~(d)~~ Employees of the Department of Law whose activities would constitute the practice of law under this chapter ~~and under Alaska Bar Rules~~ are required to obtain a license to practice law in Alaska, no later than 10 months following the commencement of their employment. (§ 12 ch 196 SLA 1955; am § 9 ch 181 SLA 1976)

*2021/11/15 by
The Supreme
Court of
Alaska*

Sec. 08.08.160. EMPLOYMENT OF PROFESSIONAL TEST ADMINISTRATORS
IN THE CONSTRUCTION AND GRADING OF THE ALASKA PORTION OF THE
ALASKA BAR EXAMINATION; TRAINING REQUIREMENTS FOR MEMBERS RESPON-
SIBLE FOR THE PREPARATION AND GRADING OF THE ALASKA BAR EXAMINATION.

(a) The Board of Governors of the Alaska Bar shall contract with professional test administrators to assist the Alaska Bar in the preparation of questions and graders' analyses regarding the Alaska portion of the Alaska Bar Examination.

(b) Those members of the Alaska Bar who are designated by the board to prepare questions for the Alaska Bar Examination or to grade the Alaska Bar Examination shall ~~receive training~~ *HAVE BEEN TRAINED* in the preparation and grading of bar examinations.

Sec. 08.08.170. ELIGIBILITY TO TAKE BAR EXAMINATION.

Eligibility to take bar examination. Applicants who have not graduated from an ~~accredited~~ law school but are otherwise qualified may take the bar examination if they have completed a clerkship in the manner prescribed by § ~~207~~ of this chapter. (§ 12 ch 181 SLA 1976)
§ 180

Sec. 08.08.180. LAW CLERKS.

(a) Every person who desires subsequently to qualify as a general applicant for admission to the ~~Alaska Bar~~ without having been graduated from an ~~accredited~~ law school shall register as a law clerk as provided by this section. He must be a bona fide resident of the state and shall present satisfactory proof that he has been granted a bachelor's degree (other than bachelor of laws) by a college or university offering the degree on the basis of a four-year course of study and has successfully completed his first year of studies at a law school. → practice of law in this state

(b) The applicant shall obtain regular and full-time employment as a law clerk in the office of a judge of a court of record or an attorney or firm of attorneys licensed to practice law in Alaska and engaged in the general practice of law. The person by whom he is employed, or, if he is employed by a firm, the person under whose direction he is to study, must have been admitted to practice law in this state for at least five years at the time the application for registration is filed, and be otherwise eligible to act as tutor. Before the commencement of the study of law under this section, the applicant shall file with the university an application to register as a law clerk. The application shall be made on a form to be provided by the university and shall require answers to interrogatories the university may determine from time to time to be relevant to a consideration of the application. Proof of a fact stated in the application may be required by the university. If the applicant fails or refuses to furnish any information or proof or answer any interrogatory required by the application, or independently by the university, in a manner satisfactory to the university, the application may be denied.

(c) Accompanying the application there must be submitted a statement under oath of the person by whom the applicant is employed as a law clerk, or, if he is employed by a firm, of the person under whose direction he is to study, certifying to the fact of the employment and that that person will act as tutor for the applicant and will faithfully instruct the applicant in the branches of the law prescribed by the courts of study adopted by the university. No person is eligible to act as tutor while disciplinary proceedings (following the service of a formal complaint) are pending against him, or if he has ever been censured, reprimanded, suspended or disbarred. If a registered law clerk finds it necessary to change his tutor during his period of study, a new application for registration as a law clerk is required and such credit given for study under his prior tutor as the university may determine.

(d) A law clerk whose registration has been approved by the university must pursue a course of study for three calendar years of at least 44 weeks each year, with a minimum each week of 35 hours of study (it being understood that the time actually spent in the performance of the duties of law clerk is to be considered as time spent in the study of law). The tutor must give personal direction regularly and frequently to the clerk, must examine him at least once a month on the

work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended ~~at a~~ ~~law school~~ law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section

(1) "law school" means a law school ^{whether or not} accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

(am §§ 1 — 8 ch 119 SLA 1978)

Sec. 08.08.190. DISCIPLINARY PROCEEDINGS AND REVIEW.

a person licensed to practice law in the state

Upon finally determining any cause involving the discipline, disbarment, suspension, or reinstatement of ~~a member of the Alaska Bar~~, the board shall certify its findings and recommendations on the cause to the supreme court. Within 30 days after receiving the findings and recommendations, the court shall issue, in full accordance with the recommendations, an order of disbarment, suspension, reinstatement, dismissal, or otherwise, unless the accused member sooner petitions the court for review of the proceedings, findings, and recommendations of the board. If such a petition is made, the court shall promptly review the cause in the manner prescribed in the Administrative Procedure Act (AS 44.62). (§ 14 ch 196 SLA 1955; am § 6 ch 178 SLA 1960)

person ←

Sec. 08.08.200. CRIMINAL PENALTY FOR THE UNLAWFUL PRACTICE OF LAW.

(a) Any person not licensed to practice law in the state ^{who engages in the practice of law} as that term is defined in AS 08.08.140, or a person who is licensed to practice law in the state ^{not licensed to practice law} who wilfully employs ~~such~~ a person ^{knowing} that such person is engaging in the practice of law is guilty of a Class A misdemeanor.

(b) Nothing in this section prohibits the use of paralegal personnel as defined by the rules of the Alaska supreme court.

210
Sec. 08.08.150. CONDITIONS FOR THE RECEIPT OF STATE FUNDS. No state funds shall be provided to the Alaska Bar unless all records of the Alaska Bar are made available to either the legislative auditor or the state ombudsman as his official duties or responsibilities may require.

220
Sec. 08.08.160. SHORT TITLE. This chapter may be cited as the Alaska Bar Act.

*Section 2. AS 45.50.495 is amended by adding a new subsection to read:

(c) The attorney general may investigate complaints of unlawful acts and practices of attorneys which constitute violations of AS 45.50.471 and bring actions under AS 45.50.501 to restrain the unlawful acts and practices notwithstanding AS 45.50.481(1).

*Section 3. ALASKA BAR RULE 7, SECTION 1 IS AMENDED TO READ:

SECTION 1. An applicant who has been denied an examination permit or who has been denied certification to the Supreme Court for admission to practice shall have the right within thirty days after notice of such denial to file with the Board a written verified statement of appeal. Failure timely to file an appeal statement shall constitute waiver of appeal rights. In his statement an applicant shall state all grounds upon which he intends to rely and may:

(a) object to the form of notice from which such appeal is taken on the ground that it is so indefinite or uncertain that he cannot reasonably prepare his statement;

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegations [ALLEGATION] in the verified statement are found to be sufficient by the Board, a hearing shall be granted. A hearing shall be granted in all cases where the applicant requests it and the score of the applicant on the bar examination is within five points of the passing grade of the
bar examination.

*Section 4. ALASKA BAR RULE 2, SECTIONS 1,2, and 3, ARE AMENDED TO
READ:

Section 1. Every applicant for examination shall

(a) File an application in a form prescribed by the board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for examination;

(b) Be a graduate of a law school [which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated] or submit proof that the law course required for graduation from [such] a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English common law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of the examination.

Section 2. An applicant who meets the requirements (a) through (e) of Section 1 of this rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall

be required to pass the attorney bar examination prescribed by the Board.

[Section 3. An applicant who meets the requirements of (a) and (c) through (e) of Section 1 of this rule may qualify for admission if an application is filed on or before June 8, 1977 and the applicant:

(a) Is admitted to practice and is an attorney in good standing in the law of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this rule.](Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974; by Supreme Court Order 220 effective December 15, 1975; and by Supreme Court Order 347 effective April 1, 1979)

UPDATED
MAY 21, 1980

Committee Markup
April 28, 1980
from: MW Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *AB 984*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar
7 Association and amending the statutes relating to the
8 practice of law in the state; amending Alaska Bar Rules
9 2 and 7; and providing for an effective date."

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

11 * Section 1. AS 08.03.010(c) is amended by adding a new paragraph to
12 read:

13 (2) Board of Governors of the Alaska Bar Association
14 (AS 08.08.040) - June 30, 1981.

15 * Sec. 2. AS 08.08.010 is amended to read:

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar
18 Association, referred to in this chapter as the Alaska Bar. The Alaska
19 Bar shall have a common seal, may sue and be sued, and may, for the
20 purpose of carrying into effect and promoting the objects of the Alaska
21 Bar, enter into contracts and acquire, hold, encumber and dispose of
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar
24 is subject to statutory requirements imposed on state agencies including
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -
26 44.62.320 and AS 44.66.

27 * Sec. 3. AS 08.08.020 is repealed and re-enacted to read:

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the
29 state ~~may~~ ^{shall} become a member of the Alaska Bar.

* Sec. 4. AS 08.08.040 is amended to read:

2 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be
4 elected under bylaws AND REGULATIONS PROMULGATED by the board.

5 (b) The board consists of ^{eight}~~nine~~ [NINE] ACTIVE members elected by the
6 ACTIVE members of the Alaska Bar and three persons who are appointed
7 by the governor and who are not attorneys.

* Sec. 5. AS 08.08.050 is amended to read:

9 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a)

10 TWO MEMBERS of the board shall be elected by and from among the
11 members of the association resident in the first judicial district;

12 FOUR members of the board shall be elected by and from among the
13 members of the association resident in the third judicial district;

14 and TWO MEMBERS by and from among the members of the associa-
15 tion resident in the combined area of the second and fourth judicial
16 districts .

17 Three members who are not attorneys shall be appointed by the governor
18 and are subject to confirmation by the legislature in joint session.

19 (b) Members of the Board of Governors shall hold office for three
20 years and until their successors are elected or appointed and qualified

21 (c) Board members shall be selected [ELECTED] annually, on
22 the following triennial rotation: [.]

23 (1) in the first year, one member shall be appointed, one
24 member shall be elected from and ^{two}~~one~~ members shall be elected [TWO
25 the first judicial district, MEMBERS] from the third judicial district;

26 (2) in the second year, one member shall be appointed, one
27 member shall be elected from the combined area of the second and fourth
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,]
29 one member shall be elected from the first judicial district; and
one member shall be elected from the third judicial district; and

1 (3) in the third year, one member shall be appointed,
2 one member shall be elected

3 FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-
4 TRICTS, and one member shall be elected from the third judicial dis-
5 trict.

6 * Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska
8 Bar shall elect their officers annually from the membership of the Board
9 of Governors.

10 * Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy
affecting an elected membership position on the board shall be filled
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 * Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312
19 apply to the meetings of the board. Members of the Alaska Bar and the
20 public shall be given 30 days notice of ^{regular} meetings of the board. Meetings
21 of the board shall take place in the state. ^{other than those}
^{dealing with the executive}
^{administration of the}
^{ALASKA BAR EXAMINATION.}

22 * Sec. 9. AS 08.08.080 is amended to read:

23 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise
24 provided in this chapter or the Alaska Bar Rules, the board may adopt
25 reasonable provisions

26 (1) concerning membership and the classification of member-
27 ship in the Alaska Bar;

28 (2) providing for employees of the Alaska Bar, the time,
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

3 (4) concerning the establishment, collection, deposit, in-
4 vestment, and disbursement of membership and admission fees, penalties,
5 and all other funds;

6 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL
7 SUBDIVISIONS OF THE ALASKA BAR;]

8 * (6) providing for all other matters affecting in any way the
9 organization and functioning of the Alaska Bar;

10
11 (7) providing for continuing legal education and certification of
12 continuing legal education programs;

13 (8) establishing and maintaining a program for the certification
14 of attorneys as specialists.

15 (b) The board may

16 (1) approve and recommend to the Alaska legislature changes
17 to this chapter and to the provisions of state law generally;

18 (2) approve and recommend to the state supreme court
19 rules for promulgation by the court including rules concerning admission,
20 discipline, licensing and continuing legal education;

21 (3) adopt reasonable bylaws and regulations consistent with
22 this chapter and the Alaska Bar Rules;

23 (4) sue in the name of the Alaska Bar in a court of competent
24 jurisdiction to enjoin a person from doing an act constituting a vio-
25 lation of this chapter;

26 (5) fix the annual membership fee for active, inactive,
27 judicial and honorary members.

28 * Sec. 10. AS 08.08.085 is amended to read:

29 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of
Governors shall report annually to the judiciary committees of the
legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

repealed
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

* Sec. 11 AS 08.08 is amended by adding new sections to read:

Sec 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
- (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
- (3) Giving counsel as to any person's legal rights or obligations;

or

1 * Sec. 11. AS 08.08 is amended by adding new sections to read:

2 Sec. 08.08.105. THE PRACTICE OF LAW. (a) A person who is an
3 attorney, or who is not an attorney but who represents himself to be an
4 attorney, and who performs any of the following acts on behalf of
5 another person, with or without compensation, is engaged in the prac-
6 tice of law:

7 (1) appearance in or conduct of litigation or performance of
8 any act in connection with proceedings, pending or prospective, before
9 a court of this State unless otherwise provided by court rule; or

10 (2) appearance in or conduct of litigation or performance of
11 any act in connection with proceedings pending or prospective before
12 any other body constituted by law to settle controversies; or

13 (3) giving counsel as to any person's legal rights or obli-
14 gations; or

15 (4) preparation or procurement of instruments or other
16 papers creating, limiting, claiming, granting, terminating, or other-
17 wise securing legal rights; or

18 (5) engaging in any act or other practice determined by
19 the Supreme Court to constitute the practice of law.

20 (b) A person who is not an attorney and who does not represent
21 himself to be an attorney and who for compensation performs any of the
22 acts set forth in (2) - (5) of subsection (a) of this section is en-
23 gaged in the practice of law unless such acts are performed as part of
24 the regular conduct of business the primary purpose of which is other
25 than the performance of any of the acts set forth in (1) through (5) of
26 subsection (a) of this section and if such acts do not consume a
27 majority of the person's work time.

28 (c) The provisions of (b) of this section do not apply to a
29 person working under the direct supervision of an attorney in the

1 course of that employment, or to a government employee in the course
2 of his employment.

3 in addition the provisions of (b) of this section do not apply to a
4 person employed by a nonprofit corporation that is engaged in public
5 interest activities ^{during} in the course of ~~his~~ ^{his} employment *by such*

6
7
8 *nonprofit corporation.*

1
2 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board
3 of Governors shall administer the bar examination under the Alaska Bar
4 Rules.

5 (b) The Board of Governors may contract with another state or a
6 testing organization for the preparation and grading of a portion of the
7 Alaska Bar examination.

8 (c) The Board of Governors shall contract with persons experienced
9 in the administration of bar examinations for advice on the preparation
10 or grading of the portion of the bar examination prepared under the
11 direction of the board.

12 (d) The Board of Governors shall establish and maintain standards
13 for experience or training of persons who administer the portion of the
14 bar examination prepared under the direction of the board.

15 * Sec. 12. AS 08.08.205 is amended to read:

16 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants
17 who have not graduated from a [AN ACCREDITED] law school but are other-
18 wise qualified may take the bar examination if they have completed a
19 clerkship in the manner prescribed by AS 08.08.207.

20 * Sec. 13. AS 08.08.207(a) is amended to read:

21 (a) Every person who desires subsequently to qualify as a general
22 applicant for admission to the practice of law [ALASKA BAR] without
23 having been graduated from a [AN APPROVED] law school shall register as
24 a law clerk as provided by this section. He must be a bona fide resi-
25 dent of the state and shall present satisfactory proof that he has been
26 granted a bachelor's degree (other than bachelor of laws) by a college
27 or university offering the degree on the basis of a four-year course of
28 study and has successfully completed his first year of studies at a law
29 school.

* Sec. 14. AS 08.08.207(h) is amended to read:

(h) A registered law clerk who has attended [EITHER AN APPROVED OR A NONAPPROVED] law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

* Sec. 15. AS 08.08.207(i) is amended to read:

(i) As used in this section

(1) "law school" means a law school, whether or not accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

* Sec. 16. AS 08.08.210 is amended to read:

Sec. 08.08.210. WHO MAY PRACTICE LAW. (a) No person may engage in the practice of law in the state unless he is licensed to practice law in Alaska AND IS AN ACTIVE MEMBER OF THE ALASKA BAR . A member of the bar in good standing in another jurisdiction may appear in the courts of the state under the rules the supreme court may prescribe.

[(b) THE PRACTICE OF LAW SHALL BE DEFINED IN THE ALASKA BAR RULES.]

(c) This section and AS 08.08.230 do not apply to the practice of law for the legislature by a person employed by or under contract with the legislature who

(1) has been employed as a member of its legal staff on or before September 14, 1976;

(2) has engaged in the practice of law on behalf of the legislature on or before September 14, 1976 and been compensated on a

1 contractual or fee basis; or

2 (3) is employed by or under contract to the legislature and
3 whose activities would constitute the practice of law under this chapter
4 [AND UNDER ALASKA BAR RULES], until the results are released of the
5 third Alaska Bar examination following that person's employment.

6 (d) Employees of the Department of Law whose activities would
7 constitute the practice of law under this chapter [AND UNDER ALASKA BAR
8 RULES] are required to obtain a license to practice law in Alaska, no
9 later than 10 months following the commencement of their employment.

10 * Sec. 17. AS 08.08.230(a) is amended to read:

11 (a) Any person not AN ACTIVE MEMBER OF THE ALASKA BAR AND NOT
12 licensed to practice law in Alaska who engages in the practice of law
13 under this chapter or [REPRESENTS HIMSELF AS ENTITLED TO ENGAGE IN THE
14 PRACTICE OF LAW AS THAT TERM IS DEFINED IN THE ALASKA BAR RULES, OR AN
15 ACTIVE MEMBER OF THE ALASKA BAR] who wilfully employs such a person
16 knowing that the [SUCH] person is engaging in the practice of law or
17 representing himself to be entitled to so engage is guilty of a class A
18 misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
19 THAN \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]

20 * ~~Sec. 18. AS 22.05 is amended by adding new sections to read:~~

21 ~~ARTICLE 2. ATTORNEYS.~~

22 ~~Sec. 22.05.180. LICENSE FOR THE PRACTICE OF LAW. (a) The annual~~
23 ~~fee for a license to engage in the active practice of law in the state~~
24 ~~is \$25. The annual fee for inactive practice is \$10 and the annual fee~~
25 ~~for members of the judiciary is \$20. Fees are payable to the clerk of~~
26 ~~the supreme court. Fees collected by the supreme court under this~~
27 ~~section shall be deposited in the general fund.~~

28 ~~(b) The supreme court may define the active and the inactive~~
29 ~~practice of law for the purposes of (a) of this section.~~

1 ~~Sec. 22.05.190 REGISTER OF LICENSED ATTORNEYS. (a) The clerk of~~
2 ~~the supreme court shall maintain a register of each attorney licensed to~~
3 ~~practice law in the state.~~

4 ~~(b) The clerk shall suspend the license of an attorney who is~~
5 ~~delinquent in the payment of his annual fee under rules adopted by the~~
6 ~~supreme court.~~

7 ~~(c) The supreme court may adopt by court rule a schedule of penal-~~
8 ~~ties for late payments of fees. An attorney suspended under (b) of this~~
9 ~~section may be readmitted to practice under the rules of the supreme~~
10 ~~court.~~

11 * Sec. 19. Section 1(b) of Alaska Bar Rule 2 is amended to read:

12 (b) Be a graduate of a law school [WHICH WAS ACCREDITED OR AP-
13 PROVED BY THE COUNCIL OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION
14 OR THE ASSOCIATION OF AMERICAN LAW SCHOOLS WHEN THE APPLICANT ENTERED OR
15 GRADUATED] or submit proof that the law course required for graduation
16 from [SUCH] a law school will be completed and that a degree will be
17 received as a matter of course before the date of examination.
18 Graduates of law schools in which the principles of English common law
19 are taught but which are located outside the United States and beyond
20 the jurisdiction of the American Bar Association and the Association of
21 American Law Schools, may qualify for examination upon proof that the
22 foreign law school from which they graduated meets the American Bar
23 Association Council of Legal Education Standards for approval;

24 * Sec. 20. Section 1 of Alaska Bar Rule 7 is amended to read:

25 Section 1. An applicant who has been denied an examination permit
26 or who has been denied certification to the Supreme Court for admission
27 to practice shall have the right within thirty days after notice of such
28 denial to file with the Board a written verified statement of appeal.
29 Failure timely to file an appeal statement shall constitute waiver of

1 appeal rights. In his statement an applicant shall state all grounds
2 upon which he intends to rely and may:

3 (a) object to the form of notice from which such appeal is taken
4 on the ground that it is so indefinite or uncertain that he cannot
5 reasonably prepare his statement;

6 (b) present new matter on which he relies to establish his eli-
7 gibility for admission to practice.

8 An applicant who is denied an examination permit or who is denied
9 certification shall allege facts which, if true, would establish an
10 abuse of discretion or improper conduct on the part of the Board, the
11 Executive Director, the Committee or a master. If the allegation in the
12 verified statement is [ARE] found to be sufficient by the Board, a
13 hearing shall be granted. A hearing shall be granted to an applicant
14 denied certification if his score on the bar examination is within five
15 points of the passing grade of the bar examination.

16 *Sec. 21. Section 7 of Alaska Bar Rule 3 is repealed.

17 * Sec. 22. AS 08.03.010(b)(11), ~~AS 08.03.010~~, C8.08.220 ~~and 08.08.250~~ are
18 repealed.
AMD

19 * Sec. 23. Section 3 of Alaska Bar Rule 2 is repealed.

20 * Sec. 24. AS 08.08.050 as amended by sec. 5 of this Act takes effect at
21 the first election of members of the Board of Governors of the Alaska Bar
22 after January 1, 1981. The governor shall appoint one member of the board
23 each year to replace an elected member whose term expires.

24 * Sec. 25. Sections 1, 2 and 24 of this Act take effect immediately in
25 accordance with AS 01.10.070(c).

26 * Sec. 26. Sections 3 - 23 and 25 of this Act take effect January 1,
27 1981.
28

Committee Markup
April 28, 1980
from: MW Berck

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. *HB 984*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Alaska Bar
7 Association and amending the statutes relating to the
8 practice of law in the state; amending Alaska Bar Rules
9 2 and 7; and providing for an effective date."

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

11 * Section 1. AS 08.03.010(c) is amended by adding a new paragraph to
12 read:

13 (2) Board of Governors of the Alaska Bar Association

14 (AS 08.08.040) - June 30, 1981.

15 * Sec. 2. AS 08.08.010 is amended to read:

16 Sec. 08.08.010. CREATION OF ALASKA BAR ASSOCIATION. (a) There is
17 created an agency [INSTRUMENTALITY] of the state known as the Alaska Bar
18 Association, referred to in this chapter as the Alaska Bar. The Alaska
19 Bar shall have a common seal, may sue and be sued, and may, for the
20 purpose of carrying into effect and promoting the objects of the Alaska
21 Bar, enter into contracts and acquire, hold, encumber and dispose of
22 real and personal property.

23 (b) Except as otherwise provided by this chapter, the Alaska Bar
24 is subject to statutory requirements imposed on state agencies including
25 but not limited to AS 08.03, AS 24.20.271, AS 24.55, AS 44.62.010 -
26 44.62.320 and AS 44.66.

27 * Sec. 3. AS 08.08.020 is repealed and re-enacted to read:

28 Sec. 08.08.020. MEMBERS. A person licensed to practice law in the
29 state ^{S.P.A!} ~~may~~ become a member of the Alaska Bar.

motion carried

1 * Sec. 4. AS 08.08.040 is amended to read:

2 Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There
3 is [HEREBY] constituted a Board of Governors of the Alaska Bar to be
4 elected under bylaw: AND REGULATIONS PROMULGATED by the board.

5 (b) The board consists of six [NINE ACTIVE] members elected by the
6 [ACTIVE] members of the Alaska Bar and three persons who are appointed
7 by the governor and who are not attorneys.

8 * Sec. 5. AS 08.08.050 is amended to read:

9 Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) One
10 member [TWO MEMBERS] of the board shall be elected by and from among the
11 members of the association resident in the first judicial district; two
12 [FOUR] members of the board shall be elected by and from among the
13 members of the association resident in the third judicial district;
14 one member [TWO MEMBERS] by and from among the members of the associa-
15 tion resident in the combined area of the second and fourth judicial
16 districts; and two members [ONE MEMBER] at large from the entire state.
17 Three members who are not attorneys shall be appointed by the governor
18 and are subject to confirmation by the legislature in joint session.

19 (b) Members of the Board of Governors shall hold office for three
20 years and until their successors are elected or appointed and qualified

21 (c) Three board members shall be selected [ELECTED] annually, on
22 the following triennial rotation: [.]

23 (1) in the first year, one member shall be appointed, one
24 member shall be elected at large and one member shall be elected [TWO
25 MEMBERS] from the third judicial district;

26 (2) in the second year, one member shall be appointed, one
27 member shall be elected from the combined area of the second and fourth
28 judicial districts, [ONE MEMBER FROM THE THIRD JUDICIAL DISTRICT,] and
29 one member shall be elected from the first judicial district; and

1 (3) in the third year, one member shall be appointed, one
2 member shall be elected at large [FROM THE FIRST JUDICIAL DISTRICT, ONE
3 MEMBER FROM THE COMBINED AREA OF THE SECOND AND FOURTH JUDICIAL DIS-
4 TRICTS], and one member shall be elected from the third judicial dis-
5 trict.

6 * Sec. 6. AS 08.08.060 is repealed and re-enacted to read:

7 Sec. 08.08.060. ELECTION OF OFFICERS. The members of the Alaska
8 Bar shall elect their officers annually from the membership of the Board
9 of Governors.

10 * Sec. 7. AS 08.08.070 is repealed and re-enacted to read:

11 Sec. 08.08.070. VACANCIES ON THE BOARD. (a) A vacancy
affecting an elected membership position on the board shall be filled
by the remaining board members until the next annual election.

14 (b) The governor shall appoint a member to fill a vacancy in the
15 appointed membership of the board.

16 (c) Vacancies shall be filled for the unexpired term.

17 * Sec. 8. AS 08.08 is amended by adding a new section to read:

18 Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312
19 apply to the meetings of the board. Members of the Alaska Bar and the
20 public shall be given 30 days notice of meetings of the board. Meetings
21 of the board shall take place in the state.

22 * Sec. 9. AS 08.08.080 is amended to read:

23 Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise
24 provided in this chapter or the Alaska Bar Rules, the board may adopt
25 reasonable provisions

26 (1) concerning membership and the classification of member-
27 ship in the Alaska Bar;

28 (2) providing for employees of the Alaska Bar, the time,
29 place and method of their selection, and their respective powers,

1 duties, terms of office, and compensation;

2 (3) concerning annual and special meetings;

3 (4) concerning the establishment, collection, deposit, in-
4 vestment, and disbursement of membership and admission fees, penalties,
5 and all other funds;

6 [(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL
7 SUBDIVISIONS OF THE ALASKA BAR;]

8 * (6) providing for all other matters affecting in any way the
9 organization and functioning of the Alaska Bar;

10 (7) providing for continuing legal education and certification of
11 continuing legal education programs;

12
13 (8) establishing and maintaining a program for the certification
14 of attorneys as specialists.

15 (b) The board may

16 (1) approve and recommend to the Alaska legislature changes
to this chapter and to the provisions of state law generally;

17 (2) approve and recommend to the state supreme court
18 rules for promulgation by the court including rules concerning admission,
discipline, licensing and continuing legal education;

19 (3) adopt reasonable bylaws and regulations consistent with
20 this chapter and the Alaska Bar Rules;

21 (4) sue in the name of the Alaska Bar in a court of competent
22 jurisdiction to enjoin a person from doing an act constituting a vio-
23 lation of this chapter;

24 (5) fix the annual membership fee for active, inactive,
25 judicial and honorary members.

26 * Sec. 10. AS 08.08.085 is amended to read:

27 Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of
28 Governors shall report annually to the judiciary committees of the
29 legislature on all matters concerning admissions, discipline of members,

and disbarment proceedings, except for those matters defined as confidential by court rule. The Board of Governors shall note in this report any modification, repeal, or addition to the bylaws and regulations of the Alaska Bar as well as any modification, repeal, or addition to or any proposed modification, repeal or addition to the rules of court.

Sec. 08.08.090. POWER OF THE BOARD TO MAKE OR CHANGE BYLAWS AND REGULATIONS.

repealed
Power of the bar to make or change bylaws and regulations. Any bylaw or regulation adopted by the Board of Governors may be modified or ~~repealed~~, or a new bylaw or regulation may be adopted, by a vote of the active members of the association under bylaws and regulations to be prescribed by the Board of Governors. (§ 7 ch 196 SLA 1955; am § 3 ch 168 SLA 1960; am § 7 ch 181 SLA 1976)

Sec. 08.08.100. ADMINISTRATIVE PROCEDURE ACT.

Administrative Procedure Act. The bylaws and regulations adopted by the board or the members of the Alaska Bar under this chapter are ~~not~~ subject to the Administrative Procedure Act (AS 44.62). (§ 7 ch 196 SLA 1955; am § 3 ch 178 SLA 1960; am § 8 ch 181 SLA 1976)

* Sec. 11 AS 08.08 is amended by adding new sections to read:

Sec. 08.08.105. THE PRACTICE OF LAW. (a) Any person who either is or represents himself to be or intentionally causes any other person reason to believe that he is an attorney-at-law or a member of the bar of any jurisdiction, is engaged in the practice of law while performing any of the following acts for or on behalf of any other person, with or without compensation:

- (1) Appearance in or conduct of litigation or performance of any act in connection with proceedings, pending or prospective before a court of this State unless otherwise provided by court rule; or
 - (2) Appearance in or conduct of litigation or performance of any act in connection with proceedings pending or prospective before any other body constituted by law to settle controversies; or
 - (3) Giving counsel as to any person's legal rights or obligations;
- or

(4) Preparation or procurement of instruments or other papers creating, limiting, claiming, granting, terminating, or otherwise securing legal rights; or

(5) Engaging in any act or other practice determined by the courts of law to constitute the practice of law.

(b) Any person, other than a person working under the supervision of a person licensed to practice law in this state or permitted by the Supreme Court to practice law in this state, not included in subsection (a) of this section who for compensation performs any of the acts set forth in (2) through (5) of subsection (a) of this section, is engaged in the practice of law unless such acts are performed as part of the regular conduct of a business the primary purpose of which is other than the performance of any of the acts set forth in (1) through (5) of subsection (a) of the section.

(c) The practice of law does not include actions by a government employee who is not an attorney in the course of his employment.

(d) The term "person" as used in this section includes a corporation, company, partnership, firm, association, organization, business trust, bank or governmental entity as well as natural person.

1
2 Sec. 08.08.201. ADMINISTRATION OF BAR EXAMINATION. (a) The Board
3 of Governors shall administer the bar examination under the Alaska Bar
4 Rules.

5 (b) The Board of Governors may contract with another state or a
6 testing organization for the preparation and grading of a portion of the
7 Alaska Bar examination.

8 (c) The Board of Governors shall contract with persons experienced
9 in the administration of bar examinations for advice on the preparation
10 or grading of the portion of the bar examination prepared under the
11 direction of the board.

12 (d) The Board of Governors shall establish and maintain standards
13 for experience or training of persons who administer the portion of the
14 bar examination prepared under the direction of the board.

15 * Sec. 12. AS 08.08.205 is amended to read: *Motion failed to*
debatte.

16 Sec. 08.08.205. ELIGIBILITY TO TAKE BAR EXAMINATION. Applicants
17 who have not graduated from a [AN ACCREDITED] law school but are other-
18 wise qualified may take the bar examination if they have completed a
19 clerkship in the manner prescribed by AS 08.08.207.

20 * Sec. 13. AS 08.08.207(a) is amended to read:

21 (a) Every person who desires subsequently to qualify as a general
22 applicant for admission to the practice of law [ALASKA BAR] without
23 having been graduated from a [AN APPROVED] law school shall register as
24 a law clerk as provided by this section. He must be a bona fide resi-
25 dent of the state and shall present satisfactory proof that he has been
26 granted a bachelor's degree (other than bachelor of laws) by a college
27 or university offering the degree on the basis of a four-year course of
28 study and has successfully completed his first year of studies at a law
29 school.