

ALASKA LEGISLATURE COMMITTEES 1901-1902

1673 SJ SB 90.

Seward General Hospital

P.O. BOX 365
SEWARD, ALASKA 99664
(907) 224-5205

April 15, 1981

Senator Patrick M. Rodey
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Rodey:

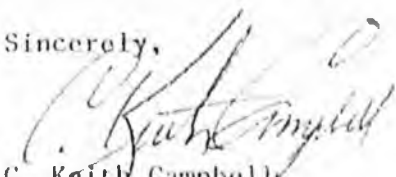
I respectfully request that Medical Records be excluded as a part of S.B. 90.

The existing State Statutes adequately protect the public interest in regard to information contained in a patient's medical records.

This new statute would unnecessarily complicate the administration and increase the cost of this department at Seward General Hospital.

Thank you for your consideration to this matter.

Sincerely,



G. Keith Campbell
Administrator

CKC:ecb

cc: Alaska State Hospital Association



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Parr, Chairman
Committee on Health, Education, and Social Services

FROM: Senator Rodey *PMR*

DATE: April 21, 1981

SUBJECT: SB 399, "An Act relating to adoption; and providing for an effective date."

SB 399, which amends current adoption law, has been referred to your committee. I would appreciate your scheduling this measure for testimony before the committee at your earliest convenience. Thank you.

PMR/ods



Alaska State Legislature

Senate

Official Business

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. Monte Jordan
73 Rangeview Drive
Fairbanks, Alaska 99701

Dear Mr. Jordan.

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99817

April 14, 1981

Ms. Betty Rhymes
SR 40494
Fairbanks, Alaska 99701

Dear Ms. Rhymes:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/oda



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. George Hotrum
212 Bridget Avenue
Fairbanks, Alaska 99701

Dear Mr. Hotrum:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. K. R. Kollodge
433 Fairbanks Street
Fairbanks, Alaska 99701

Dear Mr. Kollodge:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Ms. Mona Rector
1409 Bluebell Street
Fairbanks, Alaska 99701

Dear Ms. Rector:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Ms. Lucille Odom
Box 1914
Fairbanks, Alaska 99707

Dear Ms. Odom:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Ms. Sylvia Hodges
Box 1094
Fairbanks, Alaska 99707

Dear Ms. Hodges:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Ms. Adele Bacon
Box 397
Fairbanks, Alaska 99707

Dear Ms. Bacon:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. Stephen Birdsall
Box 55506
North Pole, Alaska 99705

Dear Mr. Birdsall:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. J. Randy Carr
SR 70799F
Fairbanks, Alaska 99701

Dear Mr. Carr:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 14, 1981

Mr. W. C. McEvoy
Box 2455
Fairbanks, Alaska 99707

Dear Mr. McEvoy:

Thank you for your comments on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods

ILLEGAL ADDRESS. PLEASE TRY AGAIN. 4

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TO JUNEAU INFO FR TAMMY IN FBX

POW

TO: SER. RODDY, BERRETT, HOHMAN, FARR, KAY
FR: FOLLOWING LIST

RE: SB 90

THE UNDERSIGNED OPPOSE SB 90. EVALUATIONS GUIDE AND MEASURE PERFORMANCE OF-
NANCE OFTEN CONTAIN INFORMATION OF A SENSITIVE NATURE. LACK OF
CONFIDENTIALITY WOULD CONCLUSIVELY PLACE THE EVALUATOR OR GARD DUE TO
PUBLIC ACCESS, DEFEATING THE VALUE OF THE RATING. WE CONSIDER THIS
AN INTRUSION OF PRIVACY. INFORMATION COULD BE MISUSED.

MORTE JORDAN, 73 RANGEVIEW DR., 99701
BETTY RHYMES, SR 40494, 99701
GEORGE HOTRUP, 212 BRIDGET AVE., 99701
S.R. KOLLIDGE, 433 FAIRBANKS ST., 99701
MORA RECTOR, 1409 BLUEBELL ST, 99701
LUCILLE ODOM, BOX 1914, 99702
SYLVIA HODGES, BOX 1094, 99702
ADELE MACOR, BOX 397, 99707
STEPHEN BIRDSALL, BOX 55506, N.P. 99705
J. RANDY GARR, SR 70702F, 99701
W.C. MCEVOY, BOX 2455, 99707

FBX/110/TEM A

STANDARD
REPLY
RECEIVED

APR 14 1981



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 15, 1981

Mr. Marty Biggs
Box 74284
Fairbanks, Alaska 99707

Dear Mr. Biggs:

Thank you for your comments on SB 90, currently being heard by the Senate Judiciary Committee.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations. SB 90 permits only certain information to be made public, such as salary, job description, education, training, and work experience.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants. Please be assured that the committee will not allow disclosure of the type of information addressed in your correspondence.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Senator Patrick M. Rodey
Chairman

PMR/ods



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

February 10, 1981

Mr. Defiance Gregg
3619 Gardner Street
Anchorage, Alaska 99504

Dear Mr. Gregg:

Thank you for your recent correspondence regarding S.B. 90. For your information and files, I am enclosing a copy of that Bill.

S.B. 90 is currently being reviewed by the Senate State Affairs Committee, and I suggest that you contact its Chairman, Senator Vic Fischer, regarding the status of this Bill before his Committee.

I will consider S.B. 90 a priority item when it reaches the Senate Judiciary Committee. I urge your continued concern, and would encourage your testimony before the Judiciary Committee if possible. Dates and times of the hearing will be made available to you for your participation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods
Enclosure

cc: Senator Vic Fischer

3619 Gardner St.
Anchorage Alaska
99504

Senator Rodey
Alaskan Senate
Juneau Alaska

RECEIVED
FEB 09 1981

Dear Senator Rodey:

I am interersted in the Bill 90 Privacy and Public Information Sec 4 AS 11.56.820 and Section 6 AS 09.25.110-120-125 as it is written.

I am without transportation to the Legislative Office downtown..and spend most of my time studying here on Campus.

I am very interested in 40.25.015 Open Records so that I may see into more areas concerning people like myself, senior citizens who are now on campus as Students..without access to any information concerning hiring practices..and opportunities for senior students.

Can you open a door? I am a writer on both College Newspapers..in different columns..but one of them apply to a group that I am forming for the betterment of conditions on campus and the opening of doors to employment...as well as social commentary.

Awaiting your response,

Sincerely,

Defiance Gregg

City of Seldovia

P.O. DRAWER B

TELEPHONE 234-7643

SELDOVIA, ALASKA 99663

February 17, 1981

Senator Patrick M. Rodey
Capitol, Room 125 - Pouch V
Juneau, Alaska 99811

RECEIVED

~~FEB 19 1981~~

FEB 20 1981

Dear Senator Rodey,

The Council of the City of Seldovia has strong feelings of opposition to Senate Bills 90 and 44; and have requested their concern be conveyed to you.

In the case of SB90, the feeling is that there are valid reasons for executive sessions without abusing the intent of a session.

In the case of SB44, it seems ridiculous that a municipality should have to pay defense fees for a law breaker regardless of financial ability. We need more support for the law and less undermining of it.

We would be most appreciative if you would vote "NO" on both bills.

Thank you for your consideration.

On Behalf of the Council
of the City of Seldovia,

Carl L. Hille

Carl L. Hille
City Manager

CLH/ck



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

February 12, 1981

Cheri C. Jacobus, Esq.
Office of the Federal Inspector
Alaska Natural Gas Transportation
System
Pouch 6619
Anchorage, Alaska 99502

Dear Ms. ^{CHERI}Jacobus:

Thank you for your comments on S.B. 90.

I agree that an amendment exempting material required to be kept confidential by Federal law or regulation is in order.

The free flow of information between the State and Federal Government is indeed important and I am sure none of the co-sponsors wish to impede that flow.

Your comments are appreciated.

Sincerely,

Pat
Patrick M. Rodey
Chairman

PMR/ods

cc: Senator Vic Fischer

I hope you'll have a chance to visit Juneau this year. It would be great to sit down and chat with you.

4 FEB 1981

RECEIVED

FEB 09 981

The Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

The State Affairs Committee is holding public hearings on Senate Bill No. 90 introduced by you, Senators Parr, Stinson and Rodey. The Office of the Federal Inspector, Alaska Natural Gas Transportation System (ANGTS) has reviewed the bill and urges the State Affairs Committee to consider its comments. AS 09.25.120, one of the statutes which would be repealed by SB 90, sets out various exceptions to public disclosure. One category of documents exempt from disclosure by AS 09.25.120 is "documents required to be kept confidential by a federal law or regulation..." This exception should be included in any legislation addressing freedom of information in this State.

This exemption is important both to the current Alaska natural gas pipeline construction project and to other relations with the federal government. The State Pipeline Coordinator's Office and the Federal Inspector's Office enjoy a free flow of information between them which helps both agencies to adequately monitor construction of the gasline. The State and the Federal Inspector's Office are negotiating a joint agreement which in part addresses the confidentiality of documents exchanged between them, and the agreement depends on the existence of a State statute exempting such documents from public disclosure. Any change will jeopardize this interchange of documents between the Federal Inspector and the State Pipeline Coordinator.

With these concerns in mind, the Federal Inspector's Office recommends that the legislature clearly include this exemption in SB 90 by changing the proposed Sec. 40.25.015(e)(1) to read as follows:

(1) Those exempted from disclosure by State statute or required to be kept confidential by federal law or regulation;

Thank you for the opportunity comment on SB 90.

Sincerely,

Cheri C. Jacobus
Attorney

Cjacobus:rlw:2/2/01

cc: Jeff Lowenfels, State Attorney General's Office
Hon Green, State Attorney General's Office, SPCO
✓ Senator Patrick Royley



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 5, 1981

Ms. Betty Viersen
Box 22
Glennallen, Alaska 99588

Dear Ms. Viersen:

Thank you for your letter on SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

Patrick M. Rodey
Chairman

PMR/ods

RECEIVED

MAR 31 1981

Box 22
Glennallen, AK 99588
March 25, 1981

Senator Pat Rodey
Pouch V
Juneau, AK 99811

Dear Senator Rodey

As a teacher in Alaska for eleven years, I would like to encourage you to oppose SB 90 exposing teachers' files to the public. I feel that a superintendent's job is to discriminate pertinent information to the appropriate individuals.

Please oppose SB 90.

Sincerely


Betty Viersen

Betty Viersen



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

March 31, 1981

Mr. Andrew Zajac
Box 208
Copper Center, Alaska 99573

Dear Mr. Zajac:

Thank you for your letter on SB 90.

I agree that certain portions of a public employee's personal file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods

Box 208
Copper Center, Alaska
99573
3/22/81

RECEIVED

MAR 30 1981

Senator Pat Rodey
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey,

I am opposed to S.B. 90 because I don't feel that teachers' private files should be exposed to public scrutiny. I feel that teachers are already under the public's spotlight and are adequately controlled by school boards through their administrators. I am also concerned because these files may contain derogatory comments originating from hearsay or innuendo. Please vote against S.B. 90. Thank you.

Sincerely,

Andrew Zajac
Andrew Zajac



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 5, 1981

Ms. Jean Allen
1849 Esquire
Fairbanks, Alaska 99701

Dear Ms. Allen:

Thank you for your comments concerning SB 90.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods

TELEGRAM

RECEIVED

ALISCOM, INC.
PHONE: 686-6942
JUNEAU, AK 99802

APR 01 1981

12039 POM FAIRBANKS ALASKA 15 03-31 315P AST

PMS SEN PAT BODEY

JUN

AS A STATE EMPLOYEE I DO OPPOSE SP06 AND HR7

JEAN ALLEN

1849 ESQUIRE FAIRBANKS ALASKA 99701

APR 01 1981 PM 7 52



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

March 31, 1981

Ms. Sue Zajac
Box 208
Copper Center, Alaska 99573

Dear Ms. Zajac:

Thank you for your letter on SB 90.

I agree that certain portions of a public employee's personal file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

Your comments are deeply appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Patrick M. Rodey
Chairman

PMR/ods

Box 208
Copper Center, Alaska
99573
3/22/81

RECEIVED

MAR 30 1981

Senator Pat Rhody
Senate Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Rhody,

Please oppose Senate Bill 90 on Public Information.

Releasing, to the public, private records on individuals employed in this state is certainly an unforgivable breach of privacy. Dismissal of an employee should not be aided by public opinion, nor be based on one's life history.

Thank you.

Sincerely,

Sue Zajac
Sue Zajac



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

March 12, 1981

Ms. Lucinda Hites
Box 3
Skagway, Alaska 99840

Dear Ms. Hites:

Enclosed is the material you requested.

The House and Senate Judiciary Committees will hold a joint teleconference hearing on Saturday, March 14, at 2:00 p.m., with Fairbanks.

The Senate Judiciary Committee will hold hearings on CSSB 90 on March 30 at 1:30 p.m. in the Butrovich Committee Room.

Please do not hesitate to contact me should you require additional information.

Sincerely,

Kevin K. Bruce
Committee Aide

KKB/ods
Enclosure



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 5, 1981

Ms. Ginny Chitwood
Executive Director
Alaska Municipal League
204 N. Franklin Street
Juneau, Alaska 99801

Dear Ms. Chitwood:

Thank you for your letter concerning SB 90. I will be certain to include a copy of your correspondence in each member's file for their consideration of this proposed legislation.

I agree that certain portions of a public employee's personnel file should be confidential, specifically those sections which deal with employee performance evaluations.

As a co-sponsor, I intend to see that we get the best freedom of information bill possible, and will offer an amendment to protect the privacy due public servants.

For your information, the Judiciary Committee will be conducting further hearings on SB 90 on Friday, April 10, at 1:30 p.m. in the Butrovich Committee Room. Please feel free to contact my staff should you wish to testify.

Again, I appreciate your comments on this very important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Patrick M. Rodey
Chairman

PMR/ods

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

April 1, 1981

To: Senate Judiciary Committee
Senator Pat Rodey, Chairman
All Member, of the Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: SB 90 - Privacy and Information Act

Municipalities realize the need for the public to have reasonable access to municipal records. However, the provisions in SB 90 go further than what the Alaska Municipal League considers reasonable. We can foresee many unfair burdens being placed on municipalities if this bill passes in its present form. Some are as follows:

Records produced "immediately" - This would place the request for a public document as first priority over all other conduct of the government's business. A more reasonable approach would be to allow ten days as provided by the federal government. This, at least, would allow determination as to whether or not the document being requested would fall under the list of exemptions and therefore not be required to be produced or whether or not it was in the public's interest to be produced. If illegal releasing of information is done by a municipal employee, the municipality would be open to a fine which means the municipal attorney would have to review all requests.

"Direct Cost" - Some documents are readily available. However, it is possible and likely that to produce other documents would involve a great deal of time; searching thru archives, records of years past in storage, etc. Most of our communities do not have sophisticated retrieval systems and the amount of time needed to locate said document could take up a good portion of the employees time. The League feels the word "direct" should be deleted from page 2, line 21, or at least defined to include labor involved by the municipal employee in the search for the document that has been requested.

Subjects for executive session - The League feels the municipality is the best judge of what should be considered confidential and objects to the deletion of the right to establish these subjects by charter or ordinance (page 9, lines 28 and 29.) Procedures for charter ratification and ordinance adoption afford adequate safeguards ensuring that local actions reflect local opinion.

(over)



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

March 17, 1981

Ronald A. Pavellas
Administrator
The Alaska Hospital and
Medical Center, Inc.
2801 DeBarr Road
Pouch 8-AH
Anchorage, Alaska 99508

Dear Mr. Pavellas: *Ron*

Thank you for your letter regarding SB 90.

The Judiciary Committee will be holding hearings on the State Affairs Committee substitute bill on March 30, 1981, at 1:30 p.m. in the Butrovich Room.

I will include your letter in each committee member's file for their information.

Thank you again for expressing your concerns.

Sincerely,

Pat
Patrick M. Rodey, Chairman

PMR/ods

THE ALASKA HOSPITAL AND MEDICAL CENTER, INC.

March 12, 1981

Trustees

Ray L. Smith
President

Jack Beatley
Vice President

William H. Ivy, M.D.
Secretary

Vernon Cates, M.D.

Emmit Wilson

Ronald A. Pavellas
Administrator

RECEIVED

MAR 15 1981

The Honorable Patrick M. Rodey
Alaska State Senate
Pouch V, State Capitol
Juneau, AK 99811

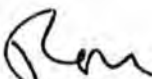
Dear Senator Rodey:

In reviewing Senate Bill 90, I have developed one concern, namely that the medical records of patients of public hospitals not be considered public information.

Therefore, I suggest that the bill be amended in some fashion to assure that medical records are specifically exempted in the bill.

Thank you very much.

Sincerely,


Ronald A. Pavellas
Administrator

RAP:jb

cc: Anita Parrish
Dennis DeWitt, Executive Director
Alaska State Hospital Association

2801 DeBarr Road
Pouch B-111
Anchorage, Alaska 99508
(907) 276-1131

A Community Owned Hospital



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

March 17, 1981

Mrs. Jane Harrison
3961 Eastwood Loop
Anchorage, Alaska 99504

Dear Mrs. Harrison:

I am in receipt of your letter to Senator Vic Fischer with respect to Senate Bill 90.

I will provide a copy of your letter to each Judiciary Committee member for consideration when SB 90 is heard.

Thank you for expressing your views on this proposed legislation.

Sincerely,


Patrick M. Rodey, Chairman

PMR/ods

*very good
Comments!*

Dear Mr Fischer,

As a state employee and a resident of Alaska, I wish to express my concerns about Senate Bill No 90 which relates, in part, to privacy and public information. I feel that public inspection of salaries and verification that employees meet the minimum qualifications required for the positions they hold are valid for public inspection.

I oppose public inspection of performance evaluations and reprimands. I feel these infringe on a person's right to privacy. Also I feel that this would be expensive for the state to process these requests and probably require hiring additional employees. The threat of public criticism, media coverage, the fear of personal grudge retribution, and the fear of legal complications would make it extremely difficult for supervisors to continue to write honest employee performance evaluations.

I urge you to protect the rights of these individuals and to oppose Senate Bill 90.

Sincerely,

Jane Harrison

3961 Eastwood Loop
Anchorage, Alaska
99504

GREATER ANCHORAGE AREA BOROUGH
PROPERTY MANAGEMENT

Tom & Jane Harrison
3961 Eastwood Loop
Anchorage, AK 99504

Not marked
3-9-81



Alaska State Legislature

Senator Vic Fischer • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

March 13, 1981

RECEIVED

MAR 13 1981

Jane Harrison
3961 Eastwood Loop
Anchorage, Ak. 99504

Dear Jane:

Thank you for your letter of last week concerning Senate Bill 90. The Senate State Affairs Committee passed the bill out and on to the next committee of referral, Senate Judiciary, chaired by Senator Pat Rodey.

I have taken the liberty of forwarding your letter to Senator Rodey for consideration by the Judiciary Committee. Thank you for expressing your views on this issue.

Best regards,

Sen. Vic Fischer

/lf

cc: Senator Pat Rodey, Chair
Senate Judiciary Committee

PROFESSIONAL ACCOUNTANCY COORDINATORS

TELEPHONE: 741-1403 AREA CODE 305

P.O. BOX 16780 PLANTATION BRANCH
FT. LAUDERDALE, FLORIDA 33318

RECEIVED

MAR 17 1981

March 11, 1981

Senator Pat Rodey
Chairman of Senate Judiciary Committee
The Senate
Pouch "V"
Juneau, Alaska 99811

Dear Senator Rodey:


It was a pleasure speaking to you by telephone today and we are certain that the educational organizations would appreciate and need the enclosed amendment to CS-S90. We must have this amendment immediately put into the bill in your Committee. Various other materials are enclosed. The furtherance of education is of course in the public interest. We thank you for agreeing to our amendment.

As I mentioned I probably possess the largest quantity of personal privacy files of every state in the USA and am considered an expert in the field, and our files are available to you and your Committee.

The most amazing part of CS-S90 is page 6 lines 21 to 24 which should be eliminated. Item (12) should read "records, the disclosure of which would constitute an unjustifiable invasion of personal privacy;" and the rest of the sentence should be eliminated because it is silly to have a governmental unit "shall determine" because the governmental unit makes the determination and if a requestor disagrees he can always resort to the courts. However the way the bill now reads the court cannot reverse the governmental unit's position because the governmental unit does the determination and the court therefore could never reverse it per this statute. It is like a fox guarding the chicken coop. You should be passing a good bill that the public and your children can live by fairly and not be under the determination of a minor governmental employee in his sole discretion. If your Committee wants to pass an excellent bill, the best bill is the enclosed New Jersey personal privacy bill which has passed the New Jersey Senate and that Committee investigated carefully all other states' bills for many years and finally came up with this workable fair bill.

Assuring you of our interest and cooperation at all times, I remain

Very truly yours,



Stanford I. Grayson

PROFESSIONAL AND OCCUPATIONAL FREEDOM OF INFORMATION ACT

Section 1. Title

This act shall be known as the "Professional and Occupational Freedom of Information Act".

Sec. 2. Findings; purpose

The legislature finds that:

1. State privacy acts enacted to protect individuals from having personal information contained in their applications for licenses released for public consumption has barred such applicants from receiving valuable information from bona fide professional and occupational services and educational organizations which are on occasion necessary for the applicant or licensee to meet state requirements for initial qualifications, renewal of license or continuing education required or encouraged by statutes or rules and regulations. This result is unintended and is not in the public interest.

2. The purpose of this act is, in furtherance of the public interest, to make available to professional and occupational services and educational organizations lists of applicants and licensees of related professions and occupations to aid in the receipt of informational materials relating to available current professional or occupational educational materials or courses for compliance with licensing requirements and for continuing education.

Sec. 3. Definitions

1. "Information" means any recorded data maintained by an occupational licensing agency regardless of its form relating to a person's name, title, current address, whether a person is an applicant or licensee.

2. "Maintain" means hold, possess, preserve, retain, store or exercise administrative control over.

3. "Occupational licensing agency" means any unit of government of this state or political subdivision of this state with the authority to grant, deny, suspend or revoke a license or other authorization to practice any profession or occupation in this state.

4. "Professional or occupational service or educational organization" means any person, business, group or institution, public or private, organized to provide formal or informal educational materials or courses to persons seeking initial qualification, licensure, license renewal or continuing education for any profession or occupation.

Sec. 4. Access to information

Notwithstanding any other provision of the law of this state, an occupational licensing agency shall provide access to information maintained by such agency for purposes of inspection or copying to any professional or occupational service or educational organization which request such information for the sole purpose of such organization providing applicants for licenses or licensees with informational materials relating to available current professional or occupational educational materials or courses.

CPA candidates rely upon our professional and graduate levels of instruction. The CPA Examinations are so extremely difficult today *** that only 15% to 25% pass of those who do not attend a CPA review school. Most CPA candidates sit for CPA Examinations approximately three years after leaving college and in most cases our instruction is extremely necessary for them, due to the difficulty of the examinations. There is no other effective reasonable means of reaching these CPA candidates of our course offerings, other than through use of the list below. In our profession there is a desperate need for more CPA's, not less.

It is so important to permit the copying of CPA registrants' names and addresses because it is considered to be in the public interest to such an extent that it is specifically mentioned in various states' accountancy statutes. For example, note attached Illinois and Florida statutes which state that it is in the public interest and not an invasion of privacy that the names and addresses of registrants for CPA Examinations are public records and should be revealed as public information. Even of more significance is the rest of the paragraph in these Acts, which shows the desire of these CPA Boards and their Legislatures to keep all the other information about an applicant confidential, but they have particularly gone out of the way to state and recognize into law this one very important exception. What better proof is there than the fact that CPA Boards feel that candidates' names and addresses are a public record which can be revealed and should be revealed in the public interest for accounting education purposes. Why would they specifically and purposefully insert this into the Law? Why didn't these statutes just state all information about a candidate should be secretive? These statutes contain this important exception because they favor education similar to practically all the other states, and decided that candidates' names and addresses should be available to all educational organizations.

49 States have agreed and are presently furnishing us with similar inspections. Therefore it is clear that the overwhelming majority of the states agree with our request, and it has been proven to be in the public interest for many reasons. The major obvious reasons are:

- 1) Professional education is in the public interest and these persons should possess the highest technical proficiency attainable. Their high competence is necessary because the state licenses them to serve the general public. The exemption is not for a specific profession but rather for the entire general professional field. This long standing practice of continuing education is needed for all professions and should be continued similar to past years. Other states' Committees have also recognized this fact and have included similar exemptions in their Freedom of Information bills.
- 2) The furtherance and availability of accountancy and other professional education.
- 3) It is the easiest method for CPA and other professional registrants to know of the availability of all of these educational courses to choose from with the least effort.
- 4) Serves as an informative circular to remind them of the detailed contents and starting dates, etc. of these courses.
- 5) Reduces the cost of these courses to the candidates because the mail offerings are the most practical for the course management; these specialized courses cannot be advertised in any mass media because accounting candidates are a tiny percentage of the general population, and we cannot advertise for example in our professional magazine effectively (although we have tried this but it hardly reaches these candidates) because

these registrants are not members of the professional societies and therefore do not receive a professional magazine. Solicitations in colleges are ineffective because most CPA candidates sit for the Examinations a few years after graduating from college.

In making this information available to educational organizations, it is not an invasion of a person's privacy by merely mailing him our course offerings. These educational course offering circulars describe us, not the recipient. It is inconceivable the mere receiving of an educational course offering in the mail that is printed (no personal letter to the recipient included) be an unwarranted invasion of privacy and against the public interest. On balance, greater weight should be given to the furtherance of professional accountancy education rather than secrecy of these records. It is unreasonable to conclude that recipients (and especially knowledgeable professionals who are intelligent sufficiently and can distinguish between various offerings) are so supersensitive that their privacy is ruined by the mere receipt of an informative educational circular. The purpose of the present Bill is for greater dissemination of information and against secrecy, and for the protection of a person's confidential background. We are not interested in the personal detailed data concerning a registrant's background and history, but only the impersonal names and addresses of all professional licensee registrants. Surely the mere copying of names and addresses for professional educational purposes only, should be allowed because it is not against the public interest. We certainly need more and better educated professional candidates.

***All CPA review schools raise passing percentages from 25% to 70% on the average, because of their intensive review courses.

DONNA J. CARLSON
447 WEST HILLVIEW CIRCLE
MESA, ARIZONA 85201
CAPITOL: 255-4062

DISTRICT 22



Arizona House of Representatives
Phoenix, Arizona 85007

THIRTY-FOURTH LEGISLATURE
1979-1980

COMMITTEES:
COUNTIES & MUNICIPALITIES
CHAIRMAN
COMMERCE
HUMAN RESOURCES
JUDICIARY
NATIONAL CHAIRMAN
AMERICAN LEGISLATIVE
EXCHANGE COUNCIL

December 28, 1979

Dear Colleague:

Re: "Professional and Occupational Freedom of Information Act"

Soon you will be receiving the "Source Book for State Legislators" (formerly entitled Suggested State Legislation) published by the American Legislative Exchange Council (ALEC). The 1980 edition compiled by a geographically selected committee, contains many fine innovative legislative proposals.

Hearings were held in Washington, D. C. in June and the committee selected 20 bills, some are updates from earlier editions and some are new concepts. As usual, we had more good bills than time and space would allow us to handle. We also received several excellent bills after the hearings were held. One such bill is the reason I am writing you.

The bill, which is enclosed, is called the "Professional and Occupational Freedom of Information Act", and at the request of a majority of the ALEC Suggested State Legislation Committee, I am submitting the bill for your consideration in hopes that you will review it's applicability to your particular state.

If you are interested in introducing the legislation, a complete file of research information will be available through my office.

Sincerely,

A handwritten signature in cursive script that reads "Donna Carlson".

DONNA J. CARLSON
Chairman ALEC

DJC:md
Enclosures

PROFESSIONAL AND OCCUPATIONAL FREEDOM OF INFORMATION ACT

Section 1. Title

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Sec. 2. Findings; purpose

The legislature finds that:

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2. The purpose of this act is, in furtherance of the public interest, to make available to professional and occupational services and educational organizations lists of applicants and licensees of related professions and occupations to aid in the receipt of informational materials relating to available current professional or occupational educational materials or courses for compliance with licensing requirements and for continuing education..

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1. "Information" means any recorded data maintained by an occupational licensing agency regardless of its form relating to a person's name, title, current address, whether a person is an applicant or licensee.

2. "Maintain" means hold, possess, preserve, retain, store or exercise administrative control over.

3. "Occupational licensing agency" means any unit of government of this state or political subdivision of this state with the authority to grant, deny, suspend or revoke a license or other authorization to practice any profession or occupation in this state.

4. "Professional or occupational service or educational organization" means any person, business, group or institution, public or private, organized to provide formal or informal educational materials or courses to persons seeking initial qualification, licensure, license renewal or continuing education for any profession or occupation.

Sec. 4. Access to information

Notwithstanding any other provision of the law of this state, an occupational licensing agency shall provide access to information maintained by such agency for purposes of inspection or copying to any professional or occupational service or educational organization which request such information for the sole purpose of such organization providing applicants for licenses or licensees with informational materials relating to available current professional or occupational educational materials or courses.

SUMMARY SHEET

Numerous states have adopted, considered or will consider "privacy acts" barring public access to governmental information regarding private citizens, including applications for licenses and licensee records maintained by State and local professional and occupational licensing agencies. Some have recognized the need to continue the flow of educational materials to applicants for licenses and licensees by commercial and non-profit organizations, and have accordingly provided a statutory exemption for this purpose, e.g., California, Florida, Massachusetts, Montana, Virginia and Washington.* While 23 Attorneys General opinions and the courts of Colorado, Connecticut, Georgia, Indiana, Massachusetts, New Jersey, Pennsylvania, Tennessee and Utah have determined that the release of the names and addresses of applicants and licensees for educational purposes "is in the public interest", enactment of a privacy act without a statutory exemption could forbid access where the interest is valid and proper. (Attorneys General opinions have been issued in Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, Ohio, Oklahoma, Pennsylvania, Puerto Rico, South Dakota, Texas, Virginia and Washington.)

* Additionally, two states (Illinois and Michigan) have limited exemptions.

re: attached New Jersey bill

Newark Star-Ledger 2-20-81

Regulations advance on citizen privacy

By ROBERT SCHWANEBERG

A "model" privacy bill regulating the collection and storage of information on individual citizens by state agencies passed the Senate yesterday, 23-9.

The bill (S-880), sponsored by Sen. Matthew Feldman (D-Bergen), now goes to the Assembly for consideration.

The measure limits the type of information about an individual that may be disclosed to the public or other agencies, requires information to be purged when it no longer is needed and allows an individual to challenge inaccurate information in government files.

"If this bill is enacted into law, I believe our state, New Jersey will have the best law balancing freedom of information and personal privacy in the nation," Feldman said.

"As government becomes more involved in people's lives, it amasses detailed information on each of us, and the advent of the computer now make it possible to build master files about each of us that no one ever intended to exist," Feldman continued. He added the state already has "dozens of high-powered computers," and safeguards should be placed on how information stored in them can be used before abuses occur.

Opposition to the bill came primarily from Republican senators. Sen. Wayne Dumont (R-Warren) questioned Feldman's assertion that the bill would cost the state nothing, while Sen. James Wallwork (R-Essex) said he feared the bill "is going to create a blizzard of paperwork."

Feldman denied the additional reporting requirements placed on state agencies would be "onerous," adding that in most cases an agency simply would have to clip a cover letter to the front of each form it uses explaining how the information is used and why it is needed.

But he added that if the law forces certain agencies to take an "inventory" of the information they collect and review how much is really needed, it would have served a good purpose.

Feldman explained the bill would continue many provisions of existing law guaranteeing the public access to public

information.

But "for the first time," he said, "individuals may see files which are kept on them and challenge inaccurate and incomplete information."

The bill also requires each agency to develop safeguards to insure the confidentiality of personal information and to purge information that is no longer needed. An agency would have to prove it has a continuing need for information more than five years old.

Other sections of the bill would:

- Require state agencies to attempt to notify an individual before releasing private information about that person in response to a subpoena. No notification would be required, however, if the information is sought by a grand jury.
- Ban state agencies from selling mailing lists, except for lists of persons applying for professional licenses, which could be sold to professional training schools.
- Require state agencies to respond to most requests for information within 15 days, charging only reasonable fees for duplicating records.
- Allow persons whose privacy rights are violated to sue for damages of not less than \$1,000, plus lawyers' fees.

Feldman noted the bill applies only to state agencies, not to local government bodies or private industry.

He added that a state privacy commission he chaired has drafted a package of companion bills to govern the information-collection practices of private businesses. When those are adopted, he said, "New Jersey will be the model for all other states with regard to protection of privacy and access to public information."

Feldman said the bill passed yesterday is the result of six years of work, during which his privacy commission and a Senate Judiciary subcommittee attempted to take the best from other state laws and the national privacy commission's recommendations.

But Sen. Thomas Gagliano (R-Monmouth) said the bill is still "somewhat confusing" and needs more work.

H/P all

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 880

STATE OF NEW JERSEY

ADOPTED FEBRUARY 2, 1981

H/P 14/ our record

AN ACT concerning information management, information privacy, and freedom of information, amending section 2 of P. L. 1963, c. 73 and supplementing Title 47 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. (New section) Title.

2 Sections 1 through 16 inclusive of this act shall be known and
3 may be cited as the "Information Management, Information Pri-
4 vacy, and Freedom of Information Act."

1 2. (New section) Legislative findings.

2 The Legislature finds and declares that:

3 a. Rational and efficient information management, the indi-
4 vidual's rights to informational privacy, and the right of access
5 to information concerning the government's conduct of public
6 business are related matters which should not be treated separately;

7 b. The rights, privileges, and opportunities of an individual are
8 directly affected by the use of personal information about him by
9 the agencies of government;

10 c. The use of computers and sophisticated information tech-
11 nology, while essential to the efficient operation of government, has
12 greatly magnified the potential damage to individual privacy from
13 the maintenance of personal information by agencies of govern-
14 ment;

15 d. The policy of this State is to protect the individual's right of
16 informational privacy and guarantees that personal information
17 maintained by State Government will be maintained in a rational
18 and equitable manner consistent with due process;

19 e. Rational and efficient information management requires gov-
20 ernment to maintain only that personal information which is
21 necessary and relevant to the lawful purposes of government;

22 f. The public policy of free speech and to petition for redress
23 of grievances and the fundamental principle that government is the
24 servant of the governed require the government to make prompt
25 and full disclosure of all information requested by persons, except

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

26 in those specific, limited areas where public policy dictates that the
 27 individual right of informational privacy or the sensitivity of the
 28 governmental function involved compels different treatment; and
 29 g. To manage personal information held by the government in
 30 a rational and efficient manner, to protect the individual's right
 31 of informational privacy, and to guarantee the person right of
 32 access of public information, it is necessary and proper for this
 33 Legislature to regulate the maintenance of personal and other
 34 information by the agencies of government.

1 3. (New section) Definitions.

2 As used in this act:

3 a. "Agency" means any office, department, division, bureau,
 4 board, commission, agency, authority, institution, or like govern-
 5 mental entity of the State, except the Division of Taxation, includ-
 6 ing any entity, whether public or private, with which any of the
 7 foregoing has entered into a contractual relationship for the opera-
 8 tion of a system of personal information to accomplish an agency
 9 function. For the purposes of this act, any officer or employee of
 10 such agency contractor shall be deemed an agency officer or em-
 11 ployee. The term "agency" does not include any office, depart-
 12 ment, division, bureau, board, commission, agency, authority,
 13 institution, or like governmental entity within the legislative or
 14 judicial branches of government;

15 b. "Arrest information" means (1) the name, age, and address
 16 of the arrested individual; (2) the nature of the charge against
 17 him; (3) the time and place of the arrest; (4) the identity of the
 18 arresting agency; and (5) information as to whether the individual
 19 is or was incarcerated and the place of the incarceration;

20 c. "Criminal justice agency" means a government agency, in-
 21 cluding the Department of Corrections, which performs a criminal
 22 justice function pursuant to a statute or executive order, and which
 23 allocates a substantial part of its annual budget to the administra-
 24 tion of criminal justice;

25 d. "Data subject" means an individual about whom personal
 26 information is maintained, indexed or may be located under his
 27 name, identifying number, or other identifiable particulars, in a
 28 personal information system;

29 e. "Individual" means a natural person;

30 f. "Maintain" means maintain, collect, use, or disclose;

31 g. "Personal information system" means the total components
 32 and operations, whether automated or manual, by which personal
 33 information, including, but not limited to, name, number, symbol,
 34 or other identifying particular, is maintained by an agency;

35 h. "Responsible authority" means the officer designated by an
36 agency to be responsible for the operation of the personal infor-
37 mation systems of the agency in accordance with the provisions of
38 this act;

39 i. "Routine use" means a use or disclosure of personal informa-
40 tion, maintained in a personal information system, which is recur-
41 ring in nature and compatible with the responsibilities of the using
42 agency; and,

43 j. "Summary information" means statistical information and
44 reports derived from personal information in which no data sub-
45 ject is identified, and from which neither the identity of a data
46 subject nor any other characteristic that could uniquely identify
47 him is ascertainable.

1 4. (New section) Classification of information.

2 a. "General information" includes all information and records
3 which are required by law to be maintained by an agency or which
4 would facilitate a full and accurate knowledge of its activities; rules
5 and regulations promulgated by an agency; forms issued or used
6 by an agency; statements of general policy or interpretations of
7 general applicability adopted by an agency; final opinions, includ-
8 ing concurring and dissenting opinions, as well as orders, made in
9 the adjudication of cases unless specifically impounded by the court
10 rendering the decision; administrative staff manuals and instruc-
11 tions to staff that affect any member of the public; and each amend-
12 ment, revision, or repeal of the foregoing, except information or
13 records classified as confidential by applicable Federal law, State
14 law, or rule or regulation pursuant to Federal law, or State law or
15 classification under section 5 of this act;

16 b. "Personal information" means any information maintained by
17 an agency that describes, indexes, locates, identifies, or could
18 reasonably be used to identify an individual and any characteristics
19 of an individual, or which indicates actions done by or to an indi-
20 vidual. Personal information may be classified as either public,
21 private, or confidential, but all personal information is public
22 unless otherwise classified by classification issued under section 5
23 of this act or by applicable Federal law, State law, or rule or regula-
24 tion pursuant to Federal law or State law,

25 c. "Confidential information" means personal information which
26 is made inaccessible to both the public and the data subject by
27 applicable statute, Federal law, or classification under section 5
28 of this act. Confidential information also includes general informa-
29 tion made inaccessible to the public by applicable statute, Federal
30 law or classification under section 5 of this act. The following shall
31 be specifically considered confidential information:

32 (1) Materials and investigative files developed by a criminal
33 justice agency in connection with any investigations of candidates
34 for public positions or appointments;

35 (2) Materials and investigative files developed by any agency in
36 connection with a civil investigation or action;

37 (3) Investigatory information compiled for the purpose of deter-
38 mining the data subject's suitability, eligibility, or qualifications for
39 designation as an agency contractor;

40 (4) Testing or examination information used solely to determine
41 the data subject's qualifications for appointment or promotion in
42 agency service. This classification is, however, only applicable to
43 the extent that disclosure of such information would compromise
44 the objectivity or fairness of the testing or examination process;

45 (5) Any information, records, rules and regulations, forms,
46 policy statements, administrative staff manuals and instructions to
47 staff and each amendment, revision, or repeal of the foregoing
48 which pertain to the internal affairs of a State custodial, penal or
49 correctional institution or program.

50 (6) Any information which is otherwise privileged under State
51 or Federal law, and provided to a public agency with the under-
52 standing that such confidentiality will be maintained.

53 d. "Private information" means personal information which is
54 made inaccessible to the public but not to the data subject by
55 applicable statute, Federal law, or classification under section 5 of
56 this act. Criminal history information, including all material con-
57 cerning an individual's prior arrests, convictions and incarcerations,
58 is private information.

59 e. "Public information" means information which is accessible
60 to the public and shall include general information not classified as
61 confidential and all personal information not classified as either
62 private or confidential.

1 5 (New section) Classification by agency.

2 a. An agency may, in the absence of applicable law, classify any
3 information it maintains for its own use and for use of other
4 agencies consistent with standards set forth below and with the
5 definitions set forth in section 4. The classifications of types of in-
6 formation maintained by an agency shall be published in the New
7 Jersey Register on the effective date of this act and annually
8 thereafter.

9 b. An agency may classify personal information as confidential
10 if disclosure to the data subject would cause undue inconvenience
11 or interruption in ongoing agency programs or could represent a
12 danger to the physical safety of the person who is the source of
13 such information.

14 c. An agency may classify personal information as private if
15 public access to the information would result in substantial harm,
16 embarrassment, inconvenience or unfairness to the data subject
17 which is not outweighed by the public interest in open disclosure.

18 d. An agency may classify general information as confidential
19 if public access to the information would result in a substantial
20 impediment to the agency's ability to perform its functions and
21 public access would be adverse to the agency's responsibilities.

22 e. On appeal from the classification of a type of information the
23 agency shall establish that no statute currently exists which forbids
24 the classification assigned the information by the agency and that
25 the classification comports with standards established above.

1 6. (New section) Agency responsibilities.

2 Each agency shall:

3 a. Designate a responsible authority who shall have the power
4 and responsibility to administer the agency's responsibilities under
5 this act; however, in the case of an agency consisting of more than
6 one office, bureau or division, one responsible authority shall be
7 designated;

8 b. Identify all the personal information systems it operates, and,
9 on the effective date of this act and annually thereafter, give public
10 notice of, make available for distribution upon request of any
11 person, a notice of the existence and character of each personal
12 information system it operates or uses. An agency shall publish
13 such notice in the New Jersey Register. This notice shall include
14 a description of the nature and routine uses of personal information
15 in the system. An agency shall not construe the term "personal
16 information system" in a manner which could prevent any complete
17 or independent subsystem comprising part of a personal informa-
18 tion system from being individually identified;

19 c. Develop procedures for review and challenge of the accuracy
20 and completeness of its personal information systems by the data
21 subjects about whom the information has been collected.

22 d. File with the Office of Legislative Services, the Department
23 of Law and Public Safety and the Department of the Public Ad-
24 vocate an annual report which is to be public and which shall con-
25 tain the following:

26 (1) A description of the agency's personal information systems
27 including any proposals to modify or alter the personal informa-
28 tion systems maintained;

29 (2) Any classification, by category, of general information as
30 confidential or of personal information as private or confidential
31 under section 5 of this act;

32 (3) Copies of the printed forms utilized for the collection, main-
33 tenance and challenge of information;

34 (4) A statement of the cost to the agency of compliance with the
35 requirements of this act, the agency's litigation costs and sums paid
36 by it as a result of litigation under this act, and the disciplinary
37 actions taken by the agency against officers or employees who
38 violated the provisions of this act;

39 (5) Recommendations for improvement of the act or its admin-
40 istration;

41 (6) All rules, regulations and procedures established to carry
42 out the provisions of this act, including all rules of conduct and
43 penalties for noncompliance in the form of negligent, reckless or
44 intentional misconduct by persons involved in the design, develop-
45 ment, operation, or maintenance of any personal information
46 system, or in the maintenance of personal information, and pro-
47 cedures established to notify and instruct each person of the
48 requirements of this act, the rules and regulations adopted there-
49 under, and the penalties for noncompliance; and,

50 (7) A certification that administrative, technical, and physical
51 safeguards have been established to insure the security and confi-
52 dentiality of private and confidential information, and to protect
53 all information held by the agency against threats or hazards to
54 its security or integrity which could result in substantial harm,
55 embarrassment, inconvenience, or unfairness to any data subject,
56 or the interruption or inconvenience of ongoing agency programs;

57 e. Establish and enforce procedures to assure the prompt elimi-
58 nation or amendment of personal information which does not meet
59 the requirements of section 7 of this act;

60 f. Establish administrative, technical and physical safeguards
61 to insure the security and confidentiality of private and confiden-
62 tial information, and to protect all information held by the agency
63 against threats or hazards to its security which could result in
64 substantial harm, embarrassment, inconvenience or unfairness to
65 any data subject or the interruption or inconvenience of ongoing
66 agency programs; and

67 g. Take all other necessary and appropriate action to comply
68 with the provisions of this act.

1 7. (New section) Information maintenance.

2 Each agency shall maintain only that personal information which
3 is sufficiently accurate, complete, and timely to assure fairness to
4 the data subject in any agency determinations about him, and which
5 is relevant to the agency's administrative functions or likely to
6 be necessary within a reasonable time. For purposes of this act,

7 procedures to assure prompt elimination of personal information
 8 shall require elimination of information after 5 calendar years
 9 from the year of entry unless the particular information has con-
 10 tinuing relevancy. Nothing herein shall be construed as requiring
 11 an agency to review all information maintained on the effective
 12 date of this act.

1 8. (New section) Information gathering.

2 a. Each agency shall collect personal information to the greatest
 3 extent practicable directly from the data subject when the infor-
 4 mation may result in adverse determinations about the data sub-
 5 ject's rights, benefits, and privileges under Federal or State pro-
 6 grams.

7 b. Each agency shall inform in writing each individual whom it
 8 asks to supply personal information except when the request is
 9 pursuant to subsection 9 d, as soon as reasonably practicable of:

10 (1) The legal authority for the agency's solicitation of the in-
 11 formation;

12 (2) The principal purposes for which the information is col-
 13 lected;

13A (3) A general statement of uses which may be made of the in-
 13B formation; and,

14 (4) Whether disclosure of such information by the individual
 15 is mandatory or voluntary, and the consequences, if any, of not
 16 providing all or any part of the requested information.

1 9. (New section) Authorized disclosures of confidential infor-
 2 mation.

3 No agency shall disclose, by any means of communication, con-
 4 fidential information except if the disclosure is:

5 a. Pursuant to the order of a court of competent jurisdiction;

6 b. Pursuant to a show of compelling circumstances affecting the
 7 health or safety of a data subject, if upon such disclosure notifica-
 8 tion is transmitted to the last known address of the data subject;

9 c. Pursuant to a determination by the agency's responsible au-
 10 thority that only summary information will be disclosed and that
 11 the recipient has provided adequate written assurance, in advance,
 12 that the information will be used solely for statistical research or
 13 reporting purposes and provided that the information disclosed
 14 does not include the name of the data subject;

15 d. To another State agency or an agency of another governmen-
 16 tal jurisdiction, including a foreign jurisdiction, in connection with
 17 a criminal justice activity or a civil investigation or action;

18 e. Pursuant to a resolution by either House of the Legislature
19 or either House of Congress to either House of the Legislature;
20 to either House of the Congress or, to the extent of matter within
21 its jurisdiction, to any committee, subcommittee, joint committee
22 of the Legislature or the Congress, for a constitutional legislative
23 purpose;

24 f. To the Comptroller General of the United States or his au-
25 thorized representatives, upon a written request, or pursuant to
26 a resolution of the Legislative Services Commission, to the Office
27 of Legislative Services of the Legislature for audit or examination
28 purposes; or,

29 g. Within the agency maintaining the information for purposes
30 consistent with the functions of the agency.

31 In addition to those disclosures authorized in subsections a.
32 through g., "private information" may be disclosed to a data sub-
33 ject pursuant to the data subject's written request in accordance
34 with the provision of section 11.

1 10. (New section) General requirements for disclosures of pri-
2 vate or confidential information.

3 a. No agency shall disclose private or confidential information
4 to another agency unless the requesting agency certifies before
5 disclosure that the information sought is necessary to official per-
6 formance of the duties of the requestor. Willful or persistent failure
7 by the requestor to meet the requirements of this act in the past, or
8 information indicating a substantial likelihood that the requestor
9 may fail to meet the requirements of this act or fail to use the
10 information requested for the purposes stated in its request, may
11 constitute sufficient grounds for agency denial.

12 b. Each agency shall record with respect to all disclosures, by
13 any means of communication, of private or confidential informa-
14 tion, the date, nature, and purpose of the disclosure, and the name
15 and address of the recipient of the information. A record of each
16 such disclosure shall be kept by the agency making the disclosure
17 for either 5 years after each disclosure is made, or for the period
18 during which the disclosing agency maintains the information,
19 whichever is longer. A data subject may not obtain access to, or a
20 copy of, that portion of a disclosure record of private or confidential
21 information pertaining to him which records any disclosure of
22 information made pursuant to subsection 9 d. until the agency to
23 whom the disclosure was made has completed its activity with
24 regard to that data subject.

25 c. Each agency shall make a reasonable effort to notify the data
26 subject of the name of the requestor and the information sought

27 when private information about him is sought by compulsory legal
28 process, when such process becomes a matter of public record and
29 the address of the data subject is known to the agency. However,
30 information sought by compulsory legal process shall not include
31 grand jury process. In matters involving the grand jury process,
32 notification shall not be required until after an indictment is
33 returned, the grand jury has "so billed" the matter, or the investi-
34 gation into the matter has been otherwise concluded.

1 11. (New section) Requests for information response require-
2 ments.

3 a. Upon a request for public information which (1) describes the
4 information with reasonable specificity, and (2) is in accordance
5 with procedures established governing such requests, the agency
6 shall, within 15 days of its receipt of the request, excluding
7 Saturdays, Sundays, and legal public holidays, make the requested
8 information fully available to the requestor during reasonable office
9 hours and shall not charge any fee for the search of the information.

10 b. (1) Upon the request of an individual to be informed of the
11 existence of private information about that individual maintained
12 by the agency which (a) describes the information with reasonable
13 specificity, and (b) is in accordance with published rules and regu-
14 lations governing such requests, the agency shall, within 15 days
15 of its receipt of the request, excluding Saturdays, Sundays, and
16 legal public holidays, inform the individual of the existence of
17 private information pertaining to that individual maintained by
18 the agency. The agency shall not charge any fee for so informing
19 the individual. For the purposes of this act criminal history record
20 information is private information.

21 (2) Upon the request of a data subject to have access to private
22 information pertaining to him maintained by the agency, or to the
23 record of disclosure of such information kept pursuant to sub-
24 section 10. b. which (a) describes such information or record with
25 reasonable specificity, and (b) is in accordance with procedures
26 established governing such requests, the agency shall, within a
27 reasonable time of its receipt of the request, make the requested
28 information or disclosure record fully available to the data subject,
29 except as is otherwise provided in this act. The agency shall, if the
30 data subject desires, explain the content and meaning of the
31 information or record requested. The agency shall make such
32 disclosure and explanation during reasonable office hours. The
33 agency shall charge no fee for performing its obligation under this
34 subsection, unless (a) the data subject has been shown the informa-

35 tion or disclosure register within the previous 6 months and
36 informed of its meaning, (b) no dispute or action about the infor-
37 mation, pursuant to subsection h. of this section or section 13 of
38 this act is pending, and (c) no additional information about the data
39 subject has been maintained by the agency. The agency shall not
40 inform the data subject of disclosure of information to a law en-
41 forcement agency, absent the consent of the criminal justice agency
42 unless pursuant to court order. Insofar as personal records main-
43 tained by an agency other than the Department of Civil Service are
44 concerned, prospective or present classified civil service employees
45 are entitled to access, but nonclassified or unclassified prospective
46 or present employees, are not.

47 c. Any data subject who obtains access to private information
48 about himself, or to the disclosure record of such information
49 pursuant to subsection b. (2), may be accompanied by a person
50 chosen by him. An agency may require the data subject to furnish
51 a written statement authorizing discussion of the information or
52 the record in such person's presence.

53 d. A requestor of public or private information granted access
54 under subsections a. or b. (1) of this section or a data subject
55 granted access under subsection b. (2) may, if he desires, obtain
56 copies of the information or disclosure record requested from an
57 agency. An agency may charge the fee established by section 2 of
58 P. L. 1963, c. 73 (C. 47:1A-2) for copies. The agency shall comply
59 with any request under this subsection within 15 days of its receipt
60 of the request, excluding Saturdays, Sundays, and legal public
61 holidays. The agency may require proper identification from a data
62 subject who requests, a copy of private information pertaining to
63 him or of the disclosure record of such information.

64 e. Inability by the agency to comply with a request within 15 days
65 as required by subsections 11 a., b., c. and d. shall be excusable
66 upon written notice to the requestor within the 15 day period that
67 administrative impediments to compliance exist. Just cause shall
68 be based on loss of the information or upon a demonstrable un-
69 certainty as to classification.

70 f. An agency may, by written notice to a requestor of public
71 information under subsections a. or d. or to a data subject seeking
72 private information under subsections b. (2) or d., extend the
73 deadline for compliance with a request up to 45 days, excluding
74 Saturdays, Sundays, and legal public holidays, if

75 (1) The agency must search for and collect the requested infor-
76 mation from field facilities or other establishments that are sepa-
77 rate from the office processing the request;

78 (2) The agency must search for, collect, and examine a volumi-
79 nous amount of information demanded in a single request;

80 (3) The agency must consult with another agency, or with two
81 or more of its own components, which have substantial interests
82 in the information requested; or

83 (4) The agency is in the process of updating or supplementing
84 the information requested and reply within 15 days of the request
85 would result in the furnishing of information which would be out-
86 dated or inaccurate in the near future.

87 An agency may not, absent extraordinary circumstances, extend
88 the period for compliance beyond 60 days in meeting a request.

89 g. In complying with requests for private information under sub-
90 sections b. (2) and d. an agency shall make reasonable efforts to
91 identify and withhold from disclosure to the requesting data subject
92 all private or confidential information about individuals other than
93 the requesting data subject, unless the requestor is a parent or
94 guardian acting for a minor or an incompetent and the information
95 pertains to that minor or incompetent.

96 h. A data subject may notify an agency that he desires to chal-
97 lenge or explain personal information, other than confidential
98 information, which the agency maintains about him. The data
99 subject shall submit to the agency, in writing, a reasonably specific
100 description of the disputed information and a concise statement
101 of his challenge or explanation of the disputed information.

102 (1) Within a reasonable time of its receipt of such challenge or
103 explanation, the agency shall:

104 (a) Acknowledge receipt of such challenge or explanation;

105 (b) Investigate and determine the accuracy, completeness,
106 timeliness, relevance, and necessity of the personal information
107 involved; and,

108 (c) Either (i) correct or eliminate any information it finds is not
109 complete, accurate, timely, relevant, or necessary, and inform the
110 data subject of his rights under paragraphs (2) and (5) of this
111 subsection, or (ii) inform the data subject of its refusal to amend
112 the information in accordance with his request, the reason for its
113 refusal, and of his remedies under paragraph (2).

114 (2) If the agency refuses or fails to amend information in
115 accordance with the request of a data subject, the data subject
116 may request that the responsible authority within the agency review
117 such refusal or failure. The responsible authority shall complete
118 such review and make a final determination of the dispute within
119 45 days of receipt of the data subject's request for review. If the

120 responsible authority refuses to amend the disputed information
121 in accordance with the request, he shall send the data subject a
122 written statement of his reasons, and advise the data subject of
123 his rights to file with the agency, for attachment to the disputed
124 information, a concise statement of his challenge or explanation
125 of the information, obtain dissemination of such statement under
126 paragraph (5) of this subsection, and judicial review of the re-
127 sponsible authority's determination under subsection 13 a.

128 (3) The data subject may not seek judicial review under sub-
129 section 13 a. of a determination against him, unless he has ex-
130 hausted his remedies under paragraph (2) of this subsection.

131 (4) In any subsequent disclosure or use of information about
132 which the data subject had filed a statement of challenge or explana-
133 tion under paragraph (2), the agency shall clearly report the
134 challenge or explanation and provide a copy of the data subject's
135 statement.

136 (5) At the request of a data subject, following the correction or
137 elimination of information challenged by him, the agency shall
138 notify reasonably identifiable past recipients and users of the
139 information of the correction or elimination.

140 i. An agency may not destroy any information which is the
141 subject of an outstanding request under subsections a. or b. of
142 this section, a challenge under subsection b. of this section, or
143 judicial proceedings under section 13.

1 12. (New section) Attorney General's annual report.

2 For the purposes of this act, with regard to criminal justice in-
3 formation accumulated at the State level, the Attorney General
4 shall publish an annual report which includes;

5 (1) Types of information maintained;

6 (2) Standards relative to the collection, use and maintenance of
7 such information; and,

8 (3) Procedures established to assure the security and privacy of
9 the information.

1 13. (New section) Causes of action.

2 a. If an agency fails to grant access to, or produce copies of, in-
3 formation properly classified as public or private or a disclosure
4 record, improperly classifies information, or fails to amend in-
5 formation as requested pursuant to subsection 11 h. of this act, an
6 aggrieved party may bring action in the Law Division of Superior
7 Court to enforce this act.

8 (1) In actions brought pursuant to this subsection, the court shall
9 determine the matter de novo. The burden of proof shall be on the
10 agency to demonstrate the legality of its conduct.

11 (2) Where information is alleged by any party to such an action
12 to be private or confidential, the court may review the information
13 in camera or in closed session or impose such other limitations on
14 access to the information as it deems appropriate to protect the
15 privacy or confidentiality of the information during the pende
16 of the action or thereafter.

17 (3) The court may order that the information or record be
18 amended, that it be reclassified, that it be made available to the
19 plaintiff in whole or in part, or that copies of it be made available,
20 or may grant such other additional relief as will vindicate plaintiff's
21 rights. The court shall assess against the agency reasonable
22 attorney fees or other litigation costs reasonably incurred in any
23 case in which the plaintiff substantially prevails.

24 (4) The court shall assess against the agency any actual damages
25 suffered by the plaintiff as a result of the agency's action or failure
26 to act, but in no case shall a person proving actual damages receive
27 less than \$1,000.00.

28 (5) If the court makes a written finding that agency officers or
29 employees acted, or may have acted, arbitrarily or capriciously, or
30 intentionally injured the plaintiff it shall submit such finding im-
31 mediately to the agency. The agency shall promptly initiate pro-
32 ceedings to determine whether disciplinary action is warranted
33 against the officers or employees and shall submit its findings and
34 recommendations to the responsible authority of the agency in-
35 volved.

36 b. If an agency violates any other provision of this act, an
37 aggrieved person may bring an action in the Law Division of
38 Superior Court to enforce this act. The court shall grant relief in
39 such actions in accordance with subsection a. of this section.

40 c. Whenever it appears that an agency, or its employees or
41 officers, has engaged in, is engaging in, or is about to engage in
42 activity which violates a requirement of this act, any citizen may
43 seek and obtain pursuant to rules of court an injunction prohibiting
44 such agency, employees, or officers from engaging in such activity.

45 d. Actions under this section shall be brought within 2 years
46 from the date on which the cause of action arises, except that
47 where an agency has materially and willfully misrepresented its
48 position with regard to an action or its performance of a responsi-
49 bility required by this act and such misrepresentation is material
50 to establishment of the liability of the agency to the person, the
51 action may be brought at any time within 2 years after discovery
52 by the person of the misrepresentation.

53 e. For the purposes of this section, the parent of any minor or
 54 the legal guardian of any incompetent may act on behalf of the
 55 minor or incompetent.

56 f. The State consents to be sued under this section without
 57 limitation on the amount in controversy, notwithstanding the pro-
 58 vision of any other law to the contrary.

1 14. (New section) Office of Legislative Services oversight.

2 a. Within 3 years of the effective date of this act, the Office of
 3 Legislative Services shall audit, and submit a report to the Legisla-
 4 ture on, agency compliance with the provisions of this act. The
 5 Office of Legislative Services may also recommend such changes
 6 in the act or its administration as it deems necessary.

7 b. After completing its first audit under subsection a., the Office
 8 of Legislative Services shall regularly perform such audit every 5
 9 years.

1 15. (New section) Mailing lists prohibited.

2 An individual's name and address may not, in compilation form,
 3 be sold or rented by an agency unless such action is specifically au-
 4 thorized by law. This provision shall not be construed to require
 5 the withholding of names and addresses, not in compilation form
 6 otherwise permitted to be made public. However, the names and
 7 addresses only of persons applying for or possessing licenses to
 8 engage in professional occupations, in compilation form, shall be
 9 released to private, business and public organizations for the sole
 10 purpose of providing such persons with informational materials
 11 relating to available current professional educational materials or
 12 courses. Any person violating this section shall be subject to a fine
 13 of up to \$1,000.00 which shall be collected in a summary manner
 14 pursuant to the provisions of "the penalty enforcement law,"
 15 N. J. S. 2A:58-1 et seq.

1 16. (New section) Severability.

2 If any provision of this act or the application thereof to any
 3 person or circumstance is held invalid, such invalidity shall not
 4 affect any other provision or application of the act, which can be
 5 given effect without such invalid provision or application, and to
 6 this end, the provisions of this act are declared to be severable.

1 17. Section 2 of P. L. 1963, c. 7 (C. 47:1A-2) is amended to read
 2 as follows:

3 2. Except as otherwise provided in this act or by any other
 4 statute, [resolution of either or both houses of the Legislature,
 5 executive order of the Governor, rule of court,] any Federal law,
 6 regulation or order, or by any regulation promulgated under the
 7 authority of any statute [or executive order of the Governor], all

8 records which are required by law to be made, maintained or kept
 9 on file by any [board, body, agency, department, commission or
 10 official of the State or of any] political subdivision *of the State*
 11 [thereof] or by any public board, body, commission or authority
 12 created [pursuant to law by the State or any of its] *by any of the*
 13 *State's* political subdivisions, or by any official acting for or on
 14 behalf thereof (each of which is hereinafter referred to as the
 15 "custodian" thereof) shall, for the purposes of this act, be deemed
 16 to be public records. Every citizen of this State, during the regular
 17 business hours maintained by the custodian of any such records,
 18 shall have the right to inspect such records. Every citizen of this
 19 State shall also have the right, during such regular business hours
 20 and under the supervision of a representative of the custodian, to
 21 copy such records by hand and shall also have the right to purchase
 22 copies of such records. Copies of records shall be made available
 23 upon the payment of such price as shall be established by law. If a
 24 price has not been established by law for copies of any records, the
 25 custodian of such records shall make and supply copies of such
 26 records upon the payment of the following fees which shall be based
 27 upon the total number of pages or parts thereof to be purchased
 28 without regard to the number of records being copied:

29	First page to tenth page	\$0.50 per page,
30	Eleventh page to twentieth page	0.25 per page,
31	All pages over 20	0.10 per page,

32 If the custodian of any such records shall find that there is no risk
 33 of damage or mutilation of such records and that it would not be
 34 incompatible with the economic and efficient operation of the office
 35 and the transaction of public business therein, he may permit any
 36 citizen who is seeking to copy more than 100 pages of records to use
 37 his own photographic process, approved by the custodian, upon the
 38 payment of a reasonable fee, considering the equipment and the
 39 time involved, to be fixed by the custodian of not less than \$5.00 or
 40 more than \$25.00 per day.

1 18. This act shall take effect on the first day of the thirteenth
 2 month following enactment.

1981 SENATE BILL 79

February 12, 1981 - Introduced by Senators BERGER, HANAWAY, BRAUN and CULLEN; cosponsored by Representatives BROYDRICK, ROGERS and KIRBY. Referred to Committee on State and Local Affairs and Taxation.

see page 10

- 1 AN ACT to renumber subchapter IV of chapter 19; and to create subchapter
2 IV of chapter 19 and 73.03 (23) of the statutes, relating to
3 governmental practices regarding personal information.

Analysis by the Legislative Reference Bureau

This proposal regulates the collection, maintenance and dissemination of personal data (data which can be related to identifiable individuals), other than educational records, by public authorities such as the state, local governments, governmental corporations and quasi-governmental organizations.

An authority may not collect personal data unless the data is relevant and necessary to the administration of the authority or an authorized function of the authority. Unless there is a compelling public need or collection is required by law, an authority may not collect data relating to the manner in which individuals exercise contributory rights or information which is privileged from disclosure in court, without consent of the subject.

No authority may require the disclosure of a social security number unless disclosure is required by federal or state law, by federal regulation or by state administrative rule in effect prior to January 1, 1975. However, the department of revenue is permitted to obtain such numbers in its administration of tax laws. The provisions are similar but not identical to a federal law on the same subject which currently applies to the state and local governments.

Methods and practices employed in the collection of personal data must be reasonable, taking into consideration specific standards enumerated in the proposal. Authorities asking individuals to furnish personal data must provide information on request concerning the legal authority under which the request is made, whether disclosure is mandatory or voluntary, the consequences of refusing to furnish the data, the names of government agencies to which the data will be sent and the period for which the data will be retained.

Any adult individual or the parent or guardian of a minor or incompetent individual may require an authority to disclose whether or not the individual is a data subject in any data system maintained by the

authority and to provide whatever personal data the authority maintains concerning the individual. The requirement does not apply to certain law enforcement information, information obtained under an implied pledge of confidentiality before the proposal takes effect and other information for which disclosure is prohibited by law.

An individual may challenge the accuracy, completeness, timeliness and relevance of data relating to himself or herself, and the authority maintaining the data must correct the data if it agrees with the challenge. If the authority disagrees with the challenge, the challenger may appeal.

Whenever personal data is released pursuant to a subpoena, the authority having custody of the data must notify the data subject in time to seek to have the subpoena voided.

With certain exceptions, authorities are prohibited from selling or renting personal data.

The bill does not apply to consumer reporting agencies acting in accordance with the federal fair credit reporting act.

No specific penalties are provided for violations of the provisions; however, they may be enforced by order upon petition to a court.

For further information, see the state and local fiscal estimate which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,
do enact as follows:

1 SECTION 1. Subchapter IV of chapter 19 of the statutes is renumbered
2 subchapter V of chapter 19.

3 SECTION 2. Subchapter IV of chapter 19 of the statutes is created to
4 read:

5 CHAPTER 19

6 SUBCHAPTER IV

7 GOVERNMENTAL TREATMENT OF PERSONAL DATA

8 19.62 DEFINITIONS. (1) "Authority" means any state or local office,
9 state or local elected official, agency, board, commission, committee,
10 council, department or public body corporate and politic created by
11 constitution, law, ordinance, rule or order; a governmental or quasi-
12 governmental corporation; any court of law; the legislature; a nonprofit
13 corporation which receives more than 50% of its funds from a municipality,
14 or defined in s. 59.001 (3), and which provides services related to public

1 health or safety to the municipality; or a formally constituted subunit of
2 any of the foregoing.

3 (2) "Consumer reporting agency" means any authority or other person
4 who, for monetary fees, dues, or on a cooperative nonprofit basis,
5 regularly engages in whole or in part in the practice of assembling or
6 evaluating consumer credit information or other information on consumers
7 for the purpose of furnishing consumer reports to 3rd parties, and who
8 uses any means or facility of interstate commerce for the purpose of
9 preparing or furnishing consumer reports.

10 (3) "Data subject" means an individual about whom personal data in a
11 data system is kept so as to be retrievable by use of the individual's
12 name, identifying number, photograph, fingerprint, voiceprint or other
13 identifying symbol.

14 (4) "Data system" means a collection of records so arranged, indexed
15 or automated that personal data can be retrieved by use of an individual's
16 name, identifying number, photograph, fingerprint, voiceprint or other
17 identifying symbol.

18 (5) (a) "Education records" means those records which:

- 19 1. Contain information directly related to a student; and
20 2. Are maintained by a public school, vocational, technical and
21 adult education school or the university of Wisconsin system or by a
22 person acting for the school or system.

23 (b) "Education records" do not include:

- 24 1. Records of instructional, supervisory and administrative
25 personnel and educational personnel ancillary thereto which are in the
26 sole possession of the maker thereof and which are not accessible or
27 revealed to any other person except a substitute;

1 2. If the personnel of a law enforcement agency do not have access
2 to records described in par. (a) under federal law, the records of that
3 law enforcement agency which are kept apart from records described in par.
4 (a), are maintained solely for law enforcement purposes and are not made
5 available to persons other than law enforcement officials of the same
6 jurisdiction;

7 3. In the case of a person who is employed by a public school,
8 vocational, technical and adult education school or the university of
9 Wisconsin system but who is not in attendance at the school or an
10 institution within the system, records made and maintained in the normal
11 course of business which relate exclusively to that person in his or her
12 capacity as an employe and are not available for use for any other
13 purpose; or

14 4. Records relating to a student who is 18 years of age or older, or
15 is attending an institution of post-secondary education, which are made or
16 maintained by a physician, psychiatrist, psychologist or other recognized
17 professional or paraprofessional acting in his or her professional or
18 paraprofessional capacity, or assisting in that capacity, and which are
19 made, maintained or used only in connection with the provision of
20 treatment to the student, and are not available to anyone other than
21 persons providing such treatment or a physician or other recognized
22 professional of the student's choice.

23 (6) "Maintains" means any of the following types of relationships
24 that an authority has to personal data:

25 (a) The authority has legal custody of the data;

26 (b) The data is in the legal custody of a person who performs or has
27 performed services under contract to the authority and the data has been

1 collected, stored, disseminated or used in connection with the performance
2 of the services; or

3 (c) The data is in the legal custody of the state archives or
4 university of Wisconsin system archives and has been deposited therein by
5 the authority.

6 (7) "Personal data" means any information which can be related to an
7 identifiable individual, but does not include education records.

8 (8) "Record" means any physical object in which, or on which,
9 communications, information or data is reflected, recorded or contained,
10 regardless of physical form or characteristics, including, but not limited
11 to, handwritten, typed or printed pages, maps, charts, photographs, films,
12 recordings, tapes, including computer tapes, computer programs and
13 computer printouts, which have been created or are being maintained by an
14 authority. "Record" does not include drafts, notes, preliminary
15 computations and like writings prepared for the author's personal use if
16 such writings have been substantially incorporated in a record which is in
17 final form or will be so incorporated within a reasonable period of time
18 specified by the authority having custody of them. "Record" does not
19 include writings which are purely the personal property of the custodian,
20 having no relation to his or her office. A "record" includes, but is not
21 limited to:

22 (a) Final opinions, including concurring and dissenting opinions, as
23 well as orders, made in the adjudication of cases.

24 (b) Those statements of policy and interpretations of policy, law,
25 and the constitution which have been adopted by an authority.

26 (c) Administrative staff manuals and instructions to staff that
27 affect a member of the public.

1 (d) Planning policies and goals, and interim and final planning
2 decisions.

3 (e) Factual staff reports and studies, factual consultants' reports
4 and studies, scientific reports and studies, and any other factual
5 information derived from tests, studies, reports or surveys, whether
6 conducted by public employes or others.

7 (f) Correspondence, and materials referred to therein, by and with an
8 authority relating to any regulatory, supervisory or enforcement
9 responsibility of the authority, whereby the authority determines, or is
10 asked to determine the rights of the state, the public, a subdivision of
11 government or of any private party.

12 (g) Information in any account, voucher or contract concerning the
13 receipt or expenditure of public or other funds by an authority.

14 (h) Minutes of meetings and records of votes taken at meetings of a
15 governmental body as defined in s. 19.82 (1).

16 (9) "Requester" means any person who requests to inspect or copy a
17 record.

18 19.64 TYPES OF PERSONAL DATA WHICH MAY BE COLLECTED. (1) An
19 authority may not collect or enter any data into a data system in which it
20 maintains any personal data unless the data is relevant and necessary to
21 the administration of the authority or a function of the authority which
22 is authorized by law.

23 (2) Unless a compelling public need exists for the data, or its
24 collection is expressly required by law, an authority may not collect, or
25 enter into a data system which it maintains, any personal data:

26 (a) Describing the manner in which the data subject exercises
27 constitutionally protected rights; or

1 (b) Which is protected by an evidentiary privilege under ch. 905,
2 unless consent is given by the holder of the privilege.

3 (3) Any form used by an agency, as defined in s. 227.01 (1), to
4 collect or store personal data shall be treated as an administrative rule
5 for purposes of s. 13.56.

6 (4) No authority may require an individual to disclose his or her
7 social security account number unless the agency informs that individual:

8 (a) Whether the disclosure is mandatory or voluntary; and

9 (b) By what statutory or other authority the number is solicited.

10 (5) No disclosure of a social security account number is mandatory
11 under sub. (4) (b) unless its disclosure is specifically required by:

12 (a) Federal or state statute; or

13 (b) Federal regulation or state administrative rule adopted before
14 January 1, 1975, which is in effect at the time the request is made.

15 19.65 METHODS OF DATA COLLECTION. (1) (a) The methods and
16 practices employed by an authority in the collection of personal data
17 shall be reasonable in light of:

18 1. The importance of the governmental interest to be served and the
19 relationship of the personal data to that interest;

20 2. The reliability of the method or practice in the production of
21 accurate personal data; and

22 3. The existence of practical alternative methods and practices for
23 collection of the personal data.

24 (b) Methods and practices specifically authorized by statute are
25 considered reasonable for purposes of this subsection.

26 (2) An authority requesting an individual to furnish personal data
27 concerning himself or herself shall, upon request of the individual, make
28 the following disclosures:

1 (a) The legal authority by which the authority is authorized to
2 request the data.

3 (b) Whether disclosure is mandatory or voluntary, and any
4 consequence known to the authority arising from refusal to supply the
5 requested data or any part of the data.

6 (c) The name of any federal, state or local agency to which the data
7 will be disseminated without request.

8 (d) The period for which the data will be retained.

9 (3) The disclosures required under sub. (2) shall, if the individual
10 so requests, be made by means of a written disclosure statement which the
11 individual may retain if he or she so elects.

12 (4) Subsections (2) and (3) do not apply to:

13 (a) Requests for data in the course of investigating or prosecuting
14 possible violations of law;

15 (b) Requests for data relating to persons in custody or under
16 supervision within a correctional system; or

17 (c) Work assignments or test instruments designed to measure
18 academic aptitude or achievement or qualification for public employment or
19 occupational licensure administered by an authority.

20 19.05 ACCESS BY DATA SUBJECT. (1) Unless the disclosure is
21 prohibited by law, any adult individual or the parent or legal guardian of
22 any child or incompetent individual shall, upon request to an authority
23 and upon the furnishing of proper identification, be informed whether he
24 or she is a data subject within any personal data system maintained by
25 that authority and receive a copy or transcription of the data pertaining
26 to the individual, if any.

1 (2) The rights afforded a data subject under this section do not
2 apply to any record compiled in the course of a civil or criminal
3 investigation relating to enforcement of state law or a local ordinance.

4 (3) An authority may refuse to disclose the source of personal data
5 as to which no express pledge of confidentiality has been given if the
6 information was obtained from the source prior to the effective date of
7 this section (1981) and under circumstances which implied that the
8 identity of the source would not be disclosed to the data subject.

9 19.67 CHALLENGE BY DATA SUBJECT. (1) Any competent adult data
10 subject, or the parent or legal guardian of any minor or incompetent data
11 subject, may, after having gained access to personal data under s. 19.66,
12 challenge the accuracy, completeness, timeliness or relevance of the data
13 by notifying the authority having custody of the data in writing of the
14 nature of his or her challenge.

15 (2) Within 30 days after receiving notice under sub. (1), the
16 authority shall either:

17 (a) Correct the data if it is found to be inaccurate, incomplete,
18 irrelevant or not timely, and, if the data subject so requests, notify
19 known past recipients of inaccurate or incomplete data of the correction;
20 or

21 (b) Notify the requester that the challenge has been refused, of the
22 reasons for the refusal and of the requester's right to such
23 administrative and judicial review as is provided by law.

24 (3) Personal data in dispute under this section may not be disclosed
25 by the authority to any person unless the data subject's statement of
26 challenge is included with the disclosed data.

27 (4) Any authority maintaining a data system, upon receiving a
28 correction notice under sub. (2) (a) pertaining to personal data within

1 another data system, shall promptly correct the data within its system
2 accordingly.

3 19.68 DISSEMINATION OF PERSONAL DATA. (1) If an authority proposes
4 to release personal data from a data system which it maintains to any
5 person who is authorized by subpoena to receive the personal data, the
6 authority shall make reasonable efforts to notify the data subject of the
7 subpoena in time for the subject to seek to have it quashed.

8 (2) Unless specifically authorized by statute, an authority may not
9 sell or rent to any person any list of names, addresses or other personal
10 data derived from a data system which the authority maintains. This
11 subsection does not apply to the furnishing of names and addresses of
12 applicants for or holders of professional licenses to publishers of
13 professional educational materials, or sponsors of educational courses
14 licensed or approved by a governmental or accreditation agency.

15 19.69 CONSUMER REPORTING AGENCIES; EXEMPTION. If an authority or
16 other person provides services as a consumer reporting agency, this
17 subchapter does not apply to records maintained by that authority or other
18 person which are regulated by the federal fair credit reporting act, 15
19 USC 1681-1681t, in effect on the effective date of this section (1981), if
20 the authority or other person fully complies with the act in regard to the
21 data collected, stored, disseminated or used in connection with the
22 performance of its services.

23 SECTION 3. 73.03 (23) of the statutes is created to read:

24 73.03 (23) To require any person to supply that person's social
25 security account number to the department in its administration of s.
26 66.054 or chs. 70 to 79, 139 or 176.

1 SECTION 4. CROSS-REFERENCE CHANGES. In the sections of the
2 statutes listed in Column A, the cross-references shown in Column B are
3 changed to the cross-references shown in Column C:

4	<u>A</u>	<u>B</u>	<u>C</u>
5	Statute Sections	Old Cross-References	New Cross-References
6	15.251 (intro.)	subch. IV of ch. 19	subch. V of ch. 19
7	19.47 (1)	subch. IV	subch. V
8	36.07 (6)	subch. IV of ch. 19	subch. V of ch. 19
9	62.60 (3)	subch. IV of ch. 19	subch. V of ch. 19
10	66.433 (6)	subch. IV of ch. 19	subch. V of ch. 19
11	120.48 (1)	subch. IV of ch. 19	subch. V of ch. 19

12 SECTION 5. EFFECTIVE DATE. This act takes effect on January 1,
13 1983.

14 (End)

ALASKA ANTHROPOLOGICAL ASSOCIATION

PRESIDENT
KAREN W. WORKMAN
3110 E. 41st Ave., Anchorage, Alaska 99504

BOARD OF DIRECTORS
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February 26, 1981

RECEIVED

MAR 02 1981

Senator Pat Rodey, Chairman
Standing Committee on Judiciary
Pouch V, State Capitol
Juneau, AK 99811

Dear Senator Rodey:

The purpose of this communication is to comment on Senate Bill 90. Freedom of information in state government is crucial to encourage public input and insure that operations are conducted in a forthright manner.

It is realized that the release of all information is neither useful nor in the best interests of all citizens, thus your bill calls for several useful exclusions. One category that is not protected in the bill is archaeological sites. I ask that access to information on locations of these endangered properties be somewhat restricted.

Presently the Office of History and Archaeology serves both research and preservation functions. The Alaska Heritage Resources Survey provide the ongoing inventory of known sites. The state employed archaeologists readily offer locational information to responsible persons engaged in land planning, development, or academic reports. Recently the Division of Parks sanctioned the Office of History and Archaeology to withhold specific site location information to a very few unscrupulous individuals whose intent, based upon their past actions, was to damage archaeological sites in the process of gaining artifacts for sale in a thriving but illegal antiquities market. Senate Bill 90 might once again permit and even condone this abuse unless protective exclusions for site locational data are maintained.

A visit to a site that has suffered from these unprincipled despoilers is a saddening experience. Huge random holes, much like bomb craters scar the surface. Desecrated human burials are evident from scattered bones. Simple or common artifacts are discarded in favor of a few choice pieces of ivory to be shipped

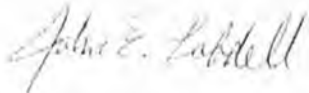
Senator Pat Rodey
Page 2
February 26, 1981

out of state and sold at obscene profits. Ancient environmental data is ruined. Scientific information, once out of natural context, becomes worthless.

Archaeologists, in scientifically excavating a site, engage in limited and controlled excavations. The goal is to reconstruct past lifeways through careful study of all ecofacts and artifacts. Most importantly, after careful study the collections are placed in museums so that all Alaskans can view and enjoy the ancient remains.

I applaud the general intentions of this bill and its authors are to be commended. I would, however, respectfully recommend that the bill be modified to exclude specific cultural resource site locational information. Many ancient sites have unfortunately succumbed to natural erosion. These losses could be greatly compounded by the few persons who would wantonly rob us of a delicate record of human heritage. Continued protection by the State of Alaska can only be viewed as sound management of scarce resources and certainly in the best interests of all Alaskans.

Very respectfully,



John E. Lobdell, Ph.D.
Chairman, Archaeology Advocacy Committee
Alaska Anthropological Association

/lke



Kodiak Public Broadcasting Corporation

P. O. Box 484, Kodiak, Alaska 99615 (907) 486-3181

February 12, 1981

Senate Affairs and Judiciary Committee
Pouch V (MS 3100)
Juneau, Alaska 99811

Honorable Chairperson:

I would like to submit this as written testimony in addition to the oral testimony I presented during the teleconference on Senate Bill 90.

Overall, I am in favor of the bill. I am the News Director at KMXT radio, and former News Director at KFSK radio in Petersburg. Both KMXT and KFSK are members of the Freedom of Information Task Force.

On page four of the bill (40.25.015 (e) 13 (a,b,c)) I am concerned about who is going to determine what will "interfer with enforcement proceedings;", as well as the other conditions listed. Many of the requests for information in this area will be made to the Police Chief. If he/she is the final word on the meaning of these conditions, this could lead to abuse. A system for appeal should be given in the bill. The appeal process would probably end in the courts.

40.25.015 17 I and J, on page 6, may clear up the above concerns. Both of these sections are very good!

On pages 7 and 8 (40.25.025) the section offers a Superior Court injunction as enforcement. In Anchorage, Fairbanks, and Juneau this would work well. However, in smaller communities this is difficult. Kodiak does have a Superior Court, but the judge also covers the Dillingham area, which means he is out of town frequently. In Petersburg the Superior Court judge comes to town once a month for two days.

This section of the bill would require a Petersburg resident to travel to Juneau, or to hire an attorney. I would recommend a procedure that would allow the Magistrates office to do the initial paperwork. The burden would then be on the court system to contact the Superior Court. This does, unfortunately, place the extra work on an already overworked court system.

An alternative would be to make violations of the bill a misdemeanor offense. A complaint could be sworn at the District Court level and the normal justice system would take over. The question of an injunction is not addressed in this plan, however.

My major concern with this section is that small town citizens have the same opportunity for enforcement as do their city counterparts.



Kodiak Public Broadcasting Corporation

P. O. Box 484, Kodiak, Alaska 99615 (907) 486-3181

On pages 9 and 10 I think section 3 44.62.310 (c) (3) is a very good change to the current statute. This would still allow executive sessions but eliminate the chance for easy abuse. This would reduce the number of unnecessary executive sessions.

Throughout the bill I would recommend the pronouns "he", "him" and "his" be changed to "he/she", "him/her" and "his/hers". Often it is a City Clerk who is the custodian of records. Traditionally women are in this position.

The area of "administrative fees" needs to be adressed. A women in Kodiak recently told me she was charge a \$20 "administrative fee". She explained that she copied the information she needed by hand, but was still charged. this was justified by the agency as payment for the time of the employee who watched her. This is, I hope, a violation of the spirit of this bill.

I would also like to recommend a poster be prepared that would simply outline: 1) How to request information/copies. 2) Costs per page. 3) The public's right to know. 4) And what to do for enforcement.

This poster could be up in all state offices that have records, City and Borough Clerks offices, and courts. This would be an easy way to inform the public of its rights.

In conclusion I will quote from the bill and AS 44.62.312 (5) "THE PEOPLES RIGHT TO REMAIN INFORMED SHALL BE PROTECTED SO THAT THEY MAY RETAIN CONTROL OVER THE INSTRUMENTS THEY HAVE CREATED."

Thank You.

Sincerely,


Jon Newstrom
News Director

cc: Freedom of Information Task Forse
Kodiak Daily Mirror
KFSK Radio, Peterburg

League of Women Voters of Alaska

8926 Birch Lane
Juneau, Alaska 99801
April 7, 1981

Patrick M. Rodey, Chairman
Senate Judiciary Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Re: CS for SB 90 (State Affairs): Privacy and
Public Information

Dear Senator Rodey and Members of the Committee:

The League of Women Voters of Alaska supports enactment of CS for SB 90 (State Affairs). We indicated our support for SB 90 when it was before the Senate State Affairs Committee, and the bill has improved even more since amendment by that Committee.

Our support for the bill is based upon a fundamental principle of the League of Women Voters of the United States (to which we adhere) that "governmental bodies protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible." Implementation of this principle is important not only for the effective functioning of a democratic society, but also for the protection of individual citizens' rights.

Our support for this principle applies to all levels of government. This means that we believe municipalities should be subject to the same requirements as State agencies, and therefore we support adoption of the bill in its present form and urge you not to succumb to any arguments to make the bill's requirements inapplicable to municipalities.

We appreciate your consideration of our comments.

Sincerely,

Margaret E. Holland
Action Chair
League of Women Voters
of Alaska



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

April 9, 1981

Senate Judiciary Committee
Alaska State Legislative Building
Pouch K
Juneau, Alaska 99811

File: Legislature - 1981 - Senate Bill 90

Subject: CSSB 90

Gentlemen:

The City and Borough of Juneau supports the concept that with certain necessary exceptions, the records of state and local governments should be readily available for public inspection. However, we believe at the municipal level it is the local elected assembly and council members who are best able to determine which records kept by the municipality should be protected. It is, after all, the municipality which creates the records or which requires others to provide information to it which become municipal records. It is also the municipality which is best able to determine whether the harm of disclosure of its records would outweigh the benefit of disclosure. Just as I am sure that you feel the operation of Alaska's lands, fisheries, resources, and other government activities are best determined by the State of Alaska and not the federal government, we believe that, local elected officials are in the best position to make decisions about local matters, including local records. For that reason, we urge you to delete municipalities from the coverage of the bill.

As an alternative to removing municipalities from the coverage of the bill, we urge you to adopt a new exemption under proposed section AS 40.25.030(a) which would read as follows:

(13) records of a municipality which are specifically exempted by ordinance.

This approach would ensure that all records of a municipality not exempted by state law would remain public records unless an assembly or council takes affirmative action to specifically exempt a record. The action would have to be taken by ordinance which requires public notice prior to a public hearing and adoption. As this is a legislative act, it is subject to amendment or repeal by initiative or referendum. Municipalities

Senate Judiciary Committee
Page Two
April 9, 1981

may, and do, establish programs which do not have a state counterpart and which may generate records that deserve some degree of protection to ensure the effectiveness of the program. We do not expect the legislature to be familiar or even aware of many of these programs. Therefore, it is not reasonable to expect that municipalities will find in State law any statutes to protect records which are peculiar to various municipal programs. When the legislature establishes a state program it also provides for the protection of records which will be generated by that program. The statutes contain numerous examples of this. On the other hand, I believe one will search in vain for a statute which gives protection to any specific municipal record. The amendment proposed above would provide a reasonable solution to the problems which would be created by bringing municipalities under the bill.

We urge you to delete section 3 on page 12. Section 3 would amend the present open meetings statute to take from municipalities the authority to declare, by ordinance or charter, additional subjects which may be discussed in executive session. Unless someone can produce an ordinance or charter provision which demonstrates that at least one municipality in the State has abused this authority, there would be no reason for removing that authority. This authority has been on the books for many years and its repeal now, in the absence of any abuse or threatened abuse would appear to be supported only by a feeling that local elected officials and local voters cannot be trusted. If the authority has not been abused, it should not be removed.

There are several features of the bill which deserve further attention. The first appears on page 2 at lines 13 and 14. Although the sentence beginning on line 13 tracks with current law, I believe that it is totally out of touch with reality. The record which a custodian may have is often a copy of the original. Many times that copy will have handwritten notes upon it or upon the copy from which the copy was made. It is unrealistic to provide that if a certified copy of the record is requested the certified copy is evidence of the original. At best, the certified copy is evidence only of that which was copied, and not necessarily the original.

Dropping down to subsection (d) which begins at line 19 on page 2 we find several areas which require attention. First, if the bill is to apply to municipalities, we believe that the commissioner of administration should not be prescribing the schedule of fees for the copying of municipal records. This should be left to the municipality.

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Second, and in any event, the schedule of fees should permit the recovery of all costs of producing the record. This would include not only the direct cost of copying the record but also the cost of search and retrieval. The state and municipalities should be able to recover search costs even if the person requesting the record does not request a copy. The cost to the taxpayers of searching for a single sheet of paper which has been sent to dead storage can be substantial. We seriously question the philosophy of this section which seems to be that all the taxpayers should bear the burden of one individual's request for the production of a record. The individual making the request is generally seeking the record for his own personal benefit or for the benefit of a political or other cause supported by the individual. It is a difficult enough situation that a request for a record creates a work priority for public servants which make conflict with other priority duties of these servants, but establishing a scheme whereby the public agency may not recover all of the cost of search, production and copying makes a questionable situation even worse. Not only does the general public lose the services of the custodian of the record while he or she is searching for and reproducing a record, but the general taxpaying public which has lost those services must pay for them as well. We have no argument with the concept that public records should be made available to members of the public when requested. We believe, however, that the burden of such production should be borne by those who request the records and not by the general taxpaying public. Therefore, the fees should be permitted to cover all costs of search, production, and reproduction.

In the same section, the provision in the last sentence that a person may obtain 20 copies per day without charge may be an appropriate policy for a library or some other agency which exists primarily for the purpose of accumulating information and making it available to the public; however, it is not an appropriate policy for general application or for application to municipalities. Under this bill, a 200 page report can be obtained free of charge merely by telephoning the custodian each day and requesting an additional 20 pages over a period of two weeks. Public employees have much more productive things to do with their time than to stand at a copy machine making free copies of documents which are for the benefit of one individual. If this section becomes law, I could, by calling the various state agencies which have copies of the Alaska Statutes and requesting different 20-page segments, soon have, free of charge, a complete set of the Alaska Statutes. All this would be at the expense of the general taxpayer, but solely for my benefit. We urge you not to permit

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such a scheme to become law. The last sentence of the subject subparagraph (d) should be deleted.

Turning next to page 3, lines 18 through 20, we find a section which will probably create an unreasonable burden in many instances and will undoubtedly be fruitful of litigation. For example, what is meant by "deletion of exempt parts"? Is the custodian required to blank out individual names, words, and figures or is he or she authorized to remove an entire sheet of paper if that sheet of paper contains any protected information. If it is the former then the custodian, in order to protect his or her "original," must first make a copy of the record. Then he or she must sit down and read through the entire document to determine what must be deleted. Having made this determination the custodian must then white out or otherwise obliterate the protected information. Depending on how the protected information is deleted, the custodian may have to make a copy of the "sanitized" copy for inspection in order to ensure that the person inspecting the record does not gain access to the protected information by removing obliterating tape or holding the record up to a light or by some other means gain access to the deleted information. We suggest that the "deletion if possible" approach to public records will create an unreasonable burden on governmental units. This is particular so in light of the fact that the time spent in sanitizing protected records will not be reimbursed to the governmental unit by the person requesting the record but will be a tax burden for the general taxpayer. Lines 15 through 25 on page 3 should be deleted to eliminate this problem.

I believe that the reference to AS 40.25.030(c) in line 21 on page 4 is incorrect. Perhaps the reference was meant to be to AS 40.25.030(b).


An interesting and far reaching change to SB 90 is made in the definition of "governmental unit" in CSSB 90(SA). On page 12 in line 6, the phrase "or any organization" has been inserted in the definition. As now drafted, any organization supported in whole or in part by public money would come under the bill. You may want to consider whether groups which receive grants from the state or municipalities should be under the bill. These include such organizations as the Chamber of Commerce, day care centers, clubs, organizations and businesses which seek public assistance in their volunteer efforts to improve the community etc. Although the word "supported" as used in this definition would probably be limited to grants, a good argument can be made that any organization which receives public monies, whether

Senate Judiciary Committee
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April 9, 1981

through a contract for services or a direct grant, is an organization supported in whole or in part by public money. Grants, after all, generally take the form of a grant agreement or contract. There is not a great deal to distinguish a grant agreement from a professional services agreement. Both involve the transfer of public monies to a person or organization which will provide some service or product. If it is the intent of the legislature to open the records of private organizations, the scope of that coverage should be more clearly defined.

In summary, we urge you to leave local problems to solutions by local, elected officials. If you find a compelling need to dictate how municipalities will deal with local records, we urge you to permit municipalities to provide additional exemptions by ordinance and to recover from the person requesting a record the total reasonable costs of producing the record rather than making that cost a burden on the general taxpayer. We believe the concerns expressed above are shared generally by other municipalities and urge you to give serious consideration to these matters.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS: jr

cc: Ginny Chitwood, AML

Assembly Legislative Committee

Carlton W. Laird
City-Borough Manager

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6525

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

April 1, 1981

To: Senate Judiciary Committee
Senator Pat Rodley, Chairman
All Members of the Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: SB 90 - Privacy and Information Act

Municipalities realize the need for the public to have reasonable access to municipal records. However, the provisions in SB 90 go further than what the Alaska Municipal League considers reasonable. We can foresee many unfair burdens being placed on municipalities if this bill passes in its present form. Some are as follows:

Records produced "immediately" - This would place the request for a public document as first priority over all other conduct of the government's business. A more reasonable approach would be to allow ten days as provided by the federal government. This, at least, would allow determination as to whether or not the document being requested would fall under the list of exemptions and therefore not be required to be produced or whether or not it was in the public's interest to be produced. If illegal releasing of information is done by a municipal employee, the municipality would be open to a fine which means the municipal attorney would have to review all requests.

"Direct Cost" - Some documents are readily available. However, it is possible and likely that to produce other documents would involve a great deal of time; searching thru archives, records of years past in storage, etc. Most of our communities do not have sophisticated retrieval systems and the amount of time needed to locate said document could take up a good portion of the employees time. The League feels the word "direct" should be deleted from page 2, line 21, or at least defined to include labor involved by the municipal employee in the search for the document that has been requested.

Subjects for executive session - The League feels the municipality is the best judge of what should be considered confidential and objects to the deletion of the right to establish these subjects by charter or ordinance (page 9, lines 28 and 29.) Procedures for charter ratification and ordinance adoption afford adequate safeguards ensuring that local actions reflect local opinion.

(over)

Personnel files open to the public - This should be a determination of the municipality. Doesn't this infringe upon the rights to privacy of the individual?

Because of these and other considerations the League respectfully requests that municipalities be excluded from the provisions of this bill as was done by the Senate and the Senate State Affairs Committee last year. Local records are a local problem to be dealt with at the local level. The municipality is in the best position to determine which records should be protected and which should be made public.

If an exclusion for municipalities is not adopted for SB 90, the Alaska Municipal League requests that an "opt out" provision be included which would allow a municipality, after having adopted a comparable ordinance, to be taken out from under these provisions.

A suitable exception could be provided in the bill by adding the following paragraph after line 18, page 5:

Sec. 40.25.015 (e)(18). Records of a local government unit where the council or assembly has adopted a comprehensive ordinance dealing with its public records.

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

President
Sister Barbara Haase
Ketchikan General Hospital
Ketchikan

March 26, 1981

President-Elect
Tom Mingen
Fairbanks Memorial Hospital
Fairbanks

Secretary/Treasurer
Ron Pavellas
Alaska Hospital & Medical
Center
Anchorage

The Honorable Patrick M. Rodey
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Immediate Past President
Al Camosso
Providence Hospital
Anchorage

Executive Director
Dennis L. DeWitt
Juneau

Dear Senator Rodey:

The Alaska State Hospital Association has reviewed Committee Substitute for Senate Bill 90 and must express our deep concern that medical records are not exempted from the provisions of Section 40.25.015.

Medical records whether held by public or private health facilities should be held in the utmost confidence. The fact that a person seeks and receives care in a public institution ought not be grounds for lessening what ought to be an absolute right to privacy. Unfortunately, CCSB90 would make medical records held by the state or political subdivisions disclosable only so long as it is not "an unjustifiable invasion of personal privacy". This is a much lower standard for disclosure than is offered trade secrets or examinations in Section 40.25.030(5) and (6). We believe that on the contrary, medical records are of a much more private nature than trade secrets and much more deserving of protection.

While we acknowledge that the right of privacy is recognized in Article I, Section 22 of the State Constitution, we also note that there is a directive that the legislature shall implement Section 22. As we review court cases which are cited we do not feel that there is an explicit notion that medical records should not be considered public records which could be released pursuant to Section 40.25.030(11) of CSSB90. We believe that the legislature can include or exclude medical records from that section.