

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86 / 2

1773 HLC HB 595 - HB 623

7. What procedures are followed in the event a complaint against the Board or a licensee is received?

Number of Board Members' Responses

Description

<i>Forward to OL for investigation; Board can act in advisory capacity.</i>	1
<i>Investigation; possible revocation of license.</i>	1
<i>No complaints received as yet against licensee.</i>	2
<i>Forward to Department of Labor to investigate.</i>	1

8. In what ways, if any, could the Department of Commerce and Economic Development improve its service to the Board in the areas of administrative support and enforcement?

Number of Board Members' Responses

Description

<i>No need for improvement.</i>	2
<i>OL does not understand Board function well enough to enforce.</i>	1
<i>Administrative support is excellent; Department of Labor is responsible for enforcement.</i>	1
<i>Need more funding for inspectors and to advertise regulations.</i>	1

9. Should continuing education or re-examination be required for licensees? Why or why not?

Number of Board Members' Responses

Description

<i>American Welding Society requires re-examination if licensee does not remain active in inspection. This requirement is sufficient for now.</i>	5
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10. Other comments to assist us in evaluating the need for the Board and its performance:

Number of Board Members' Responses

Description

Regulations are workable for large companies; small operators can not afford licensed inspector. 1

Create Bureau to perform Board's physical function; need internal regulations to prevent several Board members from one business from serving concurrently. 1

Board has been active in revising regulations; now responsible for maintaining standards. 1

Need additional funding for enforcement; should publicize regulations. 1

Note 1

Questionnaires were mailed to seven Board members. Replies were received from five.

Note 2

Because certain questions received several answers from Board members, total numbers of replies may exceed the number of Board members who responded.

APPENDIX D

QUESTIONNAIRE SENT TO LICENSED
WELDING INSPECTORS

The following questions were sent to licensed welding inspectors (see Note 1). For each question we have noted the number of responses. We have also indicated the most typical written comments following each question as compiled from the questionnaire (see Note 2).

	Number of		
	<u>Licensees Responding</u>		
	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>
1. (a) Is certification of welding inspectors necessary to protect the public's health, safety and welfare?	<u>35</u>	<u>2</u>	<u>0</u>

Comments:

Yes--Quality of product is controlled establishing minimum qualifications for welding inspectors.

If inspections were not required, some contractors would use cheaper, unqualified welders.

No---Licensing does not ensure adequate protection;

Should not be limited to AWS-certified inspectors.

(b) If your reply to "a" was yes, which of the following methods of certification would be best:

	<u>check one:</u>
i. license issued by the Board	<u>14</u>
ii. license issued by the State	<u>6</u>
iii. only AWS certification	<u>12</u>
iv. other:	<u>4</u>

1. (Cont'd)

Comments:

Board - is better judge of qualifications due to knowledge of, and experience in welding; is flexible; can exercise closer control.

State - less likely to be prejudiced.

AWS - has expertise, good program; usable in all states; more efficient.

Other - Employer training program results in known ability.

	Number of Licensees Responding		
	Yes	No	No Opinion
2. Are current requirements for obtaining a welding inspector license (education, experience, written and practical tests) fair and reasonable measures of technical knowledge and ability?	<u>32</u>	<u>5</u>	<u>0</u>

Comments:

Yes--Exam is fair test of knowledge; practical skill is necessary.

No---Qualification as welder is not necessary to inspect; need more specific practical experience; no proof of employment.

3. Has the Board given sufficient notice to the public and/or the profession regarding:

a. exams?	<u>26</u>	<u>5</u>	<u>6</u>
b. meetings?	<u>20</u>	<u>10</u>	<u>7</u>
c. proposed regulation changes?	<u>18</u>	<u>12</u>	<u>7</u>

Comments:

Yes--the small number of licensees allows for adequate communication with Board

No---many are unaware of Board's existence; newspaper notices are not effective.

Number of
Licensees Responding

	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>
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4. Are the recently amended regulations of the Board (12 AAC 72):

a. too restrictive?	<u>2</u>	<u>23</u>	<u>12</u>
b. too lenient?	<u>3</u>	<u>20</u>	<u>14</u>
c. enforceable?	<u>19</u>	<u>8</u>	<u>10</u>
d. easily interpreted?	<u>23</u>	<u>3</u>	<u>11</u>
e. accepted by industry?	<u>15</u>	<u>10</u>	<u>12</u>

Comments:

Board not needed since firms must comply with codes.

Regulations are not being observed, especially by small contractors; are not enforceable.

Regulations are too general; need to clarify applicability.

Inadequate publicity on regulations; need to protect public; industry more interested in profit than quality.

5. In what ways can the Board assure the public of continued proficiency of licensed welding inspectors:

a. evidence of continued employment in the field?	<u>33</u>	<u>1</u>	<u>3</u>
b. periodic re-examination of practical skills?	<u>9</u>	<u>16</u>	<u>12</u>
c. periodic written re-examination?	<u>3</u>	<u>20</u>	<u>14</u>
d. continuing education?	<u>18</u>	<u>8</u>	<u>11</u>
e. Other?	<u>6</u>	<u>—</u>	<u>31</u>

Number of
Licensees Responding

	<u>No</u>	<u>Opinion</u>
<u>Yes</u>	<u>No</u>	<u>Opinion</u>

5. (Cont'd.)

Comments:

Re-examination is necessary only if there is a sustained absence from inspection.

Other ways include eye exams, inspection for compliance, maintenance of AWS certificate.

6. Are you aware of any discriminatory practices by the Board with regard to an individual's race, religion, color, national origin, age or sex?

<u>1</u>	<u>35</u>	<u>1</u>
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7. Do you feel the support provided by the Department of Commerce and Economic Development, Division of Occupational Licensing, has been adequate:

a. in the area of administrative services?

<u>26</u>	<u>5</u>	<u>6</u>
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b. in investigating complaints?

<u>10</u>	<u>8</u>	<u>19</u>
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Comments:

Not enough knowledge of welding.

Need funding for Department of Labor to enforce.

Not aware of support or complaints.

Need to inform affected parties.

8. By statute, the Board of Welding Examiners consists of seven members with extensive welding experience, three of whom must be engineers. Members are appointed for five year terms from nominations submitted by the Alaska Chapter of the American Welding Society and Alaska Society of Professional Engineers. Do you believe the Board:

a. is too large?

<u>3</u>	<u>25</u>	<u>9</u>
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b. is too small?

<u>1</u>	<u>25</u>	<u>11</u>
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Number of
Licensees Responding

	<u>Yes</u>	<u>No</u>	<u>No Opinio</u>
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8. (Cont'd.)

c. adequately represents the regulated profession?	<u>25</u>	<u>7</u>	<u>5</u>
d. members should have shorter terms?	<u>14</u>	<u>12</u>	<u>11</u>
e. members should serve a limited number of terms?	<u>20</u>	<u>5</u>	<u>12</u>
f. should be served by a public member, not directly involved in welding?	<u>4</u>	<u>25</u>	<u>8</u>

Comments:

Should represent various segments of industry, including active welders; too many on Board represent test labs.

Shorter terms would create a more responsive Board.

No more than one or two terms.

Board is working well under current structure; conscientious.

9. Other comments to assist us in evaluating the public need for the Board and/or its performance:

Comments:

Good regulations but problems in implementation and enforcement.

Dubious need for Board.

Board has improved quality of welding; unqualified people used in past.

Need to consider products fabricated outside of State, safety standards, reports on Board activity.

Reputable company training programs should be accepted in lieu of license.

Note 1

Number of questionnaires sent to licensees	<u>44</u>
Number of responses	<u>37</u>
Response rate	<u>84%</u>

Note 2

Comments were reviewed and considered in the performance of our audit and are briefly summarized in this appendix.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

RECEIVED

SEP 28 1979

LEGISLATIVE
AUDIT

September 28, 1979

Mr. Gerald Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed the enclosed agency response to your preliminary report entitled:

"A Performance Review of the Board of Welding
Examiners - June 8, 1979"

Additionally, we have reviewed and are enclosing copies of responses by the following Board Members:

Donald M. Lockman
Don Delk
Peter A. Millar

We believe the Department of Commerce's response appropriately sets forth the position of the Executive Branch of State government affecting continued existence of the Board. Member responses attached for your information, provide additional insight and reaction to your report recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Smith".

Richard A. Smith
State Internal Auditor

RAS/PJA/mjc
Enclosure

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D - JUNEAU 99811

September 27, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE
AUDIT

Mr. Gerard Wilkerson, C.P.A.
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the Performance Review of the Board of Welding Examiners, as submitted by the Division of Legislative Audit.

The department is still evaluating the viability of alternative methods of regulation and reserves the right to make additional findings and conclusions which may affect the continued existence of this board. This information will be presented to the Legislature during sunset hearings.

Thank you for the opportunity to respond to this report and for the time and effort expended by you and your staff.

Sincerely,


Bertram L. Wagnon
Acting Commissioner

BLW/klb

8235 Endicott Street
Anchorage, Alaska 99501
September 17, 1979

Ms. Elaine Garrett
Management Analyst
Dept. of Commerce & Economic Dev.
Div. of Occupational Licensing
Pouch D
Juneau, Alaska 99811

RECEIVED

SEP 28 1979

LEGISLATIVE
AUDIT

Dear Ms. Garrett:

In response to the recently received Performance Review of the Board of Welding Examiners submitted by Gerald L. Wilkerson, CPA, Legislative Auditor, Division of Legislative Audit dated August 23, 1979, I submit the following statements.

In reviewing the aforementioned Audit Report, it is quite obvious that the Audit Committee lacks the welding knowledge to fully understand the needs of the public in reference to protection against hazards from poor or inadequate weldments within the State.

In the beginning of the Boards existence, the largest issue was addressed to the licensing of weldors within the State. It was recognized by the Board that a weldor licensing would be a monumental task that would require a tremendous personnel and monetary effort on the State's part. The personnel requiring the expertise in this profession would not be available to the State as persons of this level are sought after by the industry on a continuing basis. Besides the lack of qualified persons available, the funds for such a task was also not available. It was recognized by the Board that qualified people from industry could control the certification of weldors if these qualified people could be responsible by proving their qualifications as Welding Inspectors.

The Board of Welding Examiners then began formulating a program to examine the qualifications of Welding Inspectors, although funds were not available from the State to adequately put a program of this nature together. At this same time, unbeknown to the Board, the American Welding Society had recognized the same need for testing Welding Inspectors and had implemented a testing procedure. The Board then adopted the AWS Testing Program guideline and the licensing of Welding Inspectors was born within the State.

The State licensed Welding Inspector holds a responsibility to the public to certify weldors within the guidelines of the nationally recognized Welding Codes used in Alaska. This responsibility protects the public from gross negligence of improper weldments that could fail, but only to the extent of those weldors actually certified by the Welding Inspectors.

As this method of assurance is still in the infancy stage due to the newness of the application, it is immature to criticize the effectiveness of the program. As more Welding Inspectors are licensed within the State, the greater the public protection will become.

Ms. Elaine Garrett
Div. of Occupational Licensing
September 17, 1979
Page 2

There have been many instances of weld failures of crane booms, trailer hitches, store awnings, fishing boat hulls, school playground equipment, recreational equipment as well as building structures and harbor facilities, all of which are hazardous to the general public. Only trained personnel can recognize a poor or inadequate weldment and determine the abilities of a certifiable weldor.

It has been proven over the years that industry does not generally control the quality of production, evidenced by the need of welding codes to guide the users to implace restrictions of fabrication to assure quality. This is also evidenced by the need of societies to indoctrinate testing programs and Alaska to create the Board of Welding Examiners.

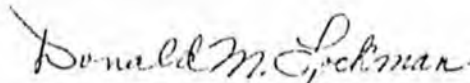
The Board has made acknowledgeable strides in creating a regulation that closely fits the needs of public interests, although additional revisions and clarifications of the regulations are clearly recognized by the Board members. These Board members serve without payment for their services, so progress is naturally slower than paid employees would be, although the expertise of these members would be more costly than the State would care to absorb if they would be available for hire. The cost to the State is at a minimum and should be recognized by the Audit Committee.

The size of the Board should be enlarged to accommodate the availability of donated services and to expand the current expertise level needed to properly evaluate the publics needs and industry's acceptance to those safeguards. As Board member nominations are received from two societies, they are not restricted to the societies membership by any means.

The Board's future activities will be guided by the public's desires of creating more effective regulations that are enforceable pursuant to the public's needs. These goals are yet to be formalized and categorized to a general public need. With the forthcoming projects of the petro-chemical industry in the State, a greater need will be emphasized for the Board's guidance in revising regulations to insure the Alaskan public will be protected from inadequate welding by assuring Welding Inspectors are properly tested and are qualified to pass judgement on the certification of weldors.

There has already been a Senate Bill proposed to create a welding bureau within the State which would be more of a bureaucratic administration of welding than a regulation, which if nothing else, emphasizes the need for the Board of Welding Examiners to create a better regulation guideline.

Sincerely,



Donald M. Lockman, Chairman
Board of Welding Examiners

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

BOARD OF WELDING EXAMINERS

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA, 99811

September 25, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE
AUDIT

Mr. Don Lockman
Chairman
Board of Welding Examiners
8235 Endicott Street
Anchorage, Alaska 99501

Dear Mr. Lockman:

Enclosed are my responses to the preliminary audit report on the Board of Welding Examiners.

1. Report Conclusion

- a. I concur that most consumers (e.g., engineers, construction and pipeline companies) of welding services possess adequate knowledge to properly evaluate the qualifications of those providing services.
- b. However, from personal experience, it has been observed that those who have the knowledge are not the individuals out in the field doing inspection and quality assurance work. Examples: 1) the Ketchikan-Alyeska controversy would, in all probability, not have occurred if the project was being adequately controlled by qualified welding inspection. I personally know senior managers on the project that had very limited knowledge of welding or inspection. I know of one inspector who was a used car salesman with no qualifications; 2) movies of the first pipeline run on the North side of Cook Inlet clearly show that pipeline inspection consisted of a truck mirror on a three-foot handle and a flashlight. Clearly inadequate; 3) the roof of the Bethel Hospital and the walkway between the campuses at Alaska Community College and the University of Alaska in Anchorage demonstrate a complete lack of inspection. Untold dollars were spent on correcting the projects to ensure safety to the public.

- c. In short, millions of dollars have been spent to correct deficiencies that would not have occurred with adequate welding inspection. Also, hazards claiming lives have occurred within the State which could have been prevented if adequate inspection had been available to correct safety violations or defect code violations. Examples: Building 6-900 on Elmendorf burning in the 1960's and killing a welder and helper. A welder killed when working off of empty gasoline drums during construction of the parks highway.
- d. I believe that the knowledge is possessed by the consumers but that it, in many cases, is not, or inadequately applied.
- e. I agree that the AWS welding inspection program is the best thing since light bread, however, at this time, there is nothing that requires companies to use qualified inspectors (except 12 AAC 72), that has been the direction that the board has taken to provide higher quality inspection to welding projects, thereby saving the public untold dollars in rework and to increase the safety during welding operations and in the final product.

2. Recommendation No. 1

I admit that the board has problems that must be corrected. I, however, believe that the board is needed as shown in the preceding comments. I also feel that, for the last year, the board has made very little progress since almost all energy has been expended on Sunset Review. If we can ever get this review completed and get back to work on revising statutes, regulations and implement corrections to problems, we will make great strides toward protecting the public (our main job).

This audit has been very helpful in pointing out problem areas, but we must now have time to work in implementing the recommendations instead of continuing to prepare for the review.

Recommendation No. 2

1. The State does not need to look at visual examinations since it is virtually impossible to obtain or maintain an AWS QC-1 Certificate without the results of the exam being received by AWS. We do not need to increase the bureaucracy by requesting something that has already been requested and supplied.
2. I concur that the board should review qualifications prior to issuing licenses.

Recommendation No. 3

1. I agree. However, I consider myself a lay member since I work for the Federal Government as an aircraft maintenance officer. I have very little chance to gain monetarily from any actions of the board. I also am technically qualified to make good input to the board's operations. If appointments are made from the entire industry some method must be set up to solicit applications.
- b. The Office of the Governor must respond in a timely manner in order to be effective.

Recommendation No. 4

- a. Concur.
- b. Concur.
- c. Concur.

Recommendation No. 5

1. Concur.
2. This one is tough, but should be looked at.
3. Concur.
4. Concur.

Recommendation No. 6

1. Concur.
2. Concur.
3. Concur.
4. Concur.
5. Concur.

Additional Comments

I was asked for more information than I could supply simply because of one reason: time. It seems that every time a response is required from me by the Division of Legislative Audit, I am working 14-hour days and on my way out of State. Twenty days to respond is inadequate. If we could respond during the next scheduled board meeting, we could work for a couple of days and come up with the type of response that you are

looking for. All board members are busy and need additional time to meet together to comply with your wishes.

Appendix A

If the board has collected no revenues, the companies that have paid for test lab licenses in the past, as well as myself, paying for welder qualifier and welding inspector licenses are surely getting ripped off. I suggest homework should be done. I also feel that the expenditures by the board are insignificant for the amount of work that has been done by the board.

Appendix D

It appears to me that properly qualified welding inspectors (if not qualified they could not pass AWSQC-1), more or less support the board. Individuals who cannot qualify under AWS QC-1 will not (for obvious reasons), support the board.

I appreciate the opportunity to reply to the Division of Legislative Audit, but, again, request more of the item that I have the least of, time.

Very truly yours,



Don H. Delk
Secretary

DHD/sa2/6

RECEIVED

August 9, 1979

SEP 28 1979

To: Don Delk
Secretary, Board of Welding Examiners

LEGISLATIVE
AUDIT

Re: Comments in regards to Judy White's letter of June 20, 1979 to the Board of Welding Examiners

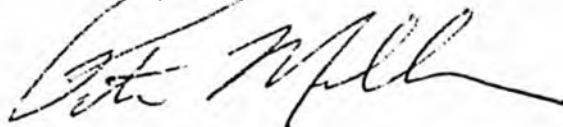
In general the letter received by Judy White, Auditor Division of Legislative Audit, in regards to Sunset Legislation is very well written and pinpoints exactly many of the problems of the Board of Welding Examiners.

I would like to take exception, however, to the following points:

- a) AWS's lack of support for State licensure: Robert Foxall, AWS National Chairman, 1978; John Moeller, AWS Chairman, 1977 and Ken Fordyce, AWS National Certification Chairman have been present at Anchorage AWS meetings and have spoken highly of the Board of Welding Examiners' work in regards to licensing inspectors.
- b) It may be true that only one state requires licensing of Welding Inspectors, however the AWS certification program has only been in effect since 1976 and thus it is understandable that very few states have adopted the requirement of certification.
- c) Certification of welders instead of inspectors was discussed previously by the board. It was felt that it is easier to monitor and license 100 welding inspectors than 2,000 welders. I do agree that monitoring either welding inspectors or welders by state agencies is not feasible, however I do believe many individual welding inspectors have vastly upgraded their knowledge and ability in meeting the state license requirement.
- d) In regards to the state license files, there are discrepancies all of which are minor and easily corrected. I do believe that the public is being protected from "unqualified practitioners" to a greater extent than ever before.
- e) In regards to the make up of the Board of Welding Examiners size, appointments, etc. I would agree that we need a more diverse group, however I would think that seven members is a workable number. Meetings of twice or once yearly I would think is a better solution for cutting costs than limiting the numbers of members to five. We may only affect 50 to 100 inspectors, however the regulations affect thousands of welders.
- f) In regards to revising the statutes, revising administrative regulations, developing board objectives and document administrative procedures; many good points were brought up. I would like to see the Auditor, Judy White, attend our next meeting if possible in order that we might make some progress in these areas.

In conclusion, I would say that although the present statutes are probably unenforceable to a large extent they nevertheless have made a very positive impact in the area of welding in Alaska with many inspectors being licensed

through the American Welding Society. Personally I do not believe the Board should be terminated in 1980, however I do not feel that further regulation of the industry by government is necessary either.

A handwritten signature in cursive script, appearing to read "Peter A. Millar". The signature is written in dark ink and is positioned above the typed name.

Peter A. Millar, P.E.
Member of the Board of Welding Examiners

Legal Services
Plumbers & Steamfitters
Union Local 375
3568 Geraghty Street
Fairbanks, AK 99701

RECEIVED

OCT 9 1979

LEGISLATIVE
AUDIT

October 3, 1979

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch WF
Juneau, AK 99811

RE: A Performance Review of the Board of Welding Examiners, June 8, 1979.

Dear Mr. Wilkerson:

Your letter of September 10th has requested a reply within twenty (20) days. In order to meet this deadline, we two board members have had several meetings and discussions. We have not had time to get together with the entire board or to circulate a reply, so that all of the board could participate in this answer.

At the time of the Legislative committee hearing, the welding board contemplates "presenting its case." Our discussions indicate that this case will be in three parts:

- 1) an orientation in respect to welding
- 2) recommendations of prominent authorities throughout the United States with respect to State regulation of welding, and
- 3) a series of specific proposals including but not limited to those raised by the preliminary audit report.

By way of the requested written reply, to the findings and recommendations of the written audit report, we set forth the following:

1) Re: Recommendation No. 1. Termination of the Board. We disagree. The performance review sets forth good criteria to determine whether licensing is desirable. Essentially we agree that licensing is desirable when a) unlicensed practice poses a serious risk; b) consumers are at a disadvantage in evaluating the welder; and c) there has been abuse with inadequate recourse through the general law. Here the unlicensed practice can mean failure of the weld with the attendant sinking of the vessel, collapse of a structural steel member, bursting of a pipe, leakage of carbon monoxide from a muffler into the interior of an automobile, etc. It is safe to say that the general public does not know enough about welding and welders to be able to evaluate a person's qualifications as a welder. The sinking of barges, collapse of crane booms and leakage of pipelines and car mufflers, have resulted in loss of life and environmental damage; in addition to the structural damage and loss of time which can be compensated through the general law. Therefore, licensing is desirable.

Gerald L. Wilkerson
October 3, 1979
Page Two

Performance review is correct in indicating that the State of Alaska has not been in a financial position to regulate, by licensing, all welding personnel in the past. It is also correct in indicating that only one other State to date has elected the stop gap measure currently used by the Board of Welding examiners, of licensing welding inspectors. We respectfully suggest, that that time is at hand when public safety and environmental necessity merit the regulation of welding in a more thorough manner. We further suggest that the logical means to do this is through a State Board of Welding Examiners, who will be able to be more active than the Board has been allowed to be in the past.

2) Re: Recommendation No. 2. The Board more active in Licensing. We agree with this recommendation. The performance review makes excellent points in this regard and its suggestions together with others to be proposed by ourselves should be adopted within the next year. To implicate these will require action by the Board in promulgating regulations and a budget which will permit actual work in the field. It is to be hoped that both of these processes could be completed by the beginning of fiscal 1980-81.

3) Re: Recommendation No. 3. Assuring adequate representation on the Board. We concur with the bulk of this recommendation. The performance review is good as far as it goes, in reviewing the Board composition, terms, etc. We feel that there are additional factors which should be considered in the make-up of the Board and the terms to be served. This is a Legislative process and we will be presenting specific recommendations to the Legislature in this regard. Because it is the turn of the Welding Board for review under the sunset law it would be hoped that these matters could be completed by the Legislature at its next session. The harder portion of the recommendation to implicate, concerns the direction that the Governor act in a more timely manner in making appointments to the Board. The Board itself would be glad to participate as requested in screening and recommending appointments. It is beyond the ability of the Board to direct the Governor in the course of making appointments. We agree with the recommendation but are not in a political position to be able to implicate it.

4) Re: Recommendation No. 4. Board recommendation of statutory revisions. We concur with this recommendation. As mentioned above we feel that the time has come when the State no longer need use the Board of Welding Examiners as a stop-gap measure to "do the best it can", to protect public safety and environmental concern. We favor the review of powers and duties of the Board. The Board has long requested fiscal support for the enforcement of welding regulations, since it is obviously quite difficult to be a fierce tiger when you are toothless. We certainly have no objections to the applicability of the administrative procedures act. Implementation of this should be by Legislative action and it can be completed by the effective date of Legislation affecting the welding board during 1980.

Gerald L. Wilkerson
October 3, 1979
Page Three

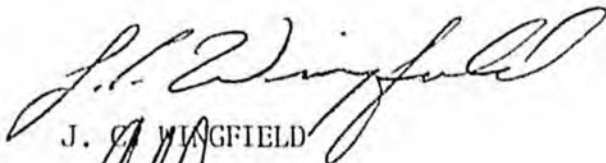
This paper is not the place to present a series of detailed recommendations. These will be provided at the Legislative hearing.

5) Re: Recommendation No. 5. Continuing revision of administrative regulations. We concur with the recommendation although we may differ on some of the detailed suggestions. Once again these suggestions are good, they represent needs that should be met and that the Board has been endeavoring to meet over the past couple of years. We propose that the Board continue its process of review and address the specific points raised. This should be implicated by board action with a target date of July 1, 1980.

6) Re: Recommendation No. 6. Defining objectives and reporting to the Governor and Legislature. We concur with the recommendation, feeling that part of the defining of objectives is established by the Legislature, and that staff time will have to be provided to permit the requested reporting to be done. Because this recommendation is partially budgetary it will have to be accomplished through both board action and legislative action and would probably become effective July 1, 1980 when the new budget becomes effective. We hope that the presentation that we will be making to the Legislative committees as part of the "sunset" process, will be of considerable help in arriving at the implication of this recommendation.

We hope that we will be notified of the time of the Legislative committee hearing at the earliest possible date. A good presentation requires lead time to make people available and work concepts into shape. We look forward to cooperating with you in the future in this process.

Respectfully submitted,



J. C. WINGFIELD



PHIL DAVIS

HB595

Jan-28, 1982
Box 977
Wasilla, AK.
99687

Hello Mr. Terry Martin,

I'm writing in regards to the status
of the Board of Welding Examiners.

I am a firm believer in minimal
government and related agencies, however,
at this time I recommend retain-
ing the Board for these reasons:

1. It has proven extremely frugal
with practically no cost to the
State - it has taken in approx.
\$ 2,000 over the past year to offset
the approx \$ 2,000 expenditures of its
activities.
2. I, as a welding inspector, have
seen several cases of extremely
poor welding which would have
endangered life or property if
not stopped from being put into
service before correction:
 - a) These include the welder.

bases of H-Beam piling supports for electric transmission lines along the busy Glenn Highway.

b) Also the Airport Control Tower at Bethel had serious defects which were found in time by a licensed welding inspector.

If we had a swift, effective judicial system which could hold people and companies responsible for shabby work before the damages were done, then I'd say we need no such watch dog for weld quality.

But such isn't the case and in fact, it appears to me that a few people want to start a Welding Bureau which I believe would be no more effective and would grow into a full blown Tax eating Hog.

Some of the same people who want the Welding Bureau have not been able to pass the rather stringent

Welding Inspectors Test which also requires 5 years of experience in the welding field.

In these days of hundreds of millions of dollars in the state budget it is amazing that the Board of Welding Examiners has worked within such a small budget and been effective.

I believe strongly in the "sunsetting" concept but would even go further - so that when an agency is found to be ineffective and/or costly compared to a possible alternative, the legislature should be able to liquidate it without waiting for the 5 year period for sunset consideration.

Thank you for your attention to this matter.

Sincerely
John D. Ward

Certified Welder, Welding Inspector, & Instructor

ALASKA STATE LEGISLATURE

HISTORY IN THE HOUSE

HISTORY IN THE SENATE

HISTORY IN THE HOUSE

TWELFTH Legislature FIRST... Session

19 81

19

19

HOUSE ... BILL NO. ... 595.

May 26

By ... BROWN AND ANDERSON.....

Read first time and referred to Committee on

Labor & Commerce and Finance
Reported back with recommendation that

Read first time and referred to Committee on

Reported back with recommendation that

Received from Senate

Concurred in Senate and thus adopting:
VOTE

Failed to concur in Senate; asked Senate to re
VOTE

Senate receded from am
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly engrossed
Sent to Governor

..... by

Filed with Lt. Governor

Chapter No.

"An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

Read second time and

Read second time and

Read third time and

Read third time and

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused

Reconsideration

Reconsideration

PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by Speaker
Sent to Senate

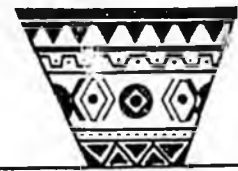
PASS Effective Date
Yeas Yeas
Nays Nays
Absent Absent
Excused Excused
Reported correctly engrossed
Signed by President
Returned to House

Bd. of Welding Examiners

Introduced in the House 5/26 19... 81

CHIEF CLERK OF THE HOUSE

SECRETARY OF THE SENATE



(907) 274-4856

February 20, 1982

Representative Terry Martin, Chairman
House Labor & Commerce Legislation Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir:

We understand that your committee is in charge of reporting out for House Bill 595 to reestablish the Alaska State Board of Welding Examiners. In context we support an Alaskan need for some credible entity acting in an overview capacity on welder certifications. We are not familiar with this special bill. We understand that the bill would reestablish the retiring board of welding examiners where we served a short term. We could not concur totally with the past approach which suffered extensively from input from our resident testing laboratories. The board and ensuing regulations, however, are vital to qualifying a welder's ability. This is especially interesting in the Alaska's petroleum industry where "the State" is so heavily involved and the joining of metals (i.e. welding) can be so closely associated with liability. Without some type of homogeneous examination and certification any novice welder may profess efficiency in a number of welding procedures totally outside his capabilities. We believe the present certification process has been and will continue to be in the best interest of Alaska and Alaskans. We would appreciate a copy of the draft legislation for review and comment.

Sincerely,

James W. Crippen

JWC/ca

cc: Representative Pandy Phillips

ARCHITECTURE ENGINEERING (907) 276-1990

CONSTRUCTION (907) 274-4856

P.O. BOX 8-830 ANCHORAGE

ALASKA 99508

MSG 82-00012569 PRTY 1 03/09/82 11 19:34 ORIG: LM00 IN= 0006. OUT= 0037
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0005

TO: SENATORS MULCAHY, HOHMAN, FAHRENKAMP, RODEY, ZIEGLER
REPS. MARTIN, BYLSMA, RANDOLPH, ROGERS, GARDINER

FR: RON PALMER
P O BOX 145
WASILLA 99687

RE: CERTIFICATION OF WELDERS

IT IS MY UNDERSTANDING THAT THE BOARD OF WELDING EXAMINERS WISH TO
ENACT CERTIFICATION OF WELDERS AND I AM OPPOSED TO THIS IN ANY MANNER.
IF THIS IS THEIR PLAN, I WOULD BE OPPOSED TO THE CONTINUATION OF THIS
BOARD. THANK YOU.



Schooley and Associates

Welding and N.D.T. Consultants

P. O. Box 2173
Valdez, Alaska 99686

February 10, 1982

The Honorable Mr. Terry Martin
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

It has come to my attention in recent weeks that there is an effort under way in Alaska to dissolve the State License requirements for welding inspectors. I think this would be a great disservice to the people of Alaska. At present, a welding inspector has to go through considerable time and effort to be licensed in Alaska. This helps to insure that welding inspectors are indeed qualified to make the determinations in the field that may affect the life and property of Alaskans.

I have been involved in the Welded Construction Industry since 1958 and have seen too many cases of unqualified inspectors allowing work schedules or favors from the contractor doing the construction to sway their decisions. I feel Alaska has taken a giant step into the future by licensing welding inspectors and setting down a code of ethics for welding inspectors. I hope all other states adopt such a forward looking program. For anyone to degrade or dilute this program would be a loss for Alaska and the other states considering such a program.

Sincerely,

James A. Schooley, Jr.
James A. Schooley, Jr.
AA0130

H B
5 9 7

There is an effect on the

CPI (Consumer Price Index)



? Historical context — of Washington law

Deceptive Practices - "Air" Bread
45.75

Office Copy

Introduced: 5/29/81
Referred: Labor & Commerce

1 IN THE HOUSE

BY HAUGEN AND ROGERS

2 HOUSE BILL NO. 597

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of ^{food} bread."

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

8 * Section 1. AS 45.75.200 is amended by adding a new subsection to read: ^{AS. 190, 45, 755, 250, 280, 45.75, 310}

9 (d) The marking provisions of this section do not apply to
10 unwrapped loaves of bread.

11 * Sec. 2. AS 45.75.250 is repealed.

*Passed with
no amendments*

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TO

FROM

Rep) E. J. Hansen
House of Reps Pouch V
Juneau, Alaska 99811

HAMMER & WIKAN, INC.
Box 249
Petersburg, Alaska 99833

SUBJECT:

(2 PM)

FOLD HERE
DATE

4/10/91

Ernie -

MESSAGE

After you + Joe talked with me today I called Ed Poolley at A/S - and brought him up to date - He has delegated Jess Garcia, Director of Procurement to do research + other stuff on this Broad Deal -

Jess is one helluva good man + he gets the jobs done - He is one reason why A/S is where it is today - His phone is extention 740 and he has direct

SIGNED

DATE

did to his office 206 - 7678 - 740 -

REPLY

and will get any info you need - also keep him posted with copies etc -

Your Harry was just in my office to say hello and to look for odd jobs etc - He is looking good - He said you were planning on coming down for Easter - See you then -

SIGNED

Art

Poolley will see you from A/S next week -



ASSOCIATED GROCERS, INCORPORATED

3301 South Norfolk P.O. Box 3763 ■ Seattle, Washington 98124 ■ (206) 762-2100

April 8, 1981

Mr. Pete Jeans
Deputy of Commerce
State Office Building
9th Floor Pouch "D"
Juneau, Alaska 99811

Dear Pete:

Enclosed is a copy of Associated Grocers' Bakery Order Guide. I have circled the 36 products not available to consumers in Alaska due to current weight regulations as we discussed on the phone.

The bakery industry in the past few years has gone to other than 16 oz increments in many breads. Due to the ingredients in variety breads and because consumers want smaller loaves for freshness, many breads are 14, 15, and 22½ oz. loaves.

If I can be of any other service, don't hesitate to contact me.

Sincerely,

Ed Pooley
Sr. Vice President
Wholesale Operations

EP/pn

Encl.

cc: Ernie Haugens
Alaska State Legislature
Pouch "V"
Juneau, Alaska 99811

Jess Garcia
Paula Garmo-Smith

Here are the current laws and subsection changes that HB597 effects.

Sec. 45.75.200. Declarations of quantity and origin on packages. (a) Except as otherwise provided in this chapter, a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of

(1) the net quantity of the contents in terms of weight, measure, or count;

(2) in the case of a package kept, offered, or exposed for sale, or sold in a place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; and

(3) the identity of the commodity in the package unless it can easily be identified through the wrapper.

(b) In the declaration required under (a)(1) of this section the qualifying term "wholly packed" or other words of similar import, or a term qualifying a unit of weight, measure, or count such as for example "jumbo," "giant," "full," and the like that tends to exaggerate the amount of commodity in a package, may not be used.

(c) Under (a)(1) of this section the director shall, by regulation, establish (1) reasonable variations or tolerances to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (2) exemption as to small packages, and (3) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at the time of sale to the consumer. (§ 23 ch 101 SLA 1961; am § 2 ch 78 SLA 1969)

This section is amended by adding subsection (d).

Sec. 45.75.250, Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread. (§29 ch 101 SLA 1961)

This section is repealed.

tend to exaggerate the amount of commodity in the package. (§ 3 ch 101 SLA 1969)

Cross reference. — As to unlawful acts and practices with regard to advertising, see AS 45.50.471.

Sec. 45.75.230. Misrepresentation of price. When a commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, and the price shall not be represented in a manner calculated or tending to mislead or deceive an actual or prospective purchaser. When an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents. (§ 27 ch 101 SLA 1961)

Sec. 45.75.240. Meat, poultry, and sea food. (a) Except as provided in (b) of this section, meat, meat products, poultry, and sea food except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or sea food is combined with or associated with some other food element to form either a distinctive food product or a food combination, the food product or combination shall be offered or exposed for sale and sold by weight. The quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

(b) This section does not apply to meat, meat products, poultry or sea food which is for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal not to be consumed on the premises where sold. (§ 28 ch 101 SLA 1961; am § 4 ch 78 SLA 1969)

Sec. 45.75.250. Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread. (§ 29 ch 101 SLA 1961)

Sec. 45.75.260. Butter, oleomargarine, and margarine. Butter, oleomargarine, and margarine shall be offered and exposed for sale and

by weight and one pound, or multiple SLA 1961)

Sec. 45.75.270. Excluding but not including cream, sour cream only in units of liquid pint, one liquid half gallon, two however, packages of 101 SLA 1961; am

Sec. 45.75.280. package form, and wheat flour, flour, phosphated wheat-rising flour, embryonic grits shall pounds, avoirdupois two pounds or more 1961; am § 6 ch 7

Sec. 45.75.282. delivered by vehicle purchaser a contract the delivery shall shall clearly state equipment, and (1) the name a (2) the name a (3) the net weight weight is derived weights shall also

(b) One of the retained by the purchaser at the demand, to the dealer, or a deputy issue a weight

(c) If the purchaser only to give him of pounds of corn

Sec. 45.75.290 shall be sold by liquid fuel is more 10 gallons if the

coal, coke, and charcoal
textile products
berries and small fruits
construction of contracts

Commodities. (a) Commodities
measure or by weight. Except
commodities not in liquid form
length or area, or by count.
by weight and commodities
only if the method gives
of commodity sold.

apply to
mediate consumption on the
bunch;
ized by a law of this state or

dry measure in accordance

when there exists a general
in some other manner,
stones, and loose solid materials
stone, when sold by cubic

and fertilizer sold by cubic

regulations necessary to
be determined in accordance
determined and represented
in 101 SLA 1961)

quantity and origin on
provided in this chapter, a
delivered for introduction
except for the purpose of sale, or
commerce shall bear on the
conspicuous declaration of
terms of weight, measure, or

or exposed for sale, or sold
packed, the name and price
distributor; and

(3) the identity of the commodity in the package unless it can easily
be identified through the wrapper.

(b) In the declaration required under (a)(1) of this section the
qualifying term "when packed" or other words of similar import, or a
term qualifying a unit of weight, measure, or count such as for example
"jumbo," "giant," "full," and the like that tends to exaggerate the
amount of commodity in a package, may not be used.

(c) Under (a)(1) of this section the director shall, by regulation,
establish (1) reasonable variations or tolerances to be allowed, which
may include variations below the declared weight or measure caused
by ordinary and customary exposure, only after the commodity is
introduced into intrastate commerce, to conditions that normally occur
in good distribution practice and that unavoidably result in decreased
weight or measure, (2) exemption as to small packages, and (3)
exemptions as to commodities put up in variable weights or sizes for
sale to the consumer intact and either customarily not sold as
individual units or customarily weighed or measured at the time of sale
to the consumer. (§ 23 ch 101 SLA 1961; am § 2 ch 78 SLA 1969)

Sec. 45.75.210. Declarations of unit price on random
packages. In addition to the declarations required by AS 45.75.200, a
commodity in package form, which is one of a lot containing random
weights, measures, or counts of the same commodity and bearing the
total selling price of the package, shall bear on the outside of the
package a plain and conspicuous declaration of the price per single unit
of weight, measure, or count. (§ 24 ch 101 SLA 1961)

Sec. 45.75.220. Misleading packages. No commodity in package
form may be so wrapped, or put in a container so made, formed, or filled
as to mislead the purchaser as to the quantity of the contents of the
package, and the contents of a container may not fall below the
reasonable standard of fill which the director prescribes for the
commodity. (§ 25 ch 101 SLA 1961)

Sec. 45.75.225. Advertising packages for sale. (a) When a
commodity in package form is advertised in any manner and the retail
price of the package is stated in the advertisement, there shall be
clearly and conspicuously associated with the statement of price a
declaration of the basic quantity of contents of the package as is
required by law or regulation to appear on the package.

(b) When the law or regulation requires a dual declaration of net
quantity to appear on the package, only the declaration that is required
to appear first and without parentheses on the package need appear in
the advertisement.

(c) There may not be included as part of the declaration required by
this section such qualifying terms as "when packed," "minimum," "not
less than," or other terms of similar import nor terms qualifying a unit
of weight, measure, or count such as "jumbo," "giant," "full," which

Title 40
Water, Air and
Environmental Conservation
Wellness, Social Services
and Institutions

Section

- 270. Fluid dairy products
- 280. Flour, corn meal, and hominy grits
- 282. Bulk deliveries sold in terms of weight and delivered by vehicle
- 288. Furnace and stove oil

Section

- 290. Coal, coke, and charcoal
- 300. Textile products
- 310. Berries and small fruits
- 320. Construction of contracts

Sec. 45.75.190. Method of sale of commodities. (a) Commodities in liquid form may be sold only by liquid measure or by weight. Except as otherwise provided in this chapter, commodities not in liquid form may be sold only by weight, by measure of length or area, or by count. However, liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if the method gives accurate information as to the quantity of commodity sold.

(b) The provisions of this section do not apply to

- (1) commodities when sold for immediate consumption on the premises where sold;
- (2) vegetables when sold by the head or bunch;
- (3) commodities in containers standardized by a law of this state or by federal law;
- (4) berries and small fruits when sold by dry measure in accordance with AS 45.75.310;
- (5) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;
- (6) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, and crushed stone, when sold by cubic measure; or
- (7) unprocessed vegetable and animal fertilizer sold by cubic measure.

(c) The director may issue reasonable regulations necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative. (§ 22 ch 101 SLA 1961)

Am. Jur. 2d reference. — 67 Am. Jur. 2d. Sales, § 2-11 seq.

Sec. 45.75.200. Declarations of quantity and origin on packages. (a) Except as otherwise provided in this chapter, a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of

- (1) the net quantity of the contents in terms of weight, measure, or count;
- (2) in the case of a package kept, offered, or exposed for sale, or sold in a place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; and

(b) the identity of the commodity as identified through the declaration (b) In the declaration qualifying term "when packaged," "giant," "full," "count of commodity in (c) Under (a)(1) of this section to establish (1) reasonable weights and measures to include various units by ordinary and custom introduced into intrastate commerce in good distribution practice weight or measure, (2) exemptions as to commodities sold to the consumer in individual units or customary units to the consumer. (§ 23 ch 101 SLA 1961)

Sec. 45.75.210. Declaration of quantity on packages. In addition to the net quantity of commodity in package form, the package shall bear weights, measures, or counts and the total selling price of the commodity in the package a plain and conspicuous declaration of weight, measure, or count.

Sec. 45.75.220. Misleading packaging. A commodity may be so wrapped or packaged as to mislead the purchaser as to the quantity of commodity in the package, and the container shall bear a reasonable standard declaration of quantity of commodity. (§ 25 ch 101 SLA 1961)

Sec. 45.75.225. Advertisement for commodity in package. The price of the package shall be prominently and conspicuously displayed and a declaration of the net quantity of the commodity required by law or regulation shall be prominently displayed.

(b) When the law requires a declaration of quantity to appear on the package, the declaration shall appear first and prominently on the advertisement.

(c) There may not be any other declaration on this section such as "less than," or other terms, or weight, measure,

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

WEIGHTS AND MEASURES SECTION

P.O. Box 10-1686
Anchorage, Alaska 99511
(907)345-3886

April 14, 1981

Arthur H. Peterson
Assistant Attorney General
Department of Law
Pouch K
Juneau, Alaska 99811

Subject: Regulations Pertaining to Section 45.75.250
"Bread" of the Weights and Measures Act.

Dear Art:

Per our conversation on above subject. Following is the background material you requested.

I have been asked to draft regulations allowing bread to be sold within the State of Alaska in 15 oz. and 22½ oz. increments.

I would like a legal interpretation if regulations may be established under the portion of this section that reads "within reasonable variations or tolerances established by the director."

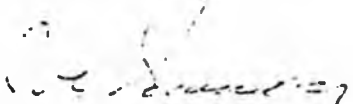
This request originated because the State of Washington allows bread to be baked and sold in several increments other than half or even pound. Some suppliers of bread products to several Alaskan communities do not bake most brands in the even increments required in our statutes and the purchasers are forced to seek several sources to supply their needs.

April 14, 1981

A regulation allowing bread to be sold in increments in other than those required by the statute would solve the problem. However, before I draft regulations of this nature I would like to have the Attorney General's interpretation of "reasonable variations or tolerances."

For additional information please find enclosed a copy of Chapter 34 of the AAC, Article 2, Section 30; and Chapter 33, Article 9, Sections 630 and 640, pertaining to reasonable variations.

Sincerely,


Joseph L. Swanson
Chief, Weights and Measures

Enc.

cc: Deputy Commissioner Pete Jeans
✓ Representative Ernie Haugen
Art Hammer

Sec. 45.75.240. MEAT, POULTRY, AND SEAFOOD. (a) Except as provided in (b) of this section, meat, meat products, poultry, and seafood except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element to form either a distinctive food product or a food combination, the food product or combination shall be offered or exposed for sale and sold by weight. The quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

(b) This section does not apply to meat, meat products, poultry or seafood which is for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal not to be consumed on the premises where sold. (§ 28 ch 101 SLA 1961; am § 4 ch 78 SLA 1969)

Effect of amendment--The 1969 amendment designated the former section as subsection (a) and added subsection (b). In subsection (a) the amendment added "Except as provided in (b) of this section" at the beginning of the first sentence, deleted "unit or" preceding "weight" in the first and second sentences, and added the last sentence.

Sec. 45.75.250. BREAD. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of § 200 of this chapter do not apply to unwrapped loaves of bread. (§ 29 ch 101 SLA 1961)

Sec. 45.75.260. BUTTER, OLEOMARGARINE, AND MARGARINE. Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight and only in units of one-fourth pound, one-half pound, one pound, or multiples of one pound, avoirdupois weight. (§ 30 ch 101 SLA 1961)

Sec. 45.75.270. FLUID DAIRY PRODUCTS. Fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of one gill, one-half liquid pint, 10 fluid ounces, one liquid pint, one liquid quart, one-half gallon, one gallon, one and one-half gallon, two and one-half gallon, or multiples of one gallon. However, packages in units of less than one gill are permitted. (§ 31 ch 101 SLA 1961; am § 5 ch 7 SLA 1969)

Effect of amendment--The 1969 amendment inserted "one and one-half gallon, two and one-half gallon" in the first sentence.

Sec. 45.75.280. FLOUR, CORN MEAL, AND HOMINY GRITS. When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of 2, 5, 10, 25, 50, or 100 pounds, avoirdupois weight. However, packages in units of less than two pounds or more than 100 pounds are permitted.

ARTICLE 2. BREAD

Section

- 30. Variances and tolerances
- 40. Sizes of baking pans

3 AAC 34.030. VARIANCES AND TOLERANCES. (a) Any bread manufactured for sale, offered or exposed for sale or sold, shall meet the weight requirements of AS 45.75.250 except that the following variances and tolerances are acceptable:

(1) the one pound loaf (standard loaf) may weigh not less than 15 ounces;

(2) the one and one-half pound loaf (standard large loaf) may weigh not less than 22 ounces and not more than 25 ounces;

(3) any loaf weighing more than those described in subsection (a) and (b) of this

Register 48, January 1974

section, shall be in multiples of one pound and the variances and tolerances may be not more than a minus one ounce per pound or more than a plus one ounce per pound.

(b) The statement of quantity required by AS 45.75.200(a)(1) to appear on the label shall not include the variances and tolerances permitted in subsections (1), (2) and (3) of this section. (Eff. 12/18/64, Reg. 17; am 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

3 AAC 33.630. VARIATIONS FROM DECLARED NET QUANTITY. Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large. (Eff. 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

3 AAC 33.640. VARIATIONS RESULTING FROM EXPOSURE. Variations from the declared weight or measure on individual packages shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce; provided, that the phrase "introduced into intrastate commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the state, the delivery being either

(1) directly to the purchaser or to his agent;
or,

(2) to a common carrier for shipment to the purchaser. This paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted. (Eff. 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

MEMORANDUM

State of Alaska

TO: Joseph L. Swanson, Chief
Weights and Measures
Department of Commerce and Economic
Development

DATE: May 18, 1981

FILE NO: J-66-693-81

TELEPHONE NO: 465-3600 x 56

THRU: Pete Jeans
FROM: Deputy Commissioner
Department of Commerce and Economic
Development

SUBJECT: Regulation of Bread;
AS 45.75.250

WILSON L. CONDON
ATTORNEY GENERAL

By: Sarah T. Kavasharov
Assistant Attorney General

You have asked whether 3 AAC 34.030 may be construed to allow sale on a regular basis of loaves of bread weighing 15 oz. and 22.5 oz. 3 AAC 34.030, in effect since 1964, interprets AS 45.75.250, which sets standards for sizes of loaves. We understand that the most common standard loaf sizes regularly offered for sale are 16 oz. (1 lb.) and 24 oz. (1 1/2 lb.) However, we understand from you that the State of Washington allows regular marketing of loaves marked 15 oz. and 22.5 oz., and that Southeastern grocers have asked if they may stock and sell loaves of these sizes which are shipped from that state.

1/ AS 45.75.250 provides:

Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread.

3 AAC 34.030 provides, in relevant part, that:

(a) Any bread manufactured for sale, offered or exposed for sale or sold, shall meet the weight requirements of AS 45.75.250 except that the following variances and tolerances are acceptable:

AS 45.75.250 provides, in part, that "reasonable variations or tolerances" from the statutory standard may be allowed by regulation adopted by the director of the division of weights and measures. 3 AAC 34.030 defines "variations or tolerances" to allow a 16 oz. loaf to weigh not less than 15 ozs. and a 24 oz. loaf to weigh not less than 22.5 ozs. We understand that it has been suggested to you that the regulation might be construed to allow regular marketing of the 15 oz. and 22.5 oz. loaves shipped from Washington.

We believe that approving the regular marketing of 15 oz. and 22.5 oz. loaves would be changing rather than interpreting the statute. Variation would still have to be allowed for individual loaves because of the problem that no one particular loaf can be expected to meet any standard to the exact ounce. We understand that it was to meet this problem that "reasonable variation" is allowed at all. Therefore, variation in the neighborhood of an ounce would still have to be allowed, with the result that loaves which should meet the 16 oz. standard could weigh only 14 oz. This would accomplish a shrinking of the statutory standard by executive action, which is not a reasonable exercise of the regulatory power.

AS 44.62.030 provides in part, that "no regulation adopted is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute." The apparent purpose of the statute is to protect reasonable public expectation that bread loaves will be of a standard size. The statute establishes a standard which consumers may reasonably expect to be followed. To allow a "variation" from the standard in this fashion -- a variation which would be virtually invisible to the consumer and yet not so small that it would not be significant -- would not be consistent with the statute. And, far from being reasonably necessary to carry out the purposes of the statute, it would operate to undermine the public protection purpose of the statute. A change of this nature should be made only with full notice to the public and opportunity for comment. At the least, this would require adoption of an amendment of

1/ (continued)

(1) the one pound loaf (standard loaf) may weigh not less than 15 ounces;

(2) the one and one-half pound loaf (standard large loaf) may weigh not less than 22 ounces and not more than 25 ounces;

(3) any loaf weighing more than those described in subsection (a) and (b) of this section, shall be in multiples of one pound and the variances and tolerances may not be more than a minus one ounce per pound or more than a plus one ounce per pound.

the current regulation through procedures established by the Administrative Procedure Act (AS 44.62). However, we believe that it would be an abuse of the regulatory power even to do this, because it would amount to change in the statutory standard by regulation.

In short, our view is, that the legislature has set a standard and only the legislature should change it. To deviate from the standard more than is reasonably necessary to accommodate the problem that individual loaves cannot be precisely uniform would be essentially to change the standard.

STK/jb

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Bakers of
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Honey Meal
Custom Label

February 4, 1982

State of Alaska

Re: Bread Weight Modification Bill

Due to the importance of your hearing I wish that I was in attendance, but a conflict made that impossible. The benefits to the people of Alaska are significant, if the Bill of Representatives Terry Martin and Ernie Haugen is adopted. To express these benefits during your hearing is the reason this letter is written.

In this era of rising costs and economic squeeze, conscientious manufacturers must increase productivity and decrease costs and the ultimate price of their product for the benefit of the public.

Currently the laws covering the bread weights of Alaska, Oregon and Washington vary. This increases costs due to production run stoppage for weight changes, costly small volume purchases of packaging material, and duplicated packaging inventories. Bread bag costs range from 1.7¢ to 4¢ depending some on ink coverage, but mainly on quantity runs. Modification of the Alaska law so that these extra costs can be eliminated will give your citizens a better buy on a very basic food - bread.

It is also the opinion of the Baking Industry that with the public's interest in many new varieties of bread the weight of the dough must vary to bake the best quality product. The expansion of the dough differs greatly, from the regular white and blend wheat breads to the heavier multi-grain natural products which the public is interested in today. Therefore, quality can be improved and prices reduced by using less bread dough for some types of products.

Thank you,

LeConie Stiles, Jr.
President

For Feb. 9th

Bread Bill

House Bill 597 - Sponsor Carmie, Haugan

Please call Mr. Jeff Garcia (main contact person)
Associated Grocers Inc.

P.O. Box 3763

Seattle, Wash. 50124

Phone 01-206-762-2100 ext. 7400 or 741

1) Get current laws and section changes from
Rep Ernie Haugan's Office and
#3712 or 3879 we have

[Bottleneck for this is Jol Swanson? - his name to attorney
attorney general reply]

Ed Pooley - Seattle supporter with _____?

* Mary - Please call Jeff Garcia above. ^{notified 1-18-82}
let him know hearing date for above
bill and if confirmed let Ernie Haugan
know.

Thanks



THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 597
 Title Relating to the sale of bread
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Commerce and Economic Development
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Weights and Measures
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 2/8/82 PREPARED BY E. W. Eboch
 AGENCY Commerce and Economic Development
 Original: Legislative Finance PHONE 465-2500
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

2-9-82

ALASKA

STATE LEGISLATURE

MEMORANDUM

Enclosed Terry

- 1- Letter from Joe Swanson to attorney general seeking answers.
- 2- Reply from atty generals' office
- 3- Someone from Dept. of Law will be in attendance to answer any questions committee may have.

H B

6 1 2

COMMITTEE REPORT

HOUSE

6/18/81

FURTHER:

(5)

Date: 6-18-81

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 612

"An Act relating to public contracts for architectural and engineering services.

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for 30787 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

COMMITTEE TAPE LOG

TAPE NUMBER 1,2

COMMITTEE LABOR AND COMMERCE

HEARING DATE 9/22/81

MEMBERS PRESENT Chairman Terry Martin, Rep Bernie Bylsma

LEGISLATION CONSIDERED House Bills 600 & 612

METER NO. PERSON SPEAKING/ACTION

012 TP1/1 Don Dent, Engineer, President of Bd. of Dir. AK Prof Design Co
cl.

204 TP1/1 Leo McGlothlin, State President, Amer. Institute of Architects

297 TP 1/1 Ken Cannon, President, CCC Architects

669 TP1/1 Ray Shumway, Dep Commissioner, DOT

384 TP1/2 Charles Tryck, Consultant Engineers Commission of AK

679 TP1/2 Ray Shumway (correction to testimony)

1/15/82

TESTIMONY OF MR. CHARLES E. TOPKKO
President, Consulting Engineers Council of Alaska

Mr. Chairman and members of the Committee, my name is Charles E. Torkko. I am the President of the Consulting Engineers Council of Alaska. The Council is an association of active engineering firms dedicated to advancing the quality of engineering in Alaska. I would like to speak today in support of legislation ensuring that the selection of registered professional architects, engineers, and land surveyors for public projects will be made on the basis of professional qualifications and competence and not on premature fee or price bids. To assist the Committee, I have prepared copies of my remarks which I would like to leave with you, Mr. Chairman, at the conclusion of my testimony.

Traditionally, the selection of architects, engineers, and land surveyors--like many other learned professions--has been conducted through an evaluation process based on demonstrated competence and professional qualifications to perform the specific work that is desired. In this regard the selection of an engineer differs from the selection of a vendor for parts or supplies and from selection of construction contractors in that the choice of a vendor or contractor is generally based on detailed specifications and a quoted price, and contracts are generally awarded on a "low-bid" basis. The reason for this difference lies in the fact that the

professional architect or engineer offers a service that calls for applying state-of-the-art techniques to problems which are invariably unique and result in procurement specifications for vendors and construction contractors. I have been a professional engineer for over 20 years, and I can represent to this Committee that in those years I cannot remember solving the same design problem twice. Given these circumstances, the sole consideration in selecting an architect or engineer for a project must be whether the education, skills, and experience represented are best suited to the specific design problems of a proposed project.

No one in this room today--if he or she were ill--would think of asking for bids from physicians and expecting the low bidder to cure a person's illness while restricting the physician's resources. Nor would anyone with a particular complex legal problem--let's say an antitrust matter--ask for bids from the entire legal profession hoping that the most qualified attorney will just happen to submit the cheapest price. Similarly, in the design of a building or other public project, the first and foremost consideration must be the relative skill and experience of persons proposing to do the work. Only after a person or firm has been selected as the best qualified, and after the full requirements of the job have been assessed, should an attempt be made to negotiate a fair and reasonable price for the desired work. I stress the terms "fair" and "reasonable" because I do not mean to suggest that the cost of professional services should be ignored. It must always be the duty of the state or local official responsible for a public project to ensure that fees for professional

architectural or engineering services are amply justified. However, the only time that such a determination can properly be made is after the full scope and complexity of the project are understood, through negotiation. The selected firm must often be given clarifying assistance in the development of the project's objectives.

Many of you might ask what is wrong with requesting preliminary fee bids or estimates of charges for architectural and engineering services. Who loses if a contract is awarded based on, or substantially influenced by, such fee bids?

First and foremost--it is the public who loses--as the ultimate consumer for the proposed project. The public loses in that a few dollars saved at the critical design stage through shortcuts or unimaginative design solutions will result in increased construction costs and--more importantly--in increased operating, maintenance, and other life-cycle costs for the project over the many years of its useful life.

The public loses again in terms of receiving less than maximum value or utility from the project. A "bargain" price is no bargain if the item purchased does not do the job or does it at reduced efficiency.

Second, the professions of architecture and engineering suffer. Human nature being what it is, if fee bids or price estimates are injected prematurely into a competition process, the temptation to "lowball" the bid

will often be irresistible. A job obtained through a "bare bones" bid will produce one of two results. Either the client, and in this case the public, gets a less than optimal project and pays manyfold for the few dollars saved in design costs, or the design costs are later escalated upward through change orders as the client discovers the true cost of quality, professional work. This is, of course, unfair to others in the competitive process who may have refused to sacrifice professional quality for price.

The concept that I have outlined for you today, and which is represented in the legislation before this Committee, is neither new nor radical. As I mentioned at the beginning of my remarks, the generally accepted method for selecting architects and engineers has been to defer negotiation of fee until after a selection has been made based on qualifications. The federal government recognized the need to ensure that this concept is protected by passage of the Brooks Act in 1972. Many other states have followed this precedent and have enacted similar legislation. I have attached a list of these jurisdictions to my written remarks for the information of the Committee. Also, the American Bar Association, after years of effort, has adopted its Model Procurement Code, which calls for competitions to be based on qualifications and for the best qualified person or firm to be selected before fee or price is negotiated. Finally, the Alaska State Board of Registration for Architects, Engineers and Land Surveyors, established under Title 8 of the Alaska Statutes, has adopted, as a regulation with the force of law, 12 AAC 36.230, which prohibits registered professional architects and engineers from soliciting

or submitting proposals for services based on fee or price bids.

Although the substantial majority of public contracts for architectural and engineering services in Alaska are presently being advertised and awarded in accordance with the concept I have described, there have, unfortunately, been cases in which, either intentionally or inadvertently, registered professionals have been requested to submit fee bids. When a registered architect or engineer is faced with such a request, he or she must either decline to submit a proposal for the public job or be placed in a situation which violates the code of professional conduct established by regulation. The legislation which the Consulting Engineers Council of Alaska supports would specify that for contracts with registered architects or engineers issued by the state or a political subdivision, the initial selection of a person or firm must be made on the basis of professional qualifications and demonstrated competence to perform the desired work. I would, however, like to stress that the state or local official would, under this proposal, be free to establish whatever procedures or criteria they deem best in selecting a qualified person or firm. The only requirement under the proposed bill is that an attempt be made to negotiate a fair and reasonable fee with a person or firm selected as best qualified to perform the needed work. If negotiations with that person or firm are unsuccessful, state or local officials remain free to negotiate with other qualified applicants or to reject all or part of the remaining proposals. The recommended legislation would only apply to contracts with registered professional architects, engineers, and land

surveyors and would not affect bids for construction or other types of services or supplies by the state or its local governments. Also, contracts awarded in response to an emergency condition would be exempt from provisions of the bill.

By adopting the proposed bill, Alaska will join with many other states in ensuring that the public receives the highest possible quality of architectural and engineering services while preserving flexibility for state and local officials. I urge this Committee to act favorably on the proposed bill, and I will be happy to attempt to answer any questions. Thank you for the opportunity of testifying before the Committee today, and I thank you for your consideration of the proposed bill.

Sofa
9/16/81

proposed

Original sponsor: Labor and Commerce
Committee by request

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 612 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public contracts for architectural
7 and engineering services."

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

9 * Section 1. AS 35.15 is amended by adding a new section to read:

10 Sec. 35.15.055. CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SER-
11 VICES. (a) The department may award a contract for architectural or
12 engineering services only to a person or firm that the department deter-
13 mines is capable and qualified. Notwithstanding AS-35-15-050, after
14 selecting a capable and qualified contractor for architectural or engi-
15 neering services the department shall establish a reasonable fee for the
16 services through negotiations with the contractor. The fee shall be
17 based on the scope and complexity of the services required.

18 (b) A person or firm that ^(submit) provides architectural or engineering
19 services may annually submit to the department a statement of qualifica-
20 tions and performance data. Before awarding a contract under (a) of
21 this section, the department shall review the statements of qualifica-
22 tions and performance data on file with the department together with
23 statements of qualifications and performance data submitted by others in
24 response to an advertisement or request for bids under AS 35.15.030.

for proposals.

*This passed
as CS.*

*Mitch Graves submitted
this for consideration &
discussion by committee*

CS HB 612

DISCUSSION DRAFT
(Second Draft)

1/12/82

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act relating to contracts for architectural, engineering and land surveying services, and providing for an effective date."

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

Section 1. AS Title 36 is amended by adding a Chapter to read:

Chapter 30. Professional Service Contracts

Section 36.30.010. Contracts for Architectural, Engineering and Land Surveying Services. (a) It shall be the policy of the state and all political subdivisions, including any agencies thereof, to select persons or firms for the performance of architectural, engineering or land surveying services and to award contracts for such services only on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(b) In issuing any request for services of an architect, engineer, or land surveyor registered under AS 08.48 and in awarding contracts to such registered professionals, the state and all political subdivisions shall select a person or firm deemed best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications, and an attempt shall be made to negotiate a contract with such person or firm at a price which is fair and reasonable. Prior to such selection and negotiation, the state or a political subdivision shall not request or consider any statement, bid or estimate of fees or charges for architectural, engineering or surveying services for the proposed project or request any other submission or action which would constitute a violation of any provision of AS 08.48 or any regulation adopted thereunder.

(c) This section shall not be construed to require any particular procedure for the selection of architects, engineers or surveyors or for the award of contracts except as provided in subsection (b) above. Nothing in this section shall prevent the state or a political subdivision from publicly ranking proposals or offers received in response to a request for services or from attempting to negotiate a fair and reasonable price with the proponent deemed best qualified to perform the desired work or from attempting to negotiate such a price with other proponents, in order of ranking, if negotiations with the first ranked proponent are not successful or from rejecting all or part of any proposals. This section shall not apply to contracts awarded on an emergency basis when the person responsible for execution of the contract on behalf of the state or a political subdivision has certified in writing that an emergency exists.

Section 2. AS 36.95.010 is amended by adding subsections to read:

Section 36.95.010 Definitions. In AS 36.95.010 - [36.25.025] 36.30.010 unless the context requires otherwise:

() "emergency" means a condition which results in imminent danger of harm to the public health, safety or welfare or which requires immediate action to prevent harm to any person or property.

Section 3. AS 19.10.170(a) is amended to read:

(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, subject to the provisions of (b) of this section, when the estimated cost of a construction project is less than \$100,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

Section 4. AS 35.15.010(a) is amended to read:

(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

Section 5. AS 37.05.230 is amended by adding a new subsection (9) to read:

(9) Requests and acceptance of bids, or other proposals for professional services of an architect, engineer or land surveyor registered under AS 08.48 shall comply with AS 36.30.010.

Section 6. AS 37.05.240 is amended by adding a new subsection to read:

(6) Requests and acceptance of bids, requests or other proposals for professional services of an architect, engineer or land surveyor registered under AS 08.48 shall comply with AS 36.30.010.

Section 7. This Act shall apply to all requests or advertisements for bids or proposals or other requests for professional services issued after the effective date hereof.

Section 8. This Act takes effect immediately in accordance with AS 01.10.070(c).

Note: States may appear in more than one category. Prohibition of or exemption from competitive bidding requirements for procurement in general may be provided in general statutes for A/E services. A specific procedure for selection of A/E services may be spelled out in another law.

States which prohibit competitive bidding for A/E services in Law:

Tennessee

Texas

States which exempt A/E services from general bidding requirements:

California
 District of Columbia
 Hawaii
 Illinois
 Kentucky
 Mississippi-by attorney
 general's ruling

New Jersey
 New York-by state
 comptroller's opinion
 Ohio
 Oklahoma
 Pennsylvania
 Wyoming

States calling for selection based on qualification: (with procedure requiring ranking of firms, negotiation on scope of project and fee with the top firm. If no contract can be reached, negotiations are terminated and taken up with the second ranked firm. Same procedure required for third ranked firm (and lower ranked firms if required by law) if no agreement can be reached with the second.

California (1973)
 Connecticut (1979)
 Colorado (1979)
 Delaware (1976)
 Florida (1973)
 Kansas As and Es (1977)
 Kentucky (1978)
 Louisiana (1975)
 Maine (1979)
 Massachusetts (1975)

Minnesota (1975)
 Nebraska (1978)
 New Hampshire (1973)
 New York State (1980)
 Oklahoma (1974)
 Pennsylvania-building (1975)
 construction offices
 South Carolina (1981)
 Texas (1971)
 Utah (1980)
 Virginia (1980)
 Washington (1981)

States prohibiting competitive bidding under registration law rules, regulations, standards of conduct: (Source: NCARB study revised June 13, 1975. Whether rules are promulgated for architectural board alone, joint board or occupational board is noted).

Arkansas - A
 Connecticut - A
 Florida - A
 Hawaii - A/PE/S
 Idaho - Occup. Licensing
 Kentucky - A
 Louisiana - Occup. Standards
 Montana - A
 North Carolina - A

North Dakota - A
 Oklahoma - A
 South Carolina - A
 South Dakota - A/E
 Tennessee - A/E
 Vermont - A
 Wisconsin - A/E
 Pennsylvania - A/E/LS

ABA

Part E—Architect-Engineer Services

§5-501 Architect-Engineer Services.

(1) *Applicability.* Architect-engineer services shall be procured as provided in this Section except as authorized by Section 3-204 (Small Purchases), Section 3-205 (Sole Source Procurement), and Section 3-206 (Emergency Procurements).

(2) *Policy.* It is the policy of this [State] to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(3) *Architect-Engineer Selection Committee.* In the procurement of architectural and engineering services, the Chief Procurement Officer or the head of a Purchasing Agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. [The Chief Procurement Officer or the head of a Purchasing Agency, the Procurement Officer, and [the State Architect]] shall comprise the Architect-Engineer Selection Committee for each architect-engineer services contract over [S_____]. The Selection Committee for architect-engineer services contracts under this amount shall be established in accordance with regulations promulgated by the Policy Office. The Selection Committee shall evaluate current statements of qualifications and performance data on file with the [State], together with those that may be submitted by other firms regarding the proposed contract. The Selection Committee shall conduct discussions with no less than three firms regarding the contract and the relative utility of alternative methods of approach for furnishing the required services, and then shall select therefrom, in order of preference, based upon criteria established and published by the Selection Committee, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(4) *Negotiation.* The Procurement Officer shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the Procurement Officer determines in writing to be fair and reasonable to the [State]. In making this decision, the Procurement Officer shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Procurement Officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the Procurement Officer determines to be fair and reasonable to the [State], negotiations with that firm shall be formally terminated. The Procurement Officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Procurement Officer shall formally terminate negotiations. The Procurement Officer shall then undertake negotiations with the third most qualified firm. Should the Procurement Officer be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the Procurement Officer shall select additional firms in order of their competence and qualifications, and the Procurement Officer shall continue negotiations in accordance with this Section until an agreement is reached.

COMMENTARY:

(1) This Section applies to procurement of all services within the scope of architecture, professional engineering, or registered land surveying as defined by the laws of the State whether or not construction is involved.

(2) The principal reason for the lack of a definitive policy on the importance of selecting a firm to represent the [State's] interests is the fact that no firm is normally existing in a business which is available for the availability of the third party negotiated later.

(3) It is considered that the price because both estimates of man-hours (to be considered in depth). Once an engineer proposes a fee for his own evaluation and judgment.

(4) If the fee is fair, it is considered that of other competing firms with other qualifications of the architect-engineer recommended procedure for competitive source selection.

(5) If an enacting jurisdiction the following language:

"The Procurement Officer shall negotiate a contract for architectural and engineering services at compensation which the Procurement Officer determines in writing to be fair and reasonable to the [State]. In making this decision, the Procurement Officer shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Procurement Officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the Procurement Officer determines to be fair and reasonable to the [State], negotiations with that firm shall be formally terminated. The Procurement Officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Procurement Officer shall formally terminate negotiations. The Procurement Officer shall then undertake negotiations with the third most qualified firm. Should the Procurement Officer be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the Procurement Officer shall select additional firms in order of their competence and qualifications, and the Procurement Officer shall continue negotiations in accordance with this Section until an agreement is reached."

(2) The principal reasons supporting this selection procedure for architect-engineer services are the lack of a definitive scope of work for such services at the time the selection is made and the importance of selecting the best qualified firm. In general, the architect-engineer is engaged to represent the [State's] interests and is, therefore, in a different relationship with the [State] from that normally existing in a buyer-seller situation. For these reasons, the qualifications, competence, and availability of the three most qualified architect-engineer firms is considered initially, and price negotiated later.

(3) It is considered more desirable to make the qualification selection first and then to discuss the price because both parties need to review in detail what is involved in the work (for example, estimates of man-hours, personnel costs, and alternatives that the architect-engineer should consider in depth). Once parameters have been fully discussed and understood and the architect-engineer proposes a fee for the work, the recommended procedure requires the [State] to make its own evaluation and judgment as to the reasonableness of the fee.

(4) If the fee is fair and reasonable, award is made without consideration of proposals and fees of other competing firms. If the fee cannot be negotiated to the satisfaction of the [State], negotiations with other qualified firms are initiated. Thus price clearly is an important factor in the award of the architect-engineer contract under this procedure. The principal difference between the recommended procedure for architect-engineer selection and the procedures used in most other competitive source selections is the point at which price is considered.

(5) If an enacting jurisdiction desires to use a different selection process, then it may consider the following language:

"The Procurement Officer shall negotiate with the highest qualified firms for a contract for architectural and engineering services at compensation which the Procurement Officer determines in writing to be fair and reasonable to the [State]. In making such determination, the Procurement Officer shall take into account, in the following order of importance, the professional competence of offerors, the technical merits of offers, and the price for which the services are to be rendered."

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CS HB 612

DISCUSSION DRAFT
(Second Draft)

1/12/82

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act relating to contracts for architectural, engineering and and surveying services, and providing for an effective date."

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

Section 1. AS Title 36 is amended by adding a Chapter to read:

Chapter 30. Professional Service Contracts

Section 36.30.010. Contracts for Architectural, Engineering and Land Surveying Services. (a) It shall be the policy of the state and all political subdivisions, including any agencies thereof, to select persons or firms for the performance of architectural, engineering or land surveying services and to award contracts for such services only on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(b) In issuing any request for services of an architect, engineer, or land surveyor registered under AS 08.48 and in awarding contracts to such registered professionals, the state and all political subdivisions shall select a person or firm deemed best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications, and an attempt shall be made to negotiate a contract with such person or firm at a price which is fair and reasonable. Prior to such selection and negotiation, the state or a political subdivision shall not request or consider any statement, bid or estimate of fees or charges for architectural, engineering or surveying services for the proposed project or request any other submission or action which would constitute a violation of any provision of AS 08.48 or any regulation adopted thereunder.

(c) This section shall not be construed to require any particular procedure for the selection of architects, engineers or surveyors or for the award of contracts except as provided in subsection (b) above. Nothing in this section shall prevent the state or a political subdivision from publicly ranking proposals or offers received in response to a request for services or from attempting to negotiate a fair and reasonable price with the proponent deemed best qualified to perform the desired work or from attempting to negotiate such a price with other proponents, in order of ranking, if negotiations with the first ranked proponent are not successful or from rejecting all or part of any proposals. This section shall not apply to contracts awarded on an emergency basis when the person responsible for execution of the contract on behalf of the state or a political subdivision has certified in writing that an emergency exists.

Section 2. AS 36.95.010 is amended by adding subsections to read:

Section 36.95.010 Definitions. In AS 36.95.010 - [36.25.025] 36.30.010 unless the context requires otherwise:

() "emergency" means a condition which results in imminent danger of harm to the public health, safety or welfare or which requires immediate action to prevent harm to any person or property.

Section 3. AS 19.10.170(a) is amended to read:

(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, subject to the provisions of (b) of this section, when the estimated cost of a construction project is less than \$100,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

Charles Torsha -

pool of applicants to contract with qualifications
+ low bidding -
demonstration of confidence of performance.

Let record show Rep. Terry Davidson is present.

Speak on HB 600 - dropped because
from hearing schedule
liabilities of airt, eng. & land surveys

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 18, 1982

SUBJECT: Analysis of CSHB 612 (L&C)

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

You have asked for a review and comparison of CSHB 612 with drafts of legislation prepared by attorney, Ted Berns. CSHB 612 and the two drafts provided by Mr. Berns all share in common the objective of taking architectural engineering and land surveying service contracts out from under the requirement that they be let to the lowest responsible bidder. CSHB 612 provides that such contracts should be awarded only to persons or firms that are "capable and qualified". After selecting a capable and qualified contractor, CSHB 612 provides that the fee for the services should be reached through negotiations with the contractor. CSHB 612 also allows for various contractors to have on file with the state material showing their qualifications and performance data. Both drafts provided by Mr. Berns require that contracts for architectural, engineering and land surveying services be awarded "only on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices". The drafts provided by Mr. Berns similarly require that only after the qualified contractor has been selected shall negotiations for the contract price be entered into. The discussion drafts both require that the contract be awarded to the contractor "best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications". It may be argued that the use of that phrase results in limiting the number of potentially qualified contractors depending on how the phrase "demonstrated competence" is interpreted. One may argue that "demonstrated competence" can only apply to those persons or firms who

Representative Terry Martin

Page 2

January 18, 1982

have been in field for a certain amount of time or who have worked for the state before. On the other hand, "demonstrated competence" does not necessarily demand such a restrictive interpretation.

Although the second discussion draft includes one or two items not included in the first discussion draft, such as an exception for emergency situations and an affirmative statement that no particular procedure is mandated in the awarding and selection of contractors, the distinguishing characteristic between the two discussion drafts and CS HB 612 is the distinction to be made, if any, between the criteria of "capable and qualified" contained in CS HB 612, and "best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications" contained in both discussion drafts. The possible different interpretations of these two phrases is the distinguishing factor between the bulk of the material contained in CS HB 612 and the two discussion drafts. Second to that point would be the exception allowed for emergency situations noted at the bottom of subsection (3) on page 2, of the second discussion draft. CS HB 612 and both discussion drafts would apparently apply both to the state and municipalities. This office has no objection to using Title 36 as a vehicle for the inclusion of the new material which the committee is considering (as done in the discussion drafts). The mechanics of making the required amendments do not present a problem.

The most important factor for the committee's review seems to be the criteria used in selecting a contractor. It may be that there is no contractor who would qualify under CS HB 612 who would not otherwise qualify under the criteria used in the discussion drafts. The converse may not be true. However, I would look forward to hearing comments from proponents of the discussion drafts as to their preference for the "demonstrated competence" language in the discussion drafts as opposed to the "capable and qualified" language in the most recent version of the committee substitute.

TAS:ljb

H

B

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Dressendorf of choice & control
of O'Connell of skill-proving
for effective date

Labor & Commerce

ch: HB640 pull also.

Passed
HB 623 same

NOTE: Rep. Dressendorf notified this & he
then advised HB 640.
Sen Bradley's office notified personnel
Coalition of Ad. Veterans "

Date Filed 1-11-82

Date Recd. 1-12-82

Referral - Judiciary

mm. Hearing - 1-19-82 - Teleconference

actual CS prepared & sent to club's office

See File HB 623
Passed

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 19, 1982

The Honorable Terry Martin
Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Mr. Martin:

Re: House Bill No. 623

House Bill No. 623, an Act relating to games of chance and contests of skill, was introduced in the House on January 11, 1982, and was referred to the House Labor & Commerce and Judiciary Committees.

For consideration of the House Labor & Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Ervin B. Jones, Supervisor, Audit Division, Department of Revenue, concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

RDS:jas

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Ervin B. Jones, Supervisor
Audit Division
Department of Revenue

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 623

Title An Act relating to games of chance and contests of skill; and
~~Requested by~~ providing for an effective date Date January 18, 1982

Requested by: House Labor and Commerce Committee

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, Or Subprogram(s) Affected Audit Division

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson dated January 18, 1982.

IV. DATE January 18, 1982

PREPARED BY Ervin B. Jones

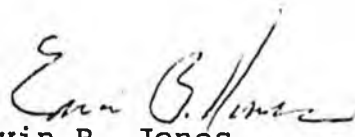
AGENCY Audit Division

Original: Legislative Finance

PHONE 465-2320


cc: Budget and Management

Prime Sponsor (First Legislator Named)



R.D. Stevenson
Legislative Assistant

January 18, 1982


Ervin Jones
Office Audit Manager
Audit Division

HB 623
(Labor and Commerce)

This bill proposes to amend three sections of AS 05.15.

The effect of these proposed changes is to considerably broaden the privileges granted with the issuance of a games of chance and skill permit. The original language of AS 05.15.100 limited the games of chance to only those activities listed (i.e., bingo, raffles, lotteries, ice classics, rain classics, dog mushers' contests and fish derbies). New games of chance would have to then be allowed under one of those listed. The proposed language removes that limitation and taken in context with sections 2 and 3 of the bill, would allow any game of chance which could be contrived where the element of chance and luck is foremost, regardless of whether those games of chance existed in Alaska prior to statehood. Since the original intent of the legislation was to permit continuance of those gaming activities after statehood which existed in territorial days, this change is a considerable divergence.

The only remaining limitation would be the limitation on use of gambling implements found in AS 05.15.180(a). This would presumably prevent the introduction of casino type hardware and coin operated video games as games of chance, but would not prevent the legal introduction of games of chance such as can be contrived by profit-seeking individuals and nonprofit organizations striving to maximize their take in an extremely competitive industry. Additionally, this bill would allow for large scale betting as it imposes no limitation on the allowable charge to participate in a pull-tab game. With no limit, and given the competitive nature of the industry, the prizes and charges to participate can be expected to escalate.

If the author's intent is simply to legalize pull-tabs, I would recommend this bill to legal counsel to arrive at a simpler way of accomplishing that goal without opening Pandora's box.

EJ:jg

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

HOUSE BILL NO. 623...

By GRUSSENDORF, VASKA AND O'CONNELL

"An Act relating to games of chance and contests of skill; and providing for an effective date."

Games of chance/contests of skill

Introduced in the House 1/11, 1982

HISTORY IN THE HOUSE

1982	Read first time and referred to Committee on Labor & Commerce and Judiciary Reported back with recommendation that										
JAN. 11											
	Read second time and										
	Read third time and										
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	Reported correctly engrossed Signed by Speaker Sent to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
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Excused	Excused										
	Reported correctly engrossed Signed by President Returned to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.