

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

2023 HISA HB 670 - HB 680

3-29-82

Original sponsor: Rogers

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 670 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring that meetings of the board of
7 directors of an electric or telephone cooperative be
8 open to members of the cooperative."

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

*and records
of an electric
telephone coop*

10 * Section 1. AS 10.25 is amended by adding new sections to read:

11 Sec. 10.25.175. BOARD MEETINGS OPEN TO MEMBERS. A meeting of the

12 board of directors may be attended by members of the cooperative.

13 Sec. 10.25.177. MEMBER'S RIGHT TO EXAMINE BOOKS AND RECORDS. A

14 member of a cooperative may, in person or by attorney, at a reasonable
15 time examine and make copies of the books and records of the cooperative

16 at the principal office of the cooperative. The cooperative may charge
17 a member an amount equal to the actual cost of duplicating documents
18 requested under this section.

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 670
 Title Requiring meetings of the board of directors of an electric or telephone
 Requested by _____ Date _____
cooperative be open to members of the cooperative.

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
 Program Category Affected Consumer Protection
 BRU, Program, Or Subprogram(s) Affected Public Utilities Commission
 (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		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

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

IV. DATE 4/2/82

PREPARED BY Larson D. Press

AGENCY Alaska Public Utilities Commission

PHONE 276-6222

Original: Legislative Finance
 cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HC670

opinion

Anchorage Daily News

Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning
Editor and Publisher
Stan Abbott
Executive Editor



Gerald E. Grilly
General Manager
Howard Weaver
Managing Editor

Laurence Fanning, Editor and Publisher 1967 to 1971
Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

22 MARCH 82

Accountability at Chugach Electric

Aggravated members of Chugach Electric Association hope to make the utility cooperative live up to its name next month. It's a good idea for all concerned.

Angered by rate increase requests totaling 54 percent and difficulty dragging salary information out of Chugach management, a group allied around board of directors member Liz Gilbert plans to offer bylaw changes designed to open decision-making processes to member scrutiny. Among the proposals:

- requiring that board meetings — except executive sessions — be open to the public;
- mandating a utility response to member questions within 30 days;
- requiring that minutes be kept of all board meetings, including executive sessions;
- allowing member balloting by mail; and
- establishing a members' committee to advise the board of directors.

All of which means improved accountability within the state's largest electric utility — a good thing for any public organization (with 52,000 paying customers, is there a more public outfit in all of Alaska?), and an essential thing for a cooperative that needs member participation. Both Chugach as an organization and its members as individuals could benefit by changes that let ratepayers in on decisions made in their name.

Massive rate hike proposals coupled with the release of a seemingly lavish salary structure brought on the current controversy about Chugach management and decision-making procedures. The sporadic and unconnected disputes of years past apparently coalesced into a groundswell of protest only when consumers were faced with a major economic setback.

But current resentment about the salary and rate structure must be translated into a continuing involvement by informed Chugach cooperative members — or the controversy will only be repeated in the future. Accountability that flows both ways between management and membership is the best defense against further dispute.

Chugach did not come to present circumstances suddenly or without prior hint. Member apathy, together with relatively low electric rates in the Anchorage area, has long allowed management to run the cooperative from the top. Any organization is likely to become ingrown and isolated from its members' concerns when they fail to play an active role. And if bylaws fail to encourage participation, it is hardly surprising that management and membership eventually would come to disagreement.

That is why loosening the bylaws to give consumers a window on the workings of their utility can help everyone: members who understand management's choices will consent more readily to rate increases shown to be necessary; managers who must listen — however uncomfortably — to ratepayers' perspectives will act more readily in members' interests. Both sides can encourage a good-faith effort to bring electricity to Alaskans at the lowest possible rates.

And if, in the controversy still to come, the 52,000 members of Chugach Electric Association become more aware of Alaska's future energy choices and needs, the episode will be beneficial for everyone.

H B

674

LAW OFFICES

WOHLFORTH & FLINT

A PROFESSIONAL CORPORATION
900 WEST 5TH AVENUE, SUITE 505
ANCHORAGE, ALASKA 99501

TELEPHONE
AREA CODE 907
276-6401

ERIC E. WOHLFORTH
ROBERT B. FLINT
TIMOTHY G. MIDDLETON
PETER ARGETSINGER
ROBERT M. JOHNSON
GEORGE T. FREEMAN

February 1, 1982

The Hon. Ray H. Metcalfe
Representative
Pouch V
Juneau, Alaska 99811

Re: 1980 Authorization of General Obligation
Bonds for Transportation Projects; Bragaw
Construction Project

Dear Representative Metcalfe:

You have asked that we review the treatment of funds allocated in the legislation enacted during the 1980 legislative session providing for the issuance of General Obligation Bonds for the purpose of financing a variety of transportation projects. Specifically, you have asked whether the funds for the construction of an extension of Bragaw Street in the Anchorage area may be subject to re-allocation between projects within the particular group of projects referred to in the legislation. Section 5 of Chapter 118 of the 1980 Session Laws appropriates a certain amount of funds for projects listed in that particular section. The Bragaw extension is one of the projects listed under this separate provision. Section (5)(b) indicates that the appropriations for the projects referred to in this section "may be re-appropriated among the projects by law." This indicates that the funds allocated to the Bragaw extension may be re-appropriated only through passage of additional legislation.

Thank you for your attention to this matter.

Very truly yours,


Eric E. Wohlforth

EEW/dlk

cc: Wilson L. Condon, Esq.
Attorney General
State of Alaska

REC'D FEB 5 1982

SENT TO;
TO REPRESENTATIVE RAY METCALFE
ALASKA STATE LEGISLATURE
POUCH V (MS 3100)
JUNEAU, ALASKA 99811

FROM
M S I Melody Sales Incorporated

ONE OF THE STATES OLDEST AND MOST REPUTABLE DEALERS
The "HouseSold" Word in Alaska
MOBILE HOME SALES AND SERVICE

Corporate Offices
3118 Mt. View Drive
Anchorage, Alaska 99501
(907) 279-3528

Quality New & Pre-owned Homes
Manufacturers Agent
& Distributor
(907) 279-3520

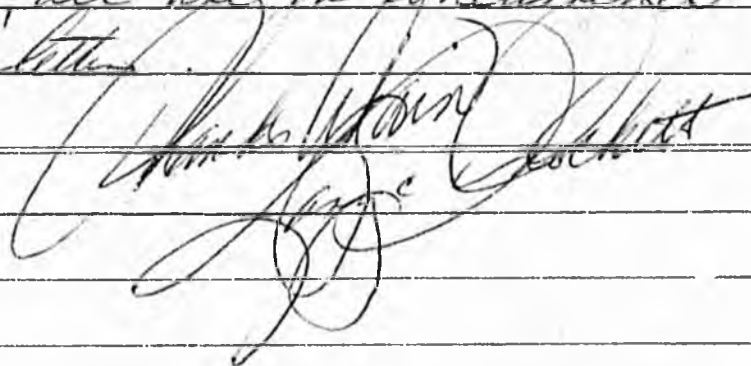
SUBJECT

DATE 2/1/82

Ray,
Please find the enclosed written
opinions from two of our attorneys.
Although I didn't request opinions
in writing from all whom I discussed
the matter with, all are in concurrence
with the enclosed letter.

SIGNED

REPLY



DATE

SIGNED

Construction Camps - Quality Mobile Homes
And Specialty Units

REC'D FEB 5 1982

HUGHES THORSNESS GANTZ POWELL & BRUNDIN

Attorneys at Law

JOHN C. HUGHES	ROBERT T. PRICE	FREDRICK J. ODSER
DAVID H. THORSNESS	* DENNIS M. BUMP	* MICHAEL L. LESSMEIER
RICHARD O. GANTZ	MARY K. HUGHES	STEVEN S. TERVOOREN
JAMES M. POWELL	FRANK A. P'IFFNER	GARY L. MARSHALL
BRIAN J. BRUNDIN	* RALPH R. BEISTLINE	MATTHEW K. PETERSON
* MARCUS R. CLAPP	GORDON J. TANS	JOSEPH R. D. LOESCHER
KENNETH P. JACOBUS	R. CRAIG HESSER	* RONALD E. NOEL
GARY W. GANTZ	ROBERT L. MANLEY	JAMES F. KLASER
JERRY E. MELCHER	* DORIS R. EHRENS	* KENNETH D. LOUGEE
JOE M. HUDDLESTON	JAMES M. GORSKI	KENNETH F. BRITTAIN
SIGURD E. MURPHY	TIMOTHY R. BYRNES	DAVID H. MERSEREAU
RICHARD D. THALER	JAMES M. SEECORF	CORY A. CARLSON
CARL J. D. BAUMAN	RONNIE L. THIE	EARL M. SUTHERLAND
FRED B. ARVIDSON	PAUL J. ERICKSON	* D. RANDALL ENSMINGER

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501
Telephone (907) 274-7522
Cable Address: DENALI
Telecopier: 274-7325
Telex 090-26376

3550 AIRPORT WAY, SUITE 265
FAIRBANKS, ALASKA 99701
Telephone (907) 479-3161
Cable Address: DENALI

* Fairbanks Office
January 28, 1982

Please reply to: ANCHORAGE.

Melody Sales, Inc.
3115 Mountain View Drive
Anchorage, Alaska 99501

Attn: Larry C. Crockett

Dear Larry:

I have reviewed House Bill No. 674 and the proposed substitute. I have the following comments.

House Bill No. 674 does not materially change the investigative powers of the Attorney General. It rewrites the statute in a somewhat more concise form. However, the rewritten statute sets forth essentially all of the investigative powers that the Attorney General has under the present statute with the exception of the power to impound samples of property which are material to his investigation and to retain the samples. As I have never seen the Attorney General do this, I do not believe this is a critical power.

The proposed substitute is, obviously, infinitely preferable.

The proposed substitute would force the Attorney General to do what any other entity must do when it seeks to press a complaint, namely, file an action in the Superior Court and go through the normal discovery processes. The proposed substitute does add a requirement of making a showing that it is more probable than not that the person to be investigated has engaged in deceptive trade practices and that the deceptive trade practice is part of a common scheme or mode of operation.

Obviously, your political judgment as to the mood in the legislature is better than mine. It occurs to me, however, that you might want to delete this extra requirement and simply propose as the substitute bill a situation where the Attorney General must file a lawsuit in Superior Court. This would give the entity being investigated the ability and right to object to requested discovery on grounds of relevancy to the action and the various

REC'D FEB 5 1982

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
Attorneys at Law

other grounds such as the burdensome nature of the discovery. It would also limit interrogatories, by way of example, to twenty interrogatories under current court rule.

As you know from painful experience, sometimes the most critical factor in dealing with the Attorney General is not the ultimate result because that is often favorable, rather, it is the cost of obtaining that result which is often considerable.

If you have any questions or want me to expand on the thoughts in this letter, please contact me.

Very truly yours,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

A handwritten signature in cursive script that reads "Richard D. Thaler". The signature is written in dark ink and is positioned below the typed name of the firm.

By: Richard D. Thaler

RDT/ks

ERWIN, SMITH & GARNETT

ATTORNEYS AT LAW
3812 SPENARD ROAD, SUITE 201
ANCHORAGE, ALASKA 99503
PHONE (907) 276-3125

ROBERT C. ERWIN
FLOYD V. SMITH
RICHARD W. GARNETT III
JAMES BENDELL
JULIE SIMON

January 27, 1982

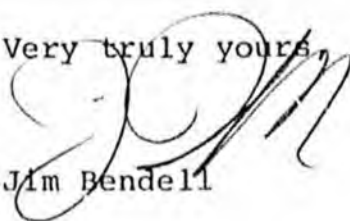
Mr. Larry Crockett
Melody Sales, Inc.
3115 Mountain View Drive
Anchorage, AK 99501

Dear Larry:

RE: Proposed House Bill 674

It is my view that the Legislative Proposal contained in House Bill 674 does not provide sufficient safeguards for businessmen who are the subject of investigation by the Attorney General's Office. My reading of the statute does not reveal any mandated court overview of the Attorney General's actions. For that reason I believe that my initial proposal is more desirable.

Very truly yours,


Jim Bendell

pb

REC'D FEB 5 1982

Alaska State Legislature

Official Business



Pouch V
State Capitol
Juneau, Alaska 99811

(907) 465-4766
(907) 465-4767
(907) 465-3718
(session only)

POUCH V
JUNEAU, ALASKA 99811

Members

- Rep. Barnes, Chairman
- Rep. Anderson, Vice-Chairman
- Rep. Phillips
- Rep. O'Connell
- Rep. Freeman
- Rep. Meekins
- Rep. Buchholdt

House of Representatives

Committee on Judiciary

P.O. Box 3352
Anchorage, AK 99510
(907) 274-1432
(907) 274-1441
POUCH V
JUNEAU, ALASKA 99811

MEMORANDUM

TO: CHIEF CLERK OF THE HOUSE

FROM: REPRESENTATIVE RAMONA BARNES
CHAIRMAN, HOUSE JUDICIARY COMMITTEE

DATE: February 1, 1982

TIME: 1:15 p.m.

PLACE: Room 124, Capitol Building

RE: COMMITTEE SCHEDULE
February 8-12

Monday, February 8, 1982 - Joint Hearing for Teleconference
Testimony with House, Health, Education and Social Services Committee
on:

- HB225 - Relating to Alaska Board of Parole
- HB293 - Relating to Alaska Board of Parole
- HB261 - Relating to Alaska Board of Parole

NOTE: This joint teleconference hearing will be held in Room 112,
Capitol Building.

Tuesday, February 9, 1982 - Testimony and Mark-up:
HB184 - An act authorizing an advisory vote on convening special
sessions of the legislature at any location in the state.

Wednesday, February 10, 1982 - Testimony and Markup:
HB674 - An act relating to requirement for Attorney General's
investigation of violations of AS 45.50.

Thursday, February 11, 1982 - Testimony and Markup:
HB428 - An act relating to state litigation and amending Civil
Rules 6 and 65.

Friday, February 12, 1982 - Testimony and Markup:
HB74 - An act amending the laws relating to creditors and debtors
duties and rights.

*These people
are to be
contacted by
Diane*

*Gail Kincaid
Melody
Homes*

MEMORANDUM

January 15, 1982

SUBJECT: Investigations under AS 45.50
(Work Order No. 12-2226)

TO: Representative Ray H. Metcalfe

FROM: Diane T. Colvin
Legislative Counsel

You submitted to us a proposal for a draft bill which would limit the authority of the Attorney General to conduct investigations concerning deceptive trade practices, as currently authorized by AS 45.50.495. We are reluctant to prepare a draft bill as proposed for the following reasons, stated in brief:

1. The proposal is subject to challenge on constitutional grounds because it may violate the doctrine of separation of powers. The proposal would require court approval before the attorney general could proceed to investigate an alleged violation of AS 45.50. It would, in effect, give the court control over exercise of the attorney general's discretion.

The Alaska Supreme Court recognized in Public Defender Assn. v. Superior Ct. Third Jud. Dist., 534 P.2d 947 (1975), the discretionary control of the attorney general over the local business of the state. The Court in that case found that interference with that discretion would be a violation of the doctrine of separation of powers. The Court stated that it did not have the power to control the exercise of the attorney general's discretion as to whether he will take action in a particular case.

2. The proposal mixes, and creates drafting problems as a result, criminal and civil procedures. Proceedings under AS 45.50 are civil and the penalties provided for violations are civil, not criminal. The proposal creates a procedure akin to a finding of probable cause, a criminal procedure,

Representative Ray W. Metcalfe
Page 2
January 15, 1962

under AS 45.50 and places it in what is otherwise a civil proceeding. This is technically difficult to deal with and to mesh with existing court rules.

As you know, I discussed these problems with your aide, Ann Krekleberg. She suggested as you directed that we contact the individual who prepared the draft for you. We have done so, and discussed the problems involved and possible alternatives.

One alternative is to provide that the attorney general prepare an investigative demand when he believes a violation of AS 45.50 exists and allow the person upon whom the demand is served to file a petition in court challenging that demand and asking that it be set aside. We have prepared a draft bill incorporating this alternative for your review. It is the procedure followed in several states and would seem to accomplish the intent of the original proposal while avoiding possible separation of powers problems.

When we discussed this alternative with the drafter of the proposed bill, he stated that it appeared to be a reasonable alternative and that he would like to review a draft based on this approach. We will, with your permission, forward a copy to him.

If you have any questions concerning this issue, do not hesitate to contact us.

DTC:ljb

Enclosure

PROPOSED STATUTE

ALASKA STATUTE 45.50.495 shall be amended as follows:

Authorizing Investigative power of attorney general.

(a) If the attorney general has cause to believe that a person has engaged in, is engaging in, or is about to engage in, a deceptive trade practice under AS 45.50.471, he may bring an action in the name of the state against the person, seeking the authority to pursue the investigative powers described in subsection (c). The action may be brought in the Superior Court in the Judicial District in which the person resides or is doing business or has the principal place of business in Alaska, or, with the consent of the parties, in any other Judicial District in the State. The action shall be instituted by filing a complaint in the Superior Court stating with specificity:

- (1) the nature of the deceptive practice;
- (2) the dates on which said deceptive practices occurred or upon what facts are based any assertion that they are likely to occur;
- (3) the names of all persons who are alleged to have been harmed or will be harmed by said deceptive practice.

The Superior Court shall schedule a hearing no less than thirty (30) days and no more than sixty (60) days from the date of service of the complaint on the person who is the subject of the investigation. All parties to the action shall have the right to subpoena witnesses to attend the hearing.

(b) At the conclusion of the hearing held pursuant to subsection (a), the Superior Court shall issue an order empowering the attorney general with investigative powers listed in subsection (c) only if the attorney general has proven, by a preponderance of the evidence, the following facts:

- (1) that it is more probable than not that the person who is the subject of the investigation has engaged in, is engaging in or is about to engage in, a deceptive trade practice under AS 45.50.471, and;
- (2) that the deceptive trade practice is part of a common scheme or mode of operation and is not an isolated or uncommon event.

(c) If the Superior Court enters an order finding probable cause as specified in subsection (b) above, then the attorney general may then:

- (1) request the person to file a statement or report in writing, under oath, on forms prescribed by him, setting out all facts and circumstances concerning the sale or advertisement of the property by the person, and other information considered necessary;
- (2) examine under oath any person in connection with the sale or advertisement of property;

- (3) examine property or sample of the property, record, book, document, account or paper that he considers necessary;
- (4) make true copies of records, books, documents, accounts, or papers examined under (3) of this subsection which may be offered in evidence in place of the originals in actions brought under AS 45.50.471--45.50.561; and
- (5) under an additional order of the Superior Court, impound samples of property which are material to his investigation and return the sample until proceedings undertaken under AS 45.50.471--45.50.561 are completed.

(d) Service of an order or subpoena pursuant to this section shall be made in the same manner as a summons in a civil action in the Superior Court.

(e) The investigative order specified in subsection (c) shall only be effective for a period of sixty (60) days after which the attorney general may seek an additional sixty-day (60) renewal of his powers by reinstating an action in Superior Court and demonstrating by a preponderance of evidence the following:

- (1) that the investigative materials obtained so far demonstrate that it is more probable than not that the person has engaged in, is engaging in or is about to engage in, a deceptive trade practice under AS 45.50.471; and
- (2) that after due and diligent exercise of his powers the attorney general was unable to obtain all necessary information and

documents or other materials pertinent to his investigation; and

- (3) the use of an additional sixty (60) days for the investigation would substantially increase the amount of information to him.

(f) If the attorney general fails to prevail in any hearing pursuant to this section, than the court shall award the defendant an amount equal to the actual costs and attorney's fees incurred in his defense.

Backup

Introduced: 2/3/82
Referred: Judiciary

1 IN THE HOUSE

BY METCALFE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 674

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 investigation of violations of
7 (AS 45.50.471) by the attorney general."

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

9 * Section 1. AS 45.50.495 is repealed and reenacted to read:

10 Sec. 45.50.495. AUTHORIZING INVESTIGATIVE POWER OF ATTORNEY GENERAL.

11 (a) If the attorney general has cause to believe that a person has
12 engaged in, is engaging in, or is about to engage in, a deceptive trade
13 practice under AS 45.50.471, he may bring an action in the name of the
14 state against the person, seeking the authority to pursue the investiga-
15 tive powers described in (c) of this section. The action may be brought
16 in the superior court in the judicial district in which the person
17 resides or is doing business or has the principal place of business in
18 the state, or, with the consent of the parties, in any other judicial
19 district in the state. The action shall be instituted by filing a
20 complaint in the superior court stating with specificity: (1) the
21 nature of the deceptive practice; (2) the dates on which the deceptive
22 practices occurred or upon what facts are based any assertion that they
23 are likely to occur; (3) the names of all persons who are alleged to
24 have been harmed or will be harmed by the deceptive practice. The
25 superior court shall schedule a hearing no less than 30 days and no more
26 than 60 days from the date of service of the complaint on the person who
27 is the subject of the investigation. All parties to the action shall
28 have the right to subpoena witnesses to attend the hearing.

29 (b) At the conclusion of the hearing held under (a) of this

1 section, the superior court shall issue an order empowering the attorney
2 general with investigative powers listed in (c) of this section only if
3 the attorney general has proven, by a preponderance of the evidence, the
4 following facts:

5 (1) that it is more probable than not that the person who is
6 the subject of the investigation has engaged in, is engaging in, or is
7 about to engage in, a deceptive trade practice under AS 45.50.471; and

8 (2) that the deceptive trade practice is part of a common
9 scheme or mode of operation and is not an isolated or uncommon event.

10 (c) If the superior court enters an order finding probable cause
11 as specified in (b) of this section, the attorney general may then

12 (1) request the person to file a statement or report in
13 writing, under oath, on forms prescribed by him, setting out all facts
14 and circumstances concerning the sale or advertisement of the property
15 by the person, and other information considered necessary;

16 (2) examine under oath any person in connection with the sale
17 or advertisement of property;

18 (3) examine property or sample of the property, record, book,
19 document, account or paper that he considers necessary;

20 (4) make true copies of records, books, documents, accounts,
21 or papers examined under (3) of this subsection that may be offered in
22 evidence in place of the originals in actions brought under AS 45.50.-
23 471 - 45.50.561; and

24 (5) under an additional order of the superior court, impound
25 samples of property that are material to his investigation and return
26 the sample until proceedings undertaken under AS 45.50.471 - 45.50.561
27 are completed.

28 (d) Service of an order or subpoena under this section shall be
29 made in the same manner as a summons in a civil action in the superior

1 court.

2 (e) The investigative order specified in (c) of this section shall
3 only be effective for a period of 60 days after which the attorney
4 general may seek an additional 60-day renewal of his powers by reinsti-
5 tuting an action in superior court and demonstrating by a preponderance
6 of evidence the following:

7 (1) that the investigative materials obtained so far demon-
8 strate that it is more probable than not that the person has engaged in,
9 is engaging in, or is about to engage in, a deceptive trade practice
10 under AS 45.50.471;

11 (2) that after due and diligent exercise of his powers the
12 attorney general was unable to obtain all necessary information and
13 documents or other materials pertinent to his investigation; and

14 (3) the use of an additional 60 days for the investigation
15 would substantially increase the amount of information to him.

16 (f) If the attorney general fails to prevail in any hearing under
17 this section, the court shall award the defendant an amount equal to the
18 actual costs and attorney fees incurred in his defense.
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Eagle river story
the logs and firewood

the last time I called a reg. about 4 -

2 As has curiously written, the
Governor, basically has the authority
to write law in the form of Reg's
as a result of a recent Supreme Court
Decision ~~to~~ to repeal those Regs. requires
a full action by both houses, and
to change that would require a constitutional
amendment. Other answers boil
down to a new layer of government
to watch the watchers.

in view of all of that it seems
much easier to simply squeeze down
the nozzles through which regulations
flow which the legislation seeks
to do
as law now exists

1) with a comment on fish and game. Fanning's
comment's look at it up in down
from the top Ballon and from ~~the~~
both sides

Narrow window / insights caution
Gives the multitude of the effected
parties the opportunity ~~to~~ reach
in to the thousands of regulated
civils and pick apart ~~the~~ the ~~the~~ tug
the vertical mountain of regulation

Clockson.

in each case referred to,
their rights to habe
interrogatory's or Deposition's
accounts, only ~~at~~ after a law
suit has been filed.

conmit Sipo consumer protection

Need for secrecy, can be accommodated
by providing its affected party
with ability to respond by demanding
that

Questions.

1. What number of your complaints that are investigated actually result in an action and filing of a formal complaint
2. Record taking.
3. ~~that~~ aren't always stayed.
3. ~~the~~ the statement that it may not be over burdensome ~~they~~ ~~is~~ ~~not~~ refer to determine unless the affected party who has far less resources than the A.G. office.
4. first the A.G.'s office can ask voluntary compliance which in most cases, will account the only real reversal is that if each side can not agree the burden.

~~of the~~ court costs

support

"in parta" showing of cause.

July 19 - 1982
Ramona's
17 - Hearing

(He will call me back ASAP) 3/11/82
Left above message
and suggested he get
w/ Crockett -
3/15 =
Never called

RETO MAR 11 1982

3/19
(Friday) Talked to Larry
Crockett - He says
they definitely are
not going to push
any further nor spend
any more money. The
Chamber (Frank) will
lobby - Harris will have
Frank call you. I'll call
again Monday

Call - } Cliff Krah =
 } Larry Crockett
Telecopying comm.
Sub. for HB 674 to
Legis Affairs in Anca.
It is the compromise
language proposed by
the AG's (C/o). Your comments
are requested.

Call Larry Crockett
3/12

3/15
Left call at 9:25 AM (proceeding)
for him to call me

3/15/82 - 10:30
(no time)
(not in office 10:30 or 11:44 AM and)
Left another ^{time}
request to return
the call. (Third
time I have left
a call).

Jeresa Hogan

272-6474

2/14/82 -

272-647

3:35pm
674

3/19
10:50AM

Serena Hogan (912 246 8 074) finally returned my three calls. HB-674.

Call Cliff Groh re HB-~~674~~ (Landlord Remedies). Ask him what is happening. Your comments and input would be helpful. We want the bill rescheduled ASAP.

He was out of the office. I left my call and message as to info I needed as to any input he might suggest as an amendment or any other comments as we are anxious to bring it to hearing ASAP.

He is to call me back ASAP. I will contact him again tomorrow.

MAR 11 1982

did not call back

She said she talked to you at length the other day, and apparently she is out of it.

She said "their client" did not wish to pursue the issue any further on their own". She said the Chamber of Commerce was into it and she thought her clients would let them work it out.

She said she would get with Larry Crockett and have him call you as to what they finally decided.

MAR 19 1982

Called Larry Crockett -
He had not called as
yet. Teresa Hogan was
to talk to him and he
was to call Ray back.

4 P.M. 279-3528,

As he sees it, the
compromise isn't any
better. The Chamber was
going to lobby on behalf
of the bill. He doesn't
want to pursue it in
its present form and
spend any more money
than he has.

He will get with "Frank"
at the Chamber and he will
get back to you after this
conversation. Apparently,
the Chamber has lobbyists
to work on it.

Civil lawsuit E: 1074
17 unfair deceptive practice charges

36 Consumer complaints
April 81 + Jan 82

Connie Sites Consumer Protection

under investigation for some time.

copy of lawsuit in S. Kelly's office

Melody Mobile Homes - Gale Kren

Henry's World

(372-6474)
∴ @ Contact Clifford Groh, Atty
for Gail Kunkaid, (Melodie)
Dales, Inc., 3115 Mountain View
Drive, 279-3528, by memo
with copy of the draft
bill ^{as amended} enclosed ~~and~~ saying ^{this} ~~is~~
~~is~~ the recommended
compromise by the PJ's
office, and I would like
your comments

#3. When we get the comments
we then -

H

B

6

77

2-17-82

A M E N D M E N T

OFFERED IN THE HOUSE:

By: State Affairs

To: _____ HOUSE BILL No. 677

SENATE BILL No. _____

PAGE: _____

LINE: _____

Requests a legal opinion on constitutionality of the bill.

2-17-82

A M E N D M E N T

OFFERED IN THE HOUSE:

By: State Affairs

To: _____ HOUSE BILL No. 677

SENATE BILL No. _____

PAGE: _____ LINE: _____

Requests a legal opinion on constitutionality of the bill.

COMMITTEE REPORT

HOUSE

(5)

FURTHER: JUDICIARY

1/20/82

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 677

"An Act relating to elections for candidates for the offices of governor and lieutenant governor."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ 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

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR
TERRY MILLER, LT. GOV.

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS

POUCH AF—JUNEAU 99811

POSITION PAPER ON HOUSE BILL 677

Prepared by Division of Elections

March 8, 1982

House Bill 677 requires the conduct of a run-off election for the offices of Governor and Lieutenant Governor when no candidate receives in excess of 50% of the vote in a general election. As there may be some Constitutional problems, attached is a copy of the memo to Department of Law requesting a review of the constitutionality of House Bill 677.

In a review of the votes cast for governor and lieutenant governor since statehood, the following is indicated:

1. 129,705 votes were cast at the 1978 General Election with the winning candidates for governor and lieutenant governor receiving 49,580 votes or 38.2% of the total vote. A run-off election would have been required between Hammond - Miller and Hickel.
2. 98,557 votes were cast at the 1974 General Election with the winning candidates for governor and lieutenant governor receiving 45,602 votes or 46.3% of the total vote. A run-off election would have been required between Hammond - Thomas and Egan - Boucher.
3. 82,405 votes were cast at the 1970 General Election with the winning candidates for governor and lieutenant governor receiving 42,309 votes or 51.3% of the total vote. No run-off election would have been required.
4. 67,361 votes were cast at the 1966 General Election with the winning candidates for governor and lieutenant governor receiving 33,145 votes or 49.2% of the total vote. A run-off election would have been required between Hickel - Miller and Egan - Wade.

5. 60,084 votes were cast at the 1962 General Election with the winning candidates for governor and lieutenant governor receiving 29,627 votes or 49.3% of the total vote. A run-off election would have been required between Egan - Wade and Stepovich - Ross.

Four of five gubernatorial elections conducted since statehood would have been decided by the run-off election provision of House Bill 677.

The Division of Elections has problems in implementing the run-off election procedures based on the election laws currently in effect. Problems resulting from implementing the run-off election procedures relate to completion of General Election procedures and initiation and completion of run-off election procedures. The problem areas are:

1. completion of General Election procedures including the counting of absentee and questioned ballots, and the State Ballot Counting Review which leads to the certification of the election;
2. timely conduct of recounts of various close races including the gubernatorial race;
3. difficulties in determining if a run-off election is to be conducted;
4. inability to prepare, print and distribute ballots and election materials to election boards;
5. inability to provide ballots to absentee voters;
6. difficulties in receiving voted ballots from voters;
7. difficulties in counting absentee and questioned ballots and the problems in completing the State Ballot Counting Review and certifying the election; and
8. difficulties in completing the run-off election procedures prior to the constitutional deadline for governor and lieutenant governor to assume office.

The election procedures are based on an orderly progression of events with each procedure completed prior to the beginning of another procedure. Problems arise when attempts are made to circumvent or short circuit the schedule of events.

As the election laws are currently written, 60 days are required to prepare for an election - any election. Title 15 provides for deadlines relating to the posting of lists of registered voters 40 days before an election, preparation and distribution of advertising and notices regarding the election, supplying of election material 25 days before the election, absentee balloting materials available 15 days prior to election and posting of notices 10 days before the election. The time schedule is such that the Division must provide the materials prior to the date so that the material is already distributed and ready to be used by the deadlines.

The counting of 1982 General Election absentee and questioned ballots will be completed on November 10. Absentee ballots must be postmarked no later than election day, however, valid postmarked ballots will continue to arrive for 15 to 20 days following the election. The late arriving absentee ballots are counted by the State Ballot Counting Review whose work will be completed on November 22 followed by the certification of the election. Recounts may be requested and conducted only following the certification of the election.

The determination, as to whether a run-off election is to be required, may be made only following the certification of the General Election. The time between the certification of the election and the run-off election is one week - 7 days. There is no way to conduct an election under these conditions.

In order to conduct a run-off election several assumptions would need to be made prior to the General Election. These assumptions are:

1. a run-off election would be required,
2. election material printed and distributed within the same week as the General Election is conducted,
3. official ballots prepared and printed based on various combinations of possible winning candidates, and
4. absentee ballots and voting materials distributed and voted with the understanding that the ballots may not be counted.

Based on the above assumptions and assuming that the run-off election is required, the receipt of the voted ballots and materials from each precinct would occur following the time for the Governor and Lieutenant Governor to assume the offices. The State Ballot Counting Review, the certification of the run-off election and any recounts would occur after the Governor and Lieutenant Governor were sworn in.

The attached fiscal note reflects the cost in conducting the run-off election. The resources would be spent during each gubernatorial election year simply because there is no way to timely determine if a run-off election is required.

STATE
of ALASKA

MEMORANDUM

DIVISION OF ELECTIONS

TO: Jim Baldwin
Assistant Attorney General
Department of Law

DATE : February 25, 1982

FROM: Patty Ann Polley
Director

SUBJECT: Constitutionality of
House Bill 677

The House State Affairs Committee, during a hearing conducted on February 17, requested that I contact you for an opinion regarding the constitutionality of House Bill 677, "An Act relating to elections for candidates for the offices of governor and lieutenant governor." Article III, Sections 3, 4, 7 and 8 appear to present difficulties in the conduct of the run-off elections proposed by House Bill 677. Will you at your earliest convenience review the constitutionality of House Bill 677?

At the request of the House State Affairs Committee, the Division of Elections is preparing a position paper on the bill. The division has several major difficulties in implementing this bill.

Thanks, Jim.

PAPolley:bjm

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 677 - "An act relating to elections
 Title for the offices of governor and lieutenant governor.
 Requested by House State Affairs Date 2-26-82

II. FISCAL DETAIL

Agency Affected Office of the Governor
 Program Category Affected Division of Elections
 BRU, Program, Or Subprogram(s) Affected Division of Elections
 (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		436.5	-0-	523.8	-0-	628.6
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		436.5	-0-	523.8	-0-	628.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		436.5	-0-	523.8	-0-	628.6
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)

1. Assume that each gubernatorial election year-- a runoff election would be necessary.
2. Assume 10% inflation each fiscal year.
3. No additional positions are required.
4. Major costs in Contractual Services area only.
5. Travel, Commodities, overtime needs in Personal Services area will be absorbed under FY 83 detail budget.

IV. DATE 2-26-82

PREPARED BY Danith D. Arnoldt, Deputy Director
 AGENCY Office of the Governor, Div. of Elections

Original: Legislative Finance
 cc: Budget and Management

PHONE 586-6181

Prime Sponsor (First Legislator Named)

HOUSE BILL NO. 677

Fiscal Note Worksheet

300 (Contractual Services)

(314) Postage (absentee ballots) (mailing of election supplies, etc) (based on actual FY 81 Primary Election costs)	\$ 25,800
(322) Printing - paper ballots (includes absentees) (11 paper ballot districts)	10,000
Printing - data vote ballots (includes absentees) (based on a per card cost of \$2410 x 16 possible data vote districts)	38,600
(325) Advertising (average \$125) (ads run twice x 2 papers/supervisor's region x 4)	1,000
(382) DP chargeback GEL - Election Ballot Counting (Juneau & Anch. Data Centers)	10,000
*(399) Election Board payments including clerks, judges, election night personnel, counting teams, DP Boards, Ballot Counting Review Boards, State Ballot Counting Review Boards	351,100
GRAND TOTAL	\$436,500

*Addendum worksheet provides specific breakdown of these anticipated expenditures.

HOUSE BILL NO. 677

Addendum

Worksheet for Contractual Serv

Primary and General Elections

Election Boards	\$297,625
Election night personnel	35,400
Counting teams	1,575
Ballot Counting Review Boards	2,400
State Ballot Counting Review Boards	1,500
D.P. Review Boards	7,500
Recount teams (if necessary)	<u>5,100</u>

GRAND TOTAL

\$351,100

FY 83 BUDGET

Primary & General Elections

Election Boards

Clerks,
Judges

65	Punch card precincts x 3 (judges, clerks) x \$7.50/hr x 16 hrs =	\$ 23,400	
77	Anch. punch card precincts x 7 x \$7.50/hr x 16 hrs =	64,680	
154	Precincts < 200 voters x 3 x \$7.50/ hr x 19 hrs =	65,835	
138	Precincts > 200 voters x 3 x \$7.50/ hr x 19 hrs =	58,995	
26	New precincts x 3 x \$7.50/hr x 19 hrs =	11,115	

Chairman

460	Precincts x 1 chairman x \$8/hr x 20 hrs =	<u>73,600</u>	\$297,625
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Election Night

Personnel

elevator operators	(3)		
receiving teams	(4-8)		
xerox operators	(2)	35 people x \$7.50/hr x	
d.p. runners	(3)	6 hrs =	<u>1,575</u> \$ 1,575
	<u>19</u>		

+ ? let's go w/35

Counting Teams

Precincts greater than 200 voters	138 precincts > 200 voters + 26 new precincts x 4 counters x \$7.50/ hr x 5 hrs =	24,600	
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Election Night Manual Check (computer ballots)	20 x 4 x \$7.50/hr x 4 hrs =	2,400	
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Counting Teams for Questioned & Absentee Ballots	16 teams (3rd & 8th days) x 4 people x \$7.50/hr x 7 hrs =	3,360	
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Prior Election Review & Counting Teams	8 bds. x 4 people (1st, 2nd, 6th & 7th days) x \$7.50/hr x 4 hrs x 4 days =	3,840	
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Ballot Counting Review Boards

Canvass	4 bds. x 4 people x \$10/hr x 15 hrs =	<u>2,400</u>	2,400
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State Ballot Counting Review Boards

Canvass	1 x 4 people x \$12.50/hr x 30 hrs =	<u>1,500</u>	1,500
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FY 83 BUDGET

Primary & General Elections (continued)

Data Processing
Review Board

2 bds. x 4 people x \$500 ea = \$4,000

1. bd. (Anch) x 7 people x
\$500 =

3,500

\$ 7,500

Recount Teams

17 teams x 4 people x \$7.50/hr
x 10 hrs

5,100

5,100

GRAND TOTAL

\$351,100

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR
TERRY MILLER, Lt. Gov.

OFFICE OF THE LT. GOVERNOR

DIVISION OF ELECTIONS

POUCH AF—JUNEAU 99811

POSITION PAPER ON HOUSE BILL 677

Prepared by Division of Elections

March 8, 1982

House Bill 677 requires the conduct of a run-off election for the offices of Governor and Lieutenant Governor when no candidate receives in excess of 50% of the vote in a general election. As there may be some Constitutional problems, attached is a copy of the memo to Department of Law requesting a review of the constitutionality of House Bill 677.

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Four of five gubernatorial elections conducted since statehood would have been decided by the run-off election provision of House Bill 677.

The Division of Elections has problems in implementing the run-off election procedures based on the election laws currently in effect. Problems resulting from implementing the run-off election procedures relate to completion of General Election procedures and initiation and completion of run-off election procedures. The problem areas are:

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STATE
of ALASKA

MEMORANDUM

DIVISION OF ELECTIONS

TO: Jim Baldwin
Assistant Attorney General
Department of Law

DATE : February 25, 1982

FROM: Patty Ann Polley
Director

SUBJECT: Constitutionality of
House Bill 677

The House State Affairs Committee, during a hearing conducted on February 17, requested that I contact you for an opinion regarding the constitutionality of House Bill 677, "An Act relating to elections for candidates for the offices of governor and lieutenant governor." Article III, Sections 3, 4, 7 and 8 appear to present difficulties in the conduct of the run-off elections proposed by House Bill 677. Will you at your earliest convenience review the constitutionality of House Bill 677?

At the request of the House State Affairs Committee, the Division of Elections is preparing a position paper on the bill. The division has several major difficulties in implementing this bill.

Thanks, Jim.

PAPolley:bjm

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 677 - "An act relating to elections
Title for the offices of governor and lieutenant governor.
Requested by House State Affairs Date 2-26-82

II. FISCAL DETAIL

Agency Affected Office of the Governor
Program Category Affected Division of Elections
BRU, Program, Or Subprogram(s) Affected Division of Elections
(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)

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200 TRAVEL						
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400 COMMODITIES						
500 EQUIPMENT						
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700 GRANTS, CLAIMS, ETC.						
TOTAL		436.5	-0-	523.8	-0-	628.6

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	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		436.5	-0-	523.8	-0-	628.6
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)

1. Assume that each gubernatorial election year-- a runoff election would be necessary.
2. Assume 10% inflation each fiscal year.
3. No additional positions are required.
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5. Travel, Commodities, overtime needs in Personal Services area will be absorbed under FY 83 detail budget.

IV. DATE 2-26-82

PREPARED BY Danith D. Arnoldt, Deputy Director
AGENCY Office of the Governor, Div. of Elections

Original: Legislative Finance PHONE 586-6181

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HOUSE BILL NO. 677

Fiscal Note Worksheet

<u>300 (Contractual Services)</u>	
(314) Postage (absentee ballots) (mailing of election supplies, etc) (based on actual FY 81 Primary Election costs)	\$ 25,800
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*(399) Election Board payments including clerks, judges, election night personnel, counting teams, DP Boards, Ballot Counting Review Boards, State Ballot Counting Review Boards	351,100
	<hr/>
GRAND TOTAL	\$436,500

*Addendum worksheet provides specific breakdown of these anticipated expenditures.

HOUSE BILL NO. 677

Addendum

Worksheet for Contractual Serv

Primary and General Elections

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Recount teams (if necessary)	<u>5,100</u>

GRAND TOTAL

\$351,100

FY 83 BUDGET

Primary & General Elections

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Clerks,
Judges

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77	Anch. punch card precincts x 7 x \$7.50/hr x 16 hrs =	64,680	
154	Precincts < 200 voters x 3 x \$7.50/ hr x 19 hrs =	65,835	
138	Precincts > 200 voters x 3 x \$7.50/ hr x 19 hrs =	58,995	
26	New precincts x 3 x \$7.50/hr x 19 hrs =	11,115	

Chairman

460	Precincts x 1 chairman x \$8/hr x 20 hrs =	<u>73,600</u>	\$297,625
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Election Night

Personnel

elevator operators (3)			
receiving teams (4-8)			
xerox operators (2)	35 people x \$7.50/hr x		
d.p. runners (3)	6 hrs =	<u>1,575</u>	\$ 1,575
	<u>19</u>		

+ ? let's go w/35

Counting Teams

Precincts greater than 200 voters	138 precincts > 200 voters + 26 new precincts x 4 counters x \$7.50/ hr x 5 hrs =	24,600	
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--	---	-------	--

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Ballot Counting Review Boards

Canvass	4 bds. x 4 people x \$10/hr x 15 hrs =	<u>2,400</u>	2,400
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State Ballot Counting Review Boards

Canvass	1 x 4 people x \$12.50/hr x 30 hrs =	<u>1,500</u>	1,500
---------	---	--------------	-------

FY 83 BUDGET

Primary & General Elections (continued)

Data Processing
Review Board

2 bds. x 4 people x \$500 ea = \$4,000

1 bd. (Anch) x 7 people x
\$500 =

3,500 \$ 7,500

Recount Teams

17 teams x 4 people x \$1.50/hr
x 10 hrs

5,100 5,100

GRAND TOTAL

\$351,100

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

February 24, 1982

SUBJECT: Runoff elections for governor
(Work Order No. 12-2631)

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked whether HB 677 is constitutional. I believe that it is though I agree that for the reasons given, the answer is not as certain as it might be.

The bill provides that if no candidate for the office of governor receives 50 percent of the votes cast for the office of governor, plus one vote, a runoff election will be held.

The only provision of the Alaska Constitution that bears on this question is found at Article III, Sec. 3. It provides:

SECTION 3. The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the greatest number of votes shall be governor.

The threshold question is whether the constitutional phrase "a general election" means "the (November) general election". If it did, an election held after the November election would violate this provision and therefore be unconstitutional. In my view, that interpretation is wrong.

In my view, the phrase "general election" does not mean the election usually held in November but rather it means an election at which all citizens may vote. The usage suggested is consistent with the meaning for the term in the legal encyclopedias. See 29 C.J.S., Elections, sec. 1(2).

Representative Ray H. Metcalfe
Page 2
February 24, 1982

In that context, a general election is an election different from a primary election at which only party members may vote.

Since Representative Bettisworth's bill contemplates a runoff election at which all registered voters will be eligible to vote, the runoff election is a general election for the purposes of the constitution.

A more difficult question is presented by the language stating that the "candidate receiving the greatest number of votes shall be governor".

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The provisions of the section seem relatively unique in the constitutions of the American states; it appears that only Hawaii has similar language and much of the executive article of the Hawaii constitution seems patterned after ours. See, Index Digest of State Constitutions, published by the Legislative Drafting Research Fund at Columbia University, at page 498. The similar provision of the Hawaii constitution is found in Article IV, Sec. 1, paragraph 2.

Given the language, it is not clear what the result would be. I am reluctant to conclude that language providing that the "candidate receiving the greatest number of votes shall be governor" limits the discretion of the legislature to establish a runoff election but I agree that a narrow reading of the language of the provision leads to that result.

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Representative Ray H. Metcalfe

Page 3

February 24, 1982

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implicating separation of powers doctrine are presented
here. In that situation, the general rule that grants of
constitutional power are not interpreted narrowly is the
usual rule.

The bill may therefore be constitutional.

RAB:ljb

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

HOUSE ... BILL NO. 677...

By . BETTISWORTH . AND . ROGERS ...

"An Act relating to elections for candidates for the offices of governor and lieutenant governor."

Elections/Governor and Lt. Governor

Introduced in the House .. 1/20 ... , 19 82

HISTORY IN THE HOUSE

19 82

Jan

20

Read first time and referred to Committee on State Affairs and Judiciary
Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

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

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
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.

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

February 24, 1982

SUBJECT: Runoff elections for governor
(Work Order No. 12-2631)

TO: Representative Ray H. Metcalfe
Chairman, House State Affairs Committee

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked whether HB 677 is constitutional. I believe that it is though I agree that for the reasons given, the answer is not as certain as it might be.

The bill provides that if no candidate for the office of governor receives 50 percent of the votes cast for the office of governor, plus one vote, a runoff election will be held.

The only provision of the Alaska Constitution that bears on this question is found at Article III, Sec. 3. It provides:

SECTION 3. The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the greatest number of votes shall be governor.

The threshold question is whether the constitutional phrase "a general election" means "the (November) general election". If it did, an election held after the November election would violate this provision and therefore be unconstitutional. In my view, that interpretation is wrong.

In my view, the phrase "general election" does not mean the election usually held in November but rather it means an election at which all citizens may vote. The usage suggested is consistent with the meaning for the term in the legal encyclopedias. See 29 C.J.S., Elections, sec. 1(2).

In that context, a general election is an election different from a primary election at which only party members may vote.

Since Representative Bettisworth's bill contemplates a runoff election at which all registered voters will be eligible to vote, the runoff election is a general election for the purposes of the constitution.

A more difficult question is presented by the language stating that the "candidate receiving the greatest number of votes shall be governor".

While it is clear that there is an implied context to the phrase [I assume that the candidate receiving the greatest number of votes at the primary election is not elected], it is not clear whether the language states a truism or whether the language acts to prevent the establishment of runoff elections and establish constitutionally a plurality system for the election of the governor.

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Representative Ray H. Metcalfe

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February 24, 1982

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here. In that situation, the general rule that grants of
constitutional power are not interpreted narrowly is the
usual rule.

The bill may therefore be constitutional.

RAB:ljb

General election odds

MAYBE WE'VE overlooked it, but so far we have seen no indication that a bill to provide for a runoff election in the governor's race is making much progress at Juneau.

This is a gubernatorial election year and it appears that there could be a three-way or four-way race for the governor's office in the November general election.

There will be a Republican nominee and a Democratic nominee, chosen in the August primary. Dick Randolph still must find a running mate, but he surely will in time to insure that Libertarian candidates will be on the ballot.

In addition to that, there is increasing speculation in the press on the possibility of an independent ticket, with former Gov. Walter J. Hickel of Anchorage as the candidate for governor and former state Sen. Ed Merde of Fairbanks for lieutenant governor.

THE LAST that was heard from Mr. Hickel on the subject was that he is leaving his options open and would make up his mind about the end of March.

The former Republican governor is being boosted as

an independent candidate by another Republican, Mayor Jack Coghill of Nenana, who also is pumping up Mr. Merdes, a Democrat, as the other half of the ticket. Mr. Coghill's theory is that this coalition ticket would have more appeal than any of the prospective Republican or Democratic nominees and far more than the Libertarian candidates.

In the political hot-stove league where this theory incubates, the possible votes in various districts already are being weighed. Mr. Merdes, it is reported, is very receptive to the possibility.

THE MORE the merrier, most voters might say.

But when it finally comes down to putting a man in the governor's office, he should take command this coming December with a solid majority of the state's voters behind him.

That can only be done if the legislature will pass a law this session to provide for a runoff election between the top two candidates in the general election if the leader fails to poll 50 per cent or more of the votes.

What others say

From The Peninsula Clarion, Kenai

ALONG THE WAY, House Bill 180 should get tightened up or be left on the shelf. The need for better drug laws should not be answered with a tougher but worse law. And

the reality of an election year should not seduce legislators into passing a bad law for the sake of being able to tell voters that they're tough on drugs.

At. never hearing this Bill it's good for Auditorial

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Election Calendar

July 1981 - December 1982

July 1, 1981	Prepare Order and Notices of Election for REAA & Coastal Resource Elections	6 AAC 27.020
	Bring data processing consultant on board to update voter registration system	
July 13-17, 1981	Training for Election Supervisors and staff	AS 15.10.107
August 4, 1981	Tundra Rebellion Initiative Petition—one year limitation expires	AS 15.45.140
August 21, 1981	Filing deadline for REAA & Coastal Resource candidates	6 AAC 27.030 (b)
August 26, 1981	Last day to post list of registered voters for REAA & Municipal elections	AS 15.07.140
August 28, 1981	Transmit proofs of REAA & Coastal Resource ballots to printers	
Septmeber 6, 1981	Last day to register to vote REAA, Coastal Resource & Municipal elections	15.07.070(d)
September 19, 1981	Last day to appoint absentee and questioned ballots review board	6 AAC 27.060
	Last day to appoint state review board	6 AAC 27.070
September 29, 1981	Last day to request absentee ballot by mail for REAA & Coastal Resource elections	6 AAC 27.050 (d) AS 15.20.081
October 6, 1981	REAA, Coastal Resource & Municipal elections	6 AAC 27.010
October 8, 1981	Begin absentee and questioned ballots review	6 AAC 27.060
October 14, 1981	Begin state review of REAA & Coastal Resource elections	6 AAC 27.070
	Complete count of absentee and questioned ballots from the REAA & Coastal Resource elections	6 AAC 27.060
October 22, 1981	Certify REAA & Coastal Resource elections	6 AAC 27.080
November 9-13, 1981	Training for Election Supervisors and staff	AS 15.10.107
November 17, 1981	Conduct run-off elections for REAA, if necessary	6 AAC 27.000
December 30, 1981	Abortion funding initiative petition one year limitation expires	AS 15.45.140

January 11, 1982 10:00 A.M.	Deadline for submitting any initiative to appear on 82 ballot	AS 15.45.190
January 15, 1982	Director writes to political parties for election board recommendations	AS 15.10.150
January 22, 1982	Notify voters of intent to remove name for failure to vote in two calendar years	AS 15.07.130 (b)
February 1, 1982	Last day to begin reapportionment for 1982 election	
February 25, 1982	First day to mail absentee ballot applications for Primary Election	AS 15.20.081
April 15, 1982	Last date for political parties to submit recommendations for election board.	AS 15.10.150
April 16, 1982	Election Supervisors begin appointing of election boards	AS 15.10.150
April 26, 1982	Legislature must adjourn this date if initiatives are to appear on Primary ballot	AS 15.45.190
May 3, 1982	First day to mail absentee ballot application for both Primary and/or General Election	AS 15.20.081
June 1, 1982	Deadline for candidates to file by declaration or by petition	AS 15.25.040 AS 15.25.150
June 16, 1982	Last day to receive material when candidates file by telegram	AS 15.25.040(d)
July 1, 1982	Send proofs to printers for ballot printing	
	Notify legislators and other interested citizens of ballot title and proposition for each Constitutional Amendment	AS 15.50.010
	Prepare Order and Notices of Election for REAA & Coastal Resource Elections	6 AAC 27.020
July 4, 1982	Legislature must adjourn if initiatives are to appear on General Election ballot	AS 15.45.190(3)
July 14, 1982	Post list of registered voters	AS 15.07.140
	Last day for candidates to withdraw to get names off ballot	AS 15.25.055
	Precinct boundary descriptions permanent	AS 15.10.080
July 15, 1982	Notify printers of any change in ballots and complete printing process.	

July 16, 1982	Interested citizens submit changes for Constitutional Amendment propositions or titles	AS 15.50.025
July 25, 1982	Last day to register to vote or change address for Primary	AS 15.07.070
	Last day to appoint state ballot counting review board	AS 15.10.180
	Last day to appoint district questioned and absentee ballot counting boards	AS 15.20.190
July 27, 1982	Notify interested citizens of final decisions relating to Constitutional Amendments, Propositions and Titles	AS 15.50.025
July 30, 1982	All materials for use on election day must be available in Supervisor's offices	AS 15.15.050
August 3, 1982	Last day for judicial offices to file for retention elections	AS 15.35.040 AS 15.35.055 AS 15.35.070 AS 15.35.110
August 6, 1982	Filing deadline for REAA & Coastal Resource candidates	6 AAC 27.030(b)
August 9, 1982	Absentee balloting material available to official and stations	AS 15.20.045
August 14, 1982	All advertising and notices of election posted and printed this date	AS 15.15.070
August 17, 1982	District absentee ballot counting boards begin review of voter certificates	AS 15.20.201
	Last day to postmark an application for an absentee ballot for Primary Election	AS 15.20.081
August 18, 1982	Last day to file material for Election Pamphlet	AS 15.58.040 AS 15.58.050 AS 15.58.030
August 20, 1982	Transmit proofs of REAA & Coastal Resource ballots to printers.	AS 15.58.030
August 24, 1982	Primary Election Day	AS 15.25.020
August 26, 1982	District District Questioned Ballot counting Review Board begins work	AS 15.20.205
	Post list of registered voters for REAA & Coastal Resource Elections	AS 15.07.140
September 1, 1982	Absentee and Questioned Ballot counts completed	AS 15.20.201 AS 15.20.205
	State Ballot Counting Review Board begins work	AS 15.15.440
September 5, 1982	Last day to register to vote for REAA, Coastal Resource and Municipal Elections	AS 15.07.070

September 8, 1982	Last day to receive ballots and certificates for inclusion in State Ballot Counting Review	AS 15.20.220
September 13, 1982	Certify results of Primary Election	AS 15.15.450
September 18, 1982	Last day to appoint State Ballot Counting Review Board and District Absentee and Questioned Ballot Counting Boards for REAA & Coastal Resource Elections	6 AAC 27.070 6 AAC 27.060
	Last day to file application for recount for Primary Election	AS 15.20.430
September 20, 1982	Transmit ballot proofs to printers for official General Election ballots	
September 22, 1982	Last day to post list of registered voters for General Election	AS 15.07.140
September 23, 1982	Last day to schedule recount of Primary Election	AS 15.20.460
September 27, 1982	Begin recount of Primary Election	AS 15.20.480
	Proofs corrected on General Election Ballots and printing process completed	
September 28, 1982	Last day to postmark absentee ballot application for REAA & Coastal Resource Elections	AS 15.20.081 6 AAC 27.050
October 3, 1982	Last day to register to vote for General Election	AS 15.07.070
	Last day to appoint State Ballot Counting Review Board and District Absentee and Questioned Ballot Counting Boards	AS 15.10.180 AS 15.20.190
	Last day to mail election pamphlets for General Election	AS 15.58.080
October 5, 1982	Election day for REAA, Coastal Resource and Municipal Election	6 AAC 27.010
October 7, 1982	Last day to complete recount of Primary Election	AS 15.20.480
	Begin count of absentee and questioned ballots for REAA & Coastal Resource Elections	6 AAC 27.060
October 8, 1982	Last day to have election materials for General Election available in Election Supervisor's Offices	AS 15.15.050
October 12, 1982	Notice published by State Bond Committee in four newspapers in each judicial district	AS 37.15.015
October 13, 1982	Complete count of absentee and questioned ballots for REAA & Coastal Resource Elections	6 AAC 27.060
	Begin State Ballot Counting Review for REAA & Coastal Resource Elections	6 AAC 27.070

October 16, 1982	Materials for absentee voters available at all absentee voting stations and locations	AS 15.15.045
October 22, 1982	Complete State Ballot Counting Review of REAA & Coastal Resource Elections	6 AAC 27.070
	Certify results of REAA & Coastal Resource Elections	6 AAC 27.080
October 23, 1982	All advertising and notices of election published and posted this date.	AS 15.15.070
October 26, 1982	Last day to postmark absentee ballot application for General Election	AS 15.20.081
	District Absentee Ballot Counting Board begin review of voters certificates	AS 15.20.201
November 2, 1982	General Election Day	AS 15.15.020
November 4, 1982	District Questioned Ballot Counting Boards begin work	AS 15.20.200
November 10, 1982	District Absentee and Questioned Ballot Counting Boards complete work	AS 15.20.201 AS 15.20.205
	State Ballot Counting Review Board commences work	AS 15.15.440
November 16, 1982	If necessary, run-off elections for REAA's.	6 AAC 27.090
November 17, 1982	All ballots and certificates to be included in General Election counts must be received	AS 15.20.220
November 22, 1982	Complete State Ballot Counting Review of General Election	AS 15.15.440
	Certify election results	AS 15.15.450
November 27, 1982	Last day to request recount of General Election (if Governor or Lt. Governor are involved only three days allowed)	AS 15.20.430
December 2, 1982	Last day to fix date of recount (if Governor or Lt. Governor are involved only three days allowed)	AS 15.20.460
December 6, 1982	Recount of General Election begins Governor takes Oath of Office	AS 15.20.480 Article III, Sec. 4
December 15, 1982	Recount of General Election completed	AS 15.20.480

2-24-82

letter legal services opinion

in all committee files

3-8-82

voted to table the bill HB677

3-8-82 - committee votes to
hold the bill

H

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8

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 678
 Title An Act relating to membership in electric and telephone cooperatives
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Public Utilities Commission
 (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

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						
		0	0	0	0	0

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

Carolyn Guess / cw

IV. DATE 3/30/82 PREPARED BY Carolyn Guess, Commissioner
 AGENCY Public Utilities Commission
 Original: Legislative Finance PHONE 276-6222
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

H

B

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80

COMMITTEE REPORT

HOUSE

(5)

FURTHER:

1/22/82

Date:

2/22/82

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 680

"An Act requiring issuance of distinguishing drivers' licenses to persons convicted of driving while intoxicated."

under consideration and reports it back as follows:

- [] do pass [] do not pass
[] do pass with attached amendments(s)
[X] replace with CS for HB 680 [X] 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



Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

NOTIFICATION SHEET
BILL NO. - HB680

Pouch V
State Capitol
Juneau, Alaska 99811

NAME	ORGANIZATION	PHONE NO.
Bill Brown ²⁻¹⁹	notified by schedule Div. of Motor Veh	465-4335
Bood's ²⁻¹⁹		
Ganette Heap ^{Paul Conroy} ²⁻¹⁹	Public Safety	4336



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 29, 1981

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Christine Johnson*

SUBJECT: Research Request No. 82-5
Drunk Driving Statistics

Carol Horos of your staff has asked for the following information regarding drunk driving:

- (1) statewide data on the number of arrests and convictions for drunk driving for a sufficient number of years to show the current trend;
- (2) statewide data on the number of arrests and convictions for other traffic violations where the driver was also intoxicated;
- (3) a comparison between the incidence of drunk driving in Alaska and the national rate.

As we have explained to Ms. Horos, the second category of data required a special computer run by the Alaska Court System, and we have not yet received the information. We will forward it to you as soon as it arrives.

Arrests

Table I on the following page shows the number of arrests for drunk driving during 1978, 1979, and 1980. This data indicates that arrests for drunk driving are declining. Data for 1980 shows a 21% decrease in the number of arrests for this offense over the arrests reported in 1978. This decline may be related to the stiffer penalties for drunk driving which went into effect in the fall of 1978.

TABLE I
Statewide Arrests for Drunk Driving
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
Number of Arrests	3,265	3,006	2,575
Rate of Arrest per 100,000 people	815.3	750.6	643.0

Source: House Research Agency, January 1982, from data provided by the Criminal Justice Planning Agency, Alaska Department of Law, Crime in Alaska - 1980.

Table II below compares Alaska's 1980 arrest rate for drunk driving with the national rate for that year. The data indicates that the state's arrest rate for drunk driving is only slightly higher than the national rate.

TABLE II
State and National Arrest Rates for Drunk Driving - 1980
(Rate per 100,000 people)

<u>Alaska</u> Arrest Rate	<u>National</u> Arrest Rate
643.0	626.3

Source: House Research Agency, January 1982, from data provided in Crime in Alaska - 1980, and Federal Bureau of Investigation, U.S. Department of Justice, Crime in the United State, September 1981.

Convictions

Table III on the following pages shows both the number of cases involving drunk driving which were filed with the Alaska Court System during the three year period and the number of convictions which resulted. This information provides the best indication of the conviction rate for drunk drivers, as the data regarding arrests comes from another source and is not comparable to the Court's statistics on convictions.

Between 1978 and 1980, approximately 75% of the individuals charged with drunk driving were convicted. The conviction rate declined slightly in 1980, but no downward trend can logically be inferred from this information.

TABLE III
Drunk Driving Cases Filed with the Alaska Court System
and Rate of Conviction
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
No. of Cases Filed	3,681	3,545	3,096
No. of Convictions	2,765	2,691	2,224
Conviction Rate	75%	76%	72%

Source: Alaska Court System.

* We were unable to locate any information on the national conviction rate for drunk drivers. We did learn from the State Highway Safety Planning Commission that nationwide 50% of all fatal accidents in 1979 involved a drunk driver. This figure was closer to 75% for Alaska.

We hope this information is of use to you. Again, we will deliver the other material you requested as soon as it arrives. If we can provide any further assistance, please don't hesitate to contact us.

CJ/cj

Introduced: 1/22/82
Referred: State Affairs

1 IN THE HOUSE

BY ABOOD

2 HOUSE BILL NO. 680

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring issuance of distinguishing drivers'
7 licenses to persons convicted of driving while intoxi-
8 cated."

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

10 * Section 1. AS 28.15 is amended by adding a new section to read:

11 Sec. 28.15.125. DISTINGUISHING LICENSE FOR DRIVER CONVICTED OF
12 DRIVING WHILE INTOXICATED. (a) The department shall issue a driver's
13 license or a duplicate driver's license with a ^{Dept Adapt} (red) background to an
14 otherwise qualified applicant convicted under AS 28.35.030 of driving
15 while intoxicated. A license with a red background shall be issued
16 under this section upon conviction and ^{the driver shall be precluded from replacing} for six months after the ~~expira-~~
17 ~~tion~~ ^{conviction or for six months following} of the period of revocation or limitation of the applicant's
18 driver's license imposed under AS 28.15.181(b) as a result of the con-
19 viction, ^{which ever is longer.}

20 (b) A person who receives a distinguishing license under (a) of
21 this section may, if otherwise qualified, apply for and receive a stan-
22 dard driver's license or a standard duplicate driver's license six
23 months after the period of revocation or limitation of the applicant's
24 driver's license imposed as a result of the conviction for driving while
25 intoxicated.

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