

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2585 HLC HB 610 - HB 611

2585

COMPARISON OF STANDARD AND SPECIALTY SURETY RATES

	<u>BOND AMOUNTS</u>				
	<u>\$249,000</u>	<u>\$250,000</u>	<u>\$500,000</u>	<u>\$750,000</u>	<u>\$1,000,000</u>
<u>STANDARD SURETY</u>					
Surety's Premium ¹	3,000	3,000	6,000	7,813	9,625
Exposure	249,999	250,000	500,000	750,000	1,000,000
Cost to Contractor	1.2%	1.2%	1.2%	1.0%	1.0%
<u>SPECIALTY SURETY</u>					
Total Premium ²	3,750	3,750	6,250	8,750	11,250
SBA's Premium ³	750	750	1,250	1,750	2,250
Surety's Premium ⁴	3,000	3,000	5,000	7,000	9,000
Surety's Exposure ⁵	25,000	50,000	100,000	150,000	200,000
SBA's Exposure ⁶	249,999	200,000	400,000	600,000	800,000
Cost to Contractor ⁷	1.7%	1.7%	1.5%	1.4%	1.3%

For Class B contracts: 1.2% for 1st \$500,000, 0.725% for next \$2,000,000 per the Surety Assoc. of America rate filing.

Maximum premium of 1.5% on 1st \$250,000, 1.0% on amounts over \$250,000 per SBA fact sheet.

20% of the premium.

10% of the premium.

10% for bonds less than \$250,000, 20% for bonds equal to or greater than \$250,000.

Balance of the contract amount.

Include 0.2% for SBA service fee on all bonds.

House Research Agency

July 1, 1980



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

MEMORANDUM

July 16, 1980

TO: Representative Patrick O'Connell

FROM: Anne DeVries *ADD*
Issues Analyst

RE: Contract Bonding
Research Request No. 147 (Additional Material)

I have enclosed three excerpts from a report on the use of surety bonds in federal construction prepared by the General Accounting Office and submitted to the U.S. Congress. This report concluded that the government should not eliminate bonding and become its own self insurer. In addition, the report found problems in the ability of the SBA program to meet its objective of providing a transitional program for a marginal contractor.

One problem facing the SBA which I did not address was the involvement of organized crime in the specialty surety business. Recently, NBC Nightly News examined abuse of the SBA program in Chicago, where it is believed that fraudulent claims are being submitted by sureties fronting for organized crime. I do not know much about this beyond the NBC news story. However, if the State does consider a SBA-like program, this potential type of abuse may need to be examined more closely.

AHD/bf
Enclosure

EXHIBIT 1

States Licensing General Contractors

States	License Contractors	License Subcontractor	Dollar Limit	Bond Requirements
1. Alabama	Yes	No	\$20,000	No
2. Alaska	Yes	No	1,000	\$2,000 Surety
3. Arizona	Yes	No	NA	1,000 to 15,000
4. Arkansas	Yes	Yes	20,000	No
5. California	Yes	Yes	100	2,500
6. Florida	Yes	No	NA	No
7. Hawaii	Yes	No	NA	No
8. Louisiana	Yes	No	30,000	bond (1)
9. Maryland	Yes	No	5,000	amount-NA
10. Michigan	Yes	No	200	No
11. Mississippi	Yes	Yes	10,000	No
12. Montana	Yes	No	15,000	No
13. Nevada	Yes	Yes	NA	amount-NA
14. New Mexico	Yes	No	NA	No
15. North Carolina	Yes	No	30,000	No
16. North Dakota	Yes	Yes	500	No
17. South Carolina	Yes	No	30,000	No
18. Tennessee	Yes	Yes (2)	50,000	No
19. Utah	Yes	Yes	NA	bond (3)
20. Virginia	Yes	Yes	30,000	No
21. Washington	Yes	No	250	1,000 to 2,000

States Licensing Specialty Contractors

States	Type of License	Bonding Requirements
22. Idaho	Public Works Contractors	No
23. New Jersey	Electrical Contractors	No
24. Oregon	Residential Building Contractors	(\$3,000 bond require
25. Wyoming	Electrical Contractors	No
26. Delaware	Registers Contractors for revenue only	No
27. Kansas	Nonresident Contractors	\$1,000 bond require
28. Nebraska	Nonresident Contractors	\$1,000 bond require

(1) Surety Bonds required for taxes on nonresident contractors.

(2) License only subcontractors who perform heating and ventilating, air conditioning, electrical, and plumbing work where the contract cost exceeds \$50,000.

(3) 50 percent performance bond for public works contract.

amount NA-dollar amount not available.

Source: State of Tennessee Program Evaluation



REPORT TO THE CONGRESS

Use Of Surety Bonds
In Federal Construction
Should Be Improved

Multiagency

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

LCD-74-319

JAN. 17. 1975

ELIMINATING CURRENT BONDING SYSTEM

DOES NOT APPEAR WARRANTED

We evaluated (1) the effectiveness of the current bonding system and (2) the economic and administrative feasibility of eliminating bonds and having the Government become a self-insurer.

In general, surety bonds and the surety companies provide

1. Financial protection to Government agencies against losses resulting from defaults.
2. Financial recourse for subcontractors, suppliers, and laborers.
3. Financial and technical aid for contractors.

The lack of cost data and the lack of Federal experience, particularly with respect to the latter two functions, prevented us from reducing the issue of self-insurance to a strictly quantitative determination. The monetary value of the individual services provided by sureties could not be isolated. Because the Federal agencies have had no experience in providing these services, they could not state what the cost would be if the Government assumed such services.

In the absence of comparable quantitative data, we could not develop measurable evidence supporting either elimination or retention of the current bonding system. The major participants in the system--Federal construction agencies, contractors, subcontractors, suppliers, etc.--generally voiced opinions that surety bonds were needed and that the current system was effective and should be continued.

As discussed below, Federal construction agencies do not, at this time, have the ability to duplicate some of the services provided by sureties. Particular factors arguing against the Government's becoming a self-insurer are the lack of legal means, administrative machinery, and in-house expertise for handling claims of subcontractors, suppliers,

could develop the necessary capabilities, it would probably prove costly to the Government.

Although we do not recommend eliminating the current bonding system, we feel that the Government is not benefiting as much as it could from surety bonds. Chapter 5 discusses those areas where the Federal construction agencies can improve their participation in the system.

CLAIMS OF SUBCONTRACTORS,
SUPPLIERS, AND LABORERS

The basic purpose of the Miller Act is to provide a means of recourse for subcontractors, suppliers, and laborers on Federal construction projects. Payment bonds provide the means by which subcontractors, suppliers, and laborers can submit claims against contractors, even in the absence of defaults.

We examined selected project files at 9 Federal construction agencies, including files relating to 75 defaulted contracts. For 17 of the defaults, we examined the project files at both the Federal agency and the cognizant surety company. In many instances, subcontractors, suppliers, or laborers submitted claims or voiced complaints directly to the Federal agencies. Because these projects were bonded, the Federal agencies simply referred the complaints to the appropriate surety company. The fact that sureties handled the claims removed potentially major legal and administrative problems from the Federal construction agencies.

The surety industry has said that it does not keep overall statistics on the amount of claims submitted and paid on Federal construction projects. To ascertain the prevalence of claims, we reviewed selected surety companies. Presented below are examples of the situations we found.

Example 1

On a \$36,000 Navy contract, a subcontractor submitted a claim for \$29,000 to the surety company, citing non-payment by the contractor. The surety maintains that,

\$10,130. The surety also noted that its attempts to recover its loss from the contractor had so far proved unsuccessful.

Example 2

The contractor got into difficulty simultaneously on three multimillion dollar Federal projects. The surety allowed the contractor to complete all three projects and funded settlements with subcontractors and material suppliers. The surety cited payments on such claims of over \$540,000, plus incurred expenses of over \$20,000 and said that, so far, it had recovered only about \$85,000 from the contractor.

However, in other instances the sureties contested subcontractors' and suppliers' claims. It is apparent that the sureties do not automatically pay all claims submitted under payment bonds. Rather, the sureties make certain determinations regarding the validity of the claims and the effect that payment or nonpayment will have on the sureties' financial exposure and on contract completion.

If bonds were eliminated, some other system for protecting subcontractors, suppliers, and laborers would have to be devised. Most Federal construction agencies believe that a workable system cannot be developed. The agencies feel that, even if a system could be developed, the administrative cost to the Government to operate the system likely would be high.

FINANCIAL AID TO CONTRACTORS

The surety keeps a bonded contractor's work program under surveillance to guard against the contractor overextending its total resources and thus subjecting the surety to potential financial losses. Should the contractor get into difficulty, the surety may be able to arrange for the loan of supervisory personnel, skilled technicians, or special equipment from other contractor clients of the surety. In addition, a surety sometimes provides or arranges for financial assistance to a contractor in trouble.

provide in-house technical assistance to a contractor. However, the agencies currently have no legal means, administrative machinery, or resources to provide financial aid to contractors in trouble.

As shown in the following examples, the surety companies can and do provide financial assistance to contractors.

Example 1

A contractor involved in a Federal dam project for the Corps of Engineers, Department of the Army, experienced a serious cash shortage that threatened its ability to continue operations. The surety elected to support the contractor and secured a \$1 million line of credit for the contractor at a commercial bank. The surety guaranteed advances under the line of credit. As a result of the surety's aid, the contractor avoided default and completed the project.

Example 2

The contractor exhausted its capital at the time it was involved with nine bonded projects, including eight Federal jobs. The surety provided the contractor with enough capital to pay construction costs and to satisfy outstanding bonded job obligations. Surety payments on the Federal jobs totaled \$138,500, plus legal and other expenses of over \$5,000. The surety eventually was reimbursed.

It was evident from our study that the decision to provide financial aid to contractors was generally based strictly on sureties' concern for minimizing potential losses. If the surety determined that immediate financial aid would be less costly than the loss from default, the aid was provided. However, if the surety felt that it would be potentially less costly to take over the contract, the contractor was allowed to default.

DEFAULTS ON FEDERAL CONSTRUCTION

From the nine Federal agencies reviewed, we tried to obtain detailed data on the default history for a 10-year

period and the relationship of defaults to total construction activities. Only one of the nine agencies was able to provide complete information.

An analysis of the limited information available indicates that (1) most agencies experienced very few defaults and (2) the value of the defaulted contracts represented a very small portion of the total value of all construction contracts. For example, for the period 1963-72, AEC, NASA, and HEW were able to identify only five, two, and six defaults, respectively.

The Corps of Engineers was the only agency able to provide complete data comparing defaults to total construction activities. For the 10-year period, the Corps had 73 defaulted contracts having a total contract award value of about \$30 million. During the period, the Corps awarded about 20,000 contracts valued at about \$11.7 billion. The number of defaulted contracts represented less than one-half of 1 percent of total contract awards. On the basis of the total value of all contract awards, the value of the defaulted contracts was also less than one-half of 1 percent.

Generally, the cost of performance and payment bonds represents about one-half of 1 percent to three-quarters of 1 percent of the total contract price. Accordingly, it appears that sureties' losses on the Corps' defaulted contracts were considerably less than the bond premiums earned from such contracts. Surety figures show that, for all Federal contracts, the direct losses incurred averaged 51 percent for the period 1959-70--total premiums of about \$241 million versus direct losses of about \$123 million.

In comparing these figures to the total premiums paid on direct Federal construction (about \$24 million annually), it appears that the Government could self-insure against losses from defaults if Federal construction agencies could keep losses from defaults, including the administrative cost of handling defaults, below \$24 million annually. The agencies could not determine what their administrative costs would be if they had to assume the responsibility for handling defaults.

- The above approach does not consider:
1. The costs related to the other services provided by sureties, particularly paying claims and providing financial aid to contractors.
 2. What the default ratio would be if surety bonds were eliminated.

If bonds were eliminated, the two issues would become particularly important. Unless some substitute method was devised to handle claims and provide contractors with financial aid, defaults would increase.

Other factors affect the ratio of losses to premiums earned. When a default occurs, sureties try to minimize their losses through various legal sanctions against the defaulting contractor, such as attachment and subsequent liquidation of the contractor's equipment and personal assets. If the Government became a self-insurer, it would have to take similar actions or face the prospect of higher loss ratios.

Most agencies expressed satisfaction with sureties' efforts on defaulted contracts. Our review of defaulted contracts at both the Federal agencies and the surety companies generally supported the agencies' observations. Sureties were usually prompt in attempting to reach agreements with the agencies regarding arrangements for completing the projects. Generally the sureties (1) cooperated with the agencies in completing the projects and (2) honored the agencies' claims for reimbursement of additional contract costs incurred in completing the projects. As discussed in chapter 5, we believe the agencies, besides being reimbursed for increased contract costs, should also be reimbursed for the administrative costs incurred in handling defaults.

CONCLUSIONS

Because of the unavailability of cost data and the Government's inexperience in providing certain surety-type services, we could not quantitatively determine:

1. The value of the services provided by sureties particularly the value of handling claims of subcontractors, suppliers, and laborers and providing financial aid to contractors in trouble.
2. Whether it would be economically feasible for Federal construction agencies to assume these services and have the Government become a self-insurer.

Therefore we do not recommend eliminating the current bonding system. Factors arguing against the Government's becoming a self-insurer are its lack of legal means, administrative machinery, and in-house expertise for handling claims and providing financial aid to contractors.

AGENCY COMMENTS AND OUR EVALUATION

The Federal construction agencies supported our conclusion that there was no basis for recommending elimination of the current bonding system. For example, the Department of Defense (DOD) stated that it strongly supported our "conclusion that the present basic system of performance and payment bonds in construction should be retained."

The Office of Management and Budget expressed the opinion that we might review the issues in greater detail. On the basis of factors cited in this chapter, however, we do not believe that additional review effort would produce enough meaningful data to make a definitive decision on the Government's becoming a self-insurer.

CHAPTER 6

SBA BOND GUARANTEE PROGRAM

As part of our study, we examined SBA's bond guarantee program. The program's basic objectives are to (1) provide bonds for small and minority contractors who cannot obtain bonds in the open market and (2) increase the viability of these contractors so they can make the transition ("graduate") to the regular bonding system. We believe that the program would be more effective if SBA developed formal criteria for graduating participating contractors and established a monitoring system to insure that sureties are complying with such criteria.

PROGRAM OPERATION

*of this
is out of date*

The bond guarantee program, established pursuant to Public Law 91-609 (15 U.S.C. 694a-b), allows SBA to guarantee, for a fee, any surety company against up to 90 percent of its losses resulting from a small contractor's breach of the terms of a bid, performance, or payment bond. To qualify, a contractor must be a small business with annual sales under \$750,000 and be able to show that a surety bond is required and could not be obtained on reasonable terms and conditions without an SBA guarantee. The guarantee is limited to surety bonds on contracts up to \$500,000.

SBA stated that, as of May 20, 1974, it had guaranteed bonds on 15,093 contracts having a total value of about \$1 billion. As of that date, 99 sureties were participating in the program.

To obtain a bond, a contractor applies to a bond broker of its choice. The contractor furnished the broker with the necessary financial data, work history, and other information. If the broker decides that the contractor may be bondable, he refers the application to surety companies he represents until he finds a surety willing to bond the contractor.

A surety company which is interested in the contractor's application decides whether to (1) bond the contractor without an SBA guarantee, (2) bond with an SBA guarantee, or (3) not bond under any circumstances. If the surety determines an SBA guarantee is necessary, it sends a letter with supporting data to the appropriate SBA regional office

... SBA makes its own underwriting review and, if it is favorable, completes the guarantee agreement and returns it to the surety company.

.. When the bond is issued, the contractor pays SBA two-tenths of 1 percent (\$2 per \$1,000) of the contract's face value. In the case of partial bonds (less than 100-percent bonds), the contractor pays SBA either two-tenths of 1 percent of the contract's face value or 20 percent of the total premium charged by the surety, whichever is less. The contractor must also pay the surety the total bond premium, 10 percent of which the surety pays to SBA as its fee for the guarantee.

Claims and defaults

SBA officials stated that losses resulting from defaulted contracts were 1.24 percent of total completed contracts backed by guarantees.

Initially, reserves to cover potential claims resulting from payment defaults were about \$400,000, or 1 percent of the \$40 million in bonds outstanding. SBA subsequently raised reserves to about 2 percent because of an increase in the number of claims.

Defaults and claims against SBA bond-guaranteed contractors are handled by the sureties. SBA gives each surety written authorization to deal with such problems in a manner which is routine for the company and conducive to mitigating losses and insuring satisfactory completion of the contract.

Sharing ratios and premiums

The SBA program is often referred to as the "90-10 program" because of the method used to distribute risk exposure to premiums earned. SBA guarantees 90 percent of the risk

sureties participating in the program incur only a 10-percent risk for 90 percent of the bond premiums collected.

The authorizing legislation stated that SBA could guarantee up to 90 percent of the penal amount of the bond in return for a reasonable portion of the premiums collected from the contractors. The disparity in the relationship of risk to premiums resulted from the uncompromising position taken by the surety industry during negotiations. According to SBA officials, the surety industry dictated the terms under which it would participate in the program. One condition the industry insisted on was that SBA had to agree to accept 90 percent of any loss for no more than 10 percent of the premiums collected. SBA agreed, and the industry indicated a willingness to reassess the adequacy of SBA's 10-percent share after 2 years of experience.

In February 1974, SBA met with surety representatives to reassess the "90-10" ratio. No change resulted from the meeting.

SBA's apparent lack of forcefulness in dealing with the industry was explained as being the result of the industry's take it or leave it proposition for SBA. SBA officials made the following observations.

- If SBA had not been willing to accept 90 percent of the risk, the industry would not have been willing to participate in the program.
- The surety's premium on the average guaranteed bond is not large and has to be shared with SBA and the broker.
- The 10-percent risk the surety faces makes it more responsible than it would be if it bore no risk whatsoever.

Sureties are allowed to charge higher premium rates for guaranteed bonds. Normally, bonds cost contractors \$10 per \$1,000 for contracts up to \$100,000. However, for bonds issued under the SBA program, sureties were allowed to charge a rate up to \$20 per \$1,000. In March 1973, the rate

was changed to \$15 per \$1,000 for the first \$5,000 and \$10 per \$1,000 thereafter.

NEED FOR INCREASED SBA PARTICIPATION IN PROGRAM OPERATIONS

The need for increased SBA guidance and program management is apparent. Specifically, SBA should provide formal guidelines and improved procedures for graduating guaranteed contractors.

According to SBA, the program is too new to have an adequate basis for graduation procedures, and the program operates under the assumption that a "surety will make every effort to graduate a contractor."

Because SBA does not have formal graduation procedures or a monitoring system, it does not know (1) the number of graduated contractors or (2) the number of contractors still in the program that should have been graduated. Therefore, SBA has not been able to determine the extent to which the program was accomplishing its objective.

CONCLUSIONS

It is apparent to us that, unless SBA develops adequate procedures for graduating contractors, its ability to insure that the program is accomplishing its objectives will be impaired. Accordingly, we believe SBA should develop formal criteria for graduating participating contractors into the regular bonding system and establish a monitoring system to insure that sureties are complying with such criteria.

RECOMMENDATION

We recommend that the Administrator of SBA direct that formal criteria be developed for graduating participating contractors into the regular bonding system and a monitoring system be established to insure that sureties are complying with such criteria.

AGENCY COMMENTS AND OUR EVALUATION

The Administrator, SBA, disagreed with our findings, conclusions, and recommendation regarding the bond guarantee program. With respect to our recommendation, he stated that SBA has established criteria by which its field offices will question the sureties on why a particular contractor is remaining in the program and not being graduated. SBA thinks, however, that the forces at work in the marketplace will

vised.

After receiving its comments, we asked SBA to provide us with a copy of the established criteria. SBA officials stated that there was no written criteria, just an understanding among SBA's field offices to review a contractor's file when a surety applies for a guarantee.

The officials acknowledged that SBA has no systematic method for determining whether a contractor has, in fact, graduated. It should be recognized that "marketplace conditions" could produce results other than graduation, such as a contractor no longer being in business or maybe being involved in projects that do not require bonds.

We still believe the program would be more effective if our recommendation were implemented. Following are comments from those Federal construction agencies--GSA, Transportation (DOT), and NASA--that discussed the SBA section of the report.

GSA--"Since the recommendations directed primarily toward SBA would generate certain benefits for the procuring agencies participating in the small business programs, we also support those recommendations."

DOT--"We do not object to the recommendations concerning the Small Business Administration's involvement in the Surety Bond Guarantee Program."

NASA--"We believe the GAO findings to be accurate and their recommendations sound."

Our report was also reviewed by representatives from the Surety Association of America, the American Insurance Association, the Reinsurance Association of America, the National Association of Surety Bond Producers, and several surety companies. All the representatives stated that the SBA section of the report was an accurate description of the SBA program and how it is currently operating.

After carefully considering SBA's informative response, we still believe our report accurately reflects the current state of the bond guarantee program, a view supported by the Federal construction agencies and the surety industry. We believe that implementation of our recommendations will make the program more effective and its goals more readily attainable.

STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
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HOUSE LABOR AND COMMERCE COMMITTEE

To: House Labor and Commerce Committee

From: Walt Furnace, Chairman

Date: September 26, 1983

This interim the House Labor and Commerce Committee is specifically looking into the question of licensed and bonded contractors.

At the present time there are a multitude of contractors who are leading the public to believe that they are both licensed and bonded though neither is the case. Should these contractors produce inferior work, the consumer is often left with no recourse other than to repair the damage out of his own pocket.

Further, sometimes a licensed and bonded contractor will produce inferior work and the cost of his damage exceeds the bond posted. Again, this means that consumer often has no recourse but to pay for repairs out of his own pocket.

The intent of the hearings in Fairbanks, Ketchikan and Anchorage is to seek an answer to the following three questions:

- 1) Are there enough serious abuses of the law to suggest that the Legislature should demand stricter enforcement of the licensing and bonding sector?
- 2) Are there enough serious abuses to the consumer by licensed and bonded contractors to warrant the establishment of some testing and credentialling of those businesses who represent themselves to the public as licensed contractors?
- 3) Is the amount of bonding sufficient and, if not, is there another reasonable manner in which the consumer can be protected financially from inferior work by licensed contractors?

STATE OF ALASKA

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HOUSE LABOR AND COMMERCE COMMITTEE

To: All members of the House Labor and Commerce Committee

From: Representative Walt Furnace, Chairman

Date: September 21, 1983

RE: Licensed/Bonded Contractors

Enclosed please find a selection of materials you may find informative for the meetings on September 26 and October 3.

MEMORANDUM

State of Alaska

TO: Connie Sipe
Chief, Consumer Protection
Department of Law-Anchorage

DATE: March 23, 1982

FILE NO:

TELEPHONE NO:

FROM: Deborah Feldman
Investigator
Consumer Protection-Anchorage

SUBJECT: Contractors

I examined approximately 97 consumer complaint files filed in the Anchorage Consumer Protection Office between January 1979 and February 1982 -- a little over 3 years worth of complaints. These contractor complaints do not involve any consumer complaints against plumbers, furnace repair people, or electricians. Also, complaints against developers, architects, designers, and real estate agents are not included, although in a number of cases consumers had home improvement or home construction related complaints against these kinds of professionals. A breakdown on the categories of complaints is as follows:

General Contractor/Home Builder	41
Landscape/Excavating	18
Home Improvement Installations (glass, fireplace, tile, flooring)	9
Insulation/Roofing	7
Drywall/Painting	6
Masons/Asphalting	4
Fencing Installation	4
Drilling	4
Carpenter	2
Other	1
<hr/>	
Total	97

Below is a breakdown of contractor complaints by years:

1979	27
1980	32
1981	29
1982 (Jan/Feb)	8
<hr/>	
Total	97

The figures available for 1982 reflect that 8 complaints have already been filed with the Consumer Protection Section. Projected over the course of the year the 1982 total could be 48 complaints, a 33% increase over the next highest year, 1980. This would seem to be a conservative projection, as there will be approximately 4,500 housing starts in Anchorage alone this year. With this increased building activity it is likely that there will be a substantial increase over the year.

A breakdown by area is as follows:

Anchorage	76
Outlying areas (Willow, Wasilla, Palmer)	8
Kenai area	8
Bush	4
<u>Fairbanks</u>	<u>1</u>
Total	97

The following is a list of dwelling unit starts in Anchorage for 1980 and 1981. Also listed is the projected number of starts for 1982.

Dwelling Unit Starts

1980	1,071
1981	2,601
1982 (projected)	4,000-4,500

The figures almost speak for themselves. The projected growth in dwelling unit starts for the Anchorage area will be between 35% and 43%.

The impact of this increased activity upon the consumer is obvious. More contractors will be competing for this new business and our experience with the oil pipeline boom indicates that many of these new contractors will be "take the money and run" types.

Comments Regarding These Complaints:

Although it was difficult to do so, I attempted to evaluate the legitimacy of the consumer's complaint by reading through the entire file, including the business's response to the complaint. In approximately three cases out of the 97, consumers appeared to have perhaps been unreasonable in their complaints (e.g., demanding repairs past the warranty time, demanding changes in the contract after work had commenced). In one additional case, the business claimed that it sold the house as a private party and that our office had no jurisdiction over the repair complaint.

In approximately 90% of the remaining cases, the business either (a) did not respond to the consumer complaint; (b) had disappeared or absconded with money; (c) gave a partial correction or adjustment to the consumer; or (d) disputed the consumer's version of the facts. In these latter cases, our office usually ended up referring the consumer to a private attorney or small claims court because our office does not have the resources to assess in any depth evidence presented in an individual complaint. For example, businesses often disputed that there existed any corrective work for them to do or that the corrective work was so small in nature that it did not fall under any warranty or guaranty. Another problem is that verbal agreements were often made between the contractor and the consumer, eventually leading to many contract disputes over the terms of the agreement which could not be readily evaluated.

Because of the above-mentioned factors present in these disputes between consumers and contractors, our resolution rate on these disputes is very low -- approximately 10% consumers achieved a satisfactory settlement through our office. This is a much lower rate than our normal rate (40%) of resolution of consumer complaints through mediated settlement.

In addition to written complaints, our office receives a number of phone-in complaints against contractors. Our information officer takes these phone-in complaints but also generally refers consumers with contracting complaints to Occupational Licensing and the Department of Labor. In many cases, the consumer calls us in the hopes that the Consumer

Protection Office can intervene legally on the consumer's behalf. Often when the consumer finds out this is not the case, he/she may file directly in court or go to Occupational Licensing or the Department of Labor without filing a written complaint with Consumer Protection. In fact, the more serious or legally urgent the contractor complaint, the more strongly we urge seeing a private attorney and then we often do not get a written consumer complaint on those cases.

In reviewing our phone logs, our information officer estimates that at least 55-60 additional contractor complaints were received by the Consumer Protection Office in 1981. These complaints are not reflected in the previously discussed charts because written complaints were not formally processed in these phone-in cases. Total estimated contractor complaints (not including plumbers, electricians, etc.) for 1981 alone could be 87-92.

There is a high percentage of contracting businesses which shut down, enter bankruptcy, or simply disappear after a consumer complaint is filed, making any kind of resolution of a complaint pretty impossible.

Complaints About Quality of Contractor's Work
(1979-1982 sample from 97 total
number of written complaints)

Major delays	12
*Deviation from Original Plan	6
*Extra Charge/Cost Overruns	5
*Defective Work/Major/ Structural	35
*Defective Work/Finish/ Cosmetic	22
*Defective Work/Code Violation	6
*Defective Work/Operational	11
*Incomplete Work/Major	9
*Incomplete Work/Finish/ Cosmetic	26
*Incomplete Work/Operational	4
*Clean-Up	4
<hr/>	
Total	140

Note: Categories which reflect complaints of a more major or serious nature have an (*) asterisk. Total number of serious complaints from these categories is 82 or 59% of all 140 allegations. (The figure is conservative since the other categories also contain complaints which are more serious in nature but are not counted in the 59% figure as time has not permitted more detailed analysis to be made of these complaint categories.) Also, below are listed some other serious problems consumers encountered with contractors as far as method of doing business which are not accounted for in the 59% figure.

Misrepresentations Connected with Contractor Complaints
(1979-1982 from 97 total
written complaints)

Misleading or False Advertising	20 (approximately)
Misrepresentation Qualifications, Licensing, etc.	9
Promised Corrective Work Not Done	20
Misrepresented Terms of Agreement	13
Misrepresented Money Would Be Refunded	3
<u>Not properly licensed.</u>	<u>?</u>
Total	65

Other Related Problems
(1979-1982 from 97 total written complaints)

Lien Threatened	2
Lien Filed (separate from above)	2
Verbal Abuse or Physical Threat by contractor	6
*Contractor Disappeared/ Went Out of Business	8
Damages Incurred by Faulty Work	5
*Contractor Absconded with funds	17
Warranty/Guaranty Not Honored	20

Total 58

* Figures available for 1981 only - 9 contractors unlicensed, 4 unknown, 16 licensed.

Note: In 25 of 97 complaints the contractor either absconded with money, disappeared, could not be contacted, went out of business or went bankrupt.

Comments

1. These charts represent an extremely conservative estimate of the kinds of complaints consumers have against contractors. In a number of cases I suspect that many additional misrepresentations were made to the consumer, but the consumer did not report these misrepresentations, (e.g. concerning warranty that repairs would be done, that the contractor was licensed and bonded.) Similarly, in many of the other categories such as "warranty," "clean-up," "damages," the consumer may not have reported these problems if he/she had a more pressing concern such as a major building defect.

2. In almost every instance, people who filed written complaints against contractors were not "nit-picking" about one or two minor items to be corrected under warranty, for example. The greatest number of complaints against contractors fell under the category of major defective and/or incomplete work. In addition, those consumers who had more minor, cosmetic or finish work to be done presented lists of four or more items for which they had been waiting a long time for correction by the contractor.

3. Definitions -- "Major" or "structural" defects are those defects which are substantial and may prevent normal use of the home.

"Cosmetic" or "finish" work defects include defects which are less substantial and which may not keep the homeowner from enjoying the normal use of the home. Items in this category include bubbling or warping of counters, defective painting or staining, cracked plaster, chipped walls, loose nails, and warped or damaged flooring.

"Operational" defects include defects in mechanical, electrical, or plumbing items. Most common examples in this category are defective or incomplete plumbing fixtures which cannot be used, defective fireplaces which cannot be used, and defective heating and/or cooling systems which cannot be used.

"Warranty" category is counted only when the consumer alleges a warranty obligation exists that is not met or where it is otherwise obvious from the nature of the complaint that a warranty obligation has not been met.

"Deviation from plans" primarily refers to instances where a general contractor alters construction from what was originally agreed to or from what was on the blueprint.

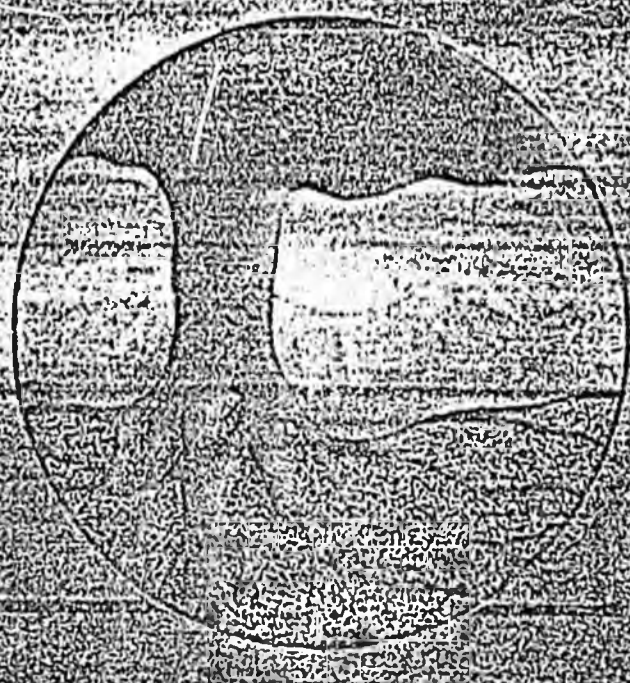
"Clean-Up" refers to cases where contractors have left a major mess for the consumer to pick up after.

General Patterns

1. The overwhelming majority of complaints are by condominium or homeowners against the general contractor/builder. Most complaints are from the Anchorage area (including Eagle River).
2. The greatest number of complaints involve allegations of major structural problems or defects such as structurally defective foundations, leaky roofs, improper roof or deck construction, missing structural support and improper grading or drainage leading to flooding.
3. The second greatest area of complaint involved incomplete work such as missing trim, unpainted surfaces, incomplete plumbing fixtures, missing windows, doors, screens, decorations, missing carpet and tiling. Our office also received a number of complaints concerning major unfinished work by contractors such as missing fixtures, unfinished lot grading, unfinished carpentry work.
4. Next category involved more minor, cosmetic, or visual defects such as blistered paint, cracked plaster, warped counters and floors, improper carpet installation, pitted or unlevel asphalt.
5. In every case involving general contractors, consumers attempted to have the contractor correct the problems complained about, but were unsuccessful in these efforts. In

most cases, the consumer tried to work with the contractor for several months after "closing" a deal before filing a complaint with the Consumer Protection Office.

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LIMITED PROGRAM EVALUATION
BOARD FOR LICENSING CONTRACTORS
JULY 1978

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE EVALUATION

This limited program evaluation of the Board for Licensing Contractors was conducted in accordance with the Tennessee Governmental Entity Review Law, Tennessee Code Annotated, Title 4, Section 29. The evaluation is intended to aid the legislative evaluation committee in determining whether the Board for Licensing Contractors should be abolished, continued, or restructured.

OBJECTIVES OF THE EVALUATION

The primary objective of the limited program evaluation was to address the criteria for review outlined in TCA 4-2911 and 4-2912. The secondary objective was to determine the issues involved in licensing contractors. An attempt was made to gather all pertinent information relating to these issues, and any other information which would aid the legislative evaluation committee.

SCOPE AND METHODOLOGY

The scope of the evaluation was the activities of the Board for Licensing Contractors for the last three years—1975, 1976, and 1977. This report is based on the following:

- Examination of minutes, correspondence, and other records of the board;
- Questionnaires completed by the board and its executive director;
- Interviews with board members, staff, and other state and local officials;
- Interviews with licensing and consumer officials of the southeastern states;
- Correspondence with other states and national organizations;

- Examination of resource materials and publications concerning contract construction; and
- Observation of board meetings.

OF THE
BOARD FOR LICENSING CONTRACTORS

HISTORY AND BACKGROUND

The first legislation regulating the construction industry in Tennessee was passed in 1931. Under the first law only general contractors were licensed. The original law defined a general contractor as any person who completed or improved a structure where the cost exceeded \$10,000.

The original law was repealed in 1945. The 1945 law included provisions for the licensure of subcontractors who contracted work in excess of \$10,000. In addition this statute fixed standards of qualification and eligibility, provided for revocation of licenses for cause, and provided penalties for other violations.

In 1965 an amendment was passed that exempted residential contractors in counties with populations less than 60,000. According to the 1970 census only ten counties in Tennessee have populations over 60,000. As a result of this amendment, 46 percent of the population in Tennessee is not affected by the residential licensing requirement. If there is a public purpose involved in licensing homebuilders in urban areas, there should also be a public purpose in licensing rural homebuilders. The feeling of the current board is that the law should apply equally to both rural and urban homebuilders.

In 1972 the contractors act was amended again. The major alteration was to clarify that only subcontractors engaged in performing plumbing, electrical, heating, ventilating, or air conditioning work were required to be licensed. The 1972 amendments also raised the minimum contract amount which necessitated the licensing of contractors and subcontractors from \$10,000 to \$20,000.

In 1976 a new contractors licensing act was passed. The act included the update and revision of obsolete and ambiguous sections of the previous law. It also provided for certain exemptions and bidding provisions (see Summary of the Current Law, page 8). In 1977 the minimum contract amount requiring a contractor and subcontractor license was increased from \$20,000 to \$50,000.

SUMMARY OF THE CURRENT LAW

1. The Tennessee Board for Licensing Contractors is created by TCA 62-604, and is charged with the administration of that act.
2. This act applies to: any person, firm, or corporation engaged in contracting in this state where the cost of the completed structure or improvement, or of different structures and improvements under the same contract, exceeds \$50,000. The act applies to subcontractors who engage in electrical, plumbing, heating or ventilating and air conditioning classifications or contracting where the amount of the subcontract is equal to or greater than \$50,000.
3. This act does not apply to: any person, firm, or corporation in a county with under 60,000 population according to the 1970 census, who engages in his county of residence in the construction of residential buildings; any person, firm, or church that owns property and constructs thereon single residences, farm buildings or other buildings for individual use, not for resale, lease, rent or similar purpose.
4. An applicant for a first-time license is charged a fee of \$75, and a renewal fee of \$35 is charged each year after that.
5. Each approved applicant is issued a license to construct in certain classifications, i.e., industrial, commercial, residential, and a single contract limit above which he may not bid, e.g., \$100,000, \$1,000,000, \$2,000,000.
6. Every contract awarded for more than \$50,000 requires that each bidder represent his license number, classification, and expiration date on the outside of his bid. Penalties are provided for violation of this provision.

The board is authorized to:

1. Administer the contractors licensing act, rules and regulations;
2. Make bylaws, rules, and regulations;
3. Determine the qualifications of candidates (experience, education, finances, and equipment);
4. Conduct written or oral examinations;
5. Determine classifications and bid levels;
6. Revoke or suspend (after a hearing) any license or renewal granted;
7. Initiate inquiries and investigations;
8. Prosecute violators subject to the approval of the Commissioner of Insurance.

STATE COMPARISONS

As shown in Exhibit 1 on page 10, there are 28 states that in some manner license or register contractors or subcontractors. Twenty of these states license contractors in a manner similar to Tennessee. Four states license only some specialty contractors—for example, electrical contractors—two states license only nonresident contractors, and Delaware licenses contractors for revenue purposes only. Of the eight states bordering Tennessee, all license contractors except Kentucky and Georgia.

Eleven states which license contractors in some manner require surety or performance bonds from non-resident, general, or public works contractors. Different bond payments are required in order to assure that nonresident contractors pay taxes, and that general or public works contractors complete their awarded projects. The Tennessee contractors act does not require any surety or performance bonds.

There is great variability in the state laws regulating contractors. Before issuing a license most states require the assessment of an applicant's financial statement, bank and material supplier references, construction experience and equipment. Several states require contractors to report any personal or corporate bankruptcies to the board; however, the Tennessee law does not include such a provision.

ORGANIZATION AND STAFFING

The Board for Licensing Contractors consists of seven licensed contractors appointed by the governor for seven-year terms. The board is composed of one subcontractor, one homebuilder, and five other licensed contractors who have had at least ten years of construction experience.

The administrative staff to the board consists of one executive director, one executive aide, three clerks, one typist, and one investigator (see Exhibit 2, page 11 for organization chart). The major functions of the administrative staff pertain

EXHIBIT 1

States Licensing General Contractors

States	License Contractors	License Subcontractor	Dollar Limit	Bond Requirements
1. Alabama	Yes	No	\$20,000	No
2. Alaska	Yes	No	1,000	\$2,000 Surety
3. Arizona	Yes	No	NA	1,000 to 15,000
4. Arkansas	Yes	Yes	20,000	No
5. California	Yes	Yes	100	2,500
6. Florida	Yes	No	NA	No
7. Hawaii	Yes	No	NA	No
8. Louisiana	Yes	No	30,000	bond (1)
9. Maryland	Yes	No	5,000	amount-NA
10. Michigan	Yes	No	200	No
11. Mississippi	Yes	Yes	10,000	No
12. Montana	Yes	No	15,000	No
13. Nevada	Yes	Yes	NA	amount-NA
14. New Mexico	Yes	No	NA	No
15. North Carolina	Yes	No	30,000	No
16. North Dakota	Yes	Yes	500	No
17. South Carolina	Yes	No	30,000	No
18. Tennessee	Yes	Yes (2)	50,000	No
19. Utah	Yes	Yes	NA	bond (3)
20. Virginia	Yes	Yes	30,000	No
21. Washington	Yes	No	250	1,000 to 2,000

States Licensing Specialty Contractors

States	Type of License	Bonding Requirements
22. Idaho	Public Works Contractors	No
23. New Jersey	Electrical Contractors	No
24. Oregon	Residential Building Contractors	(\$3,000 bond require.
25. Wyoming	Electrical Contractors	No
26. Delaware	Registers Contractors for revenue only	No
27. Kansas	Nonresident Contractors	\$1,000 bond requirem
28. Nebraska	Nonresident Contractors	\$1,000 bond requirem

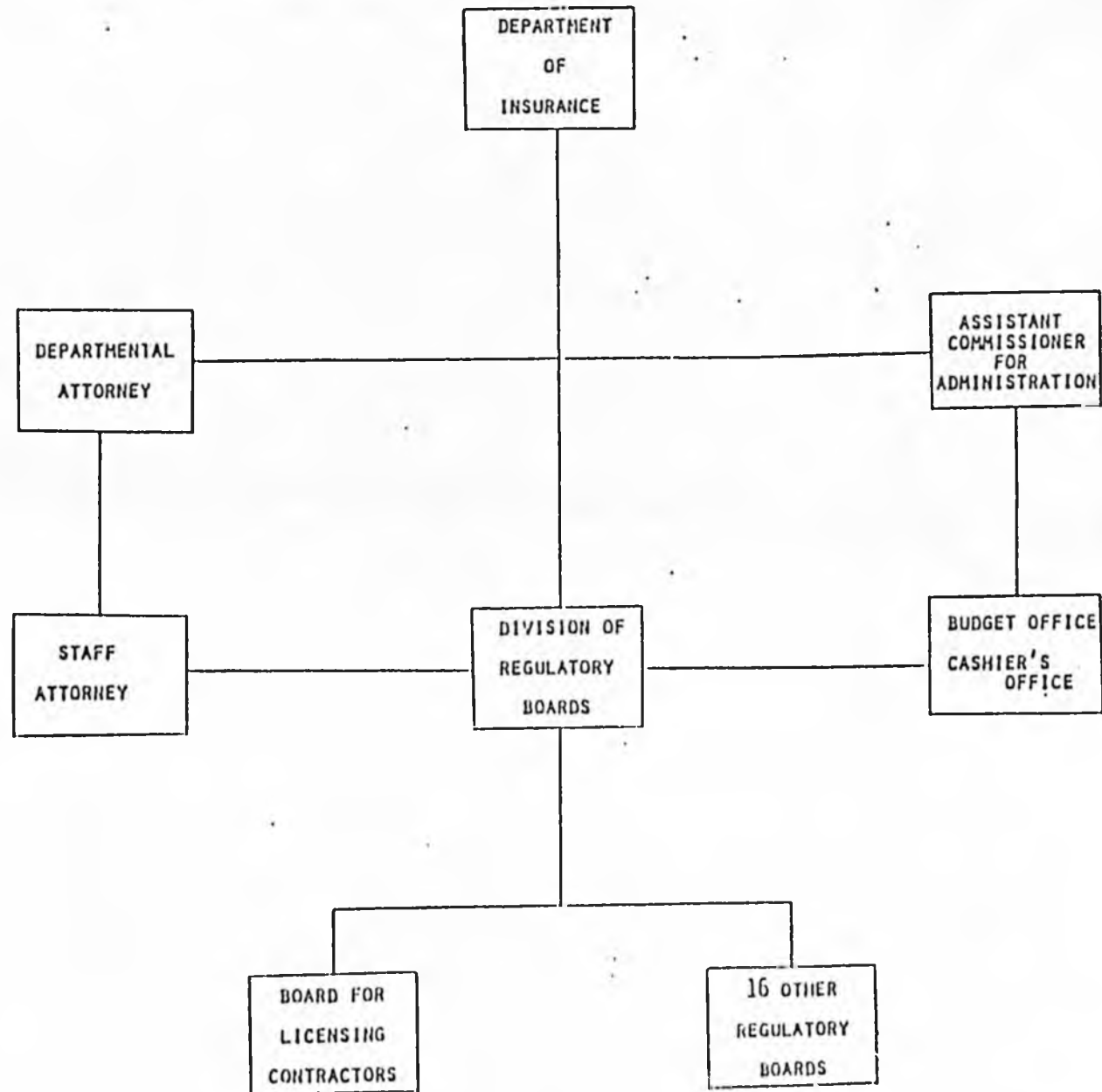
(1) Surety Bonds required for taxes on nonresident contractors.

(2) License only subcontractors who perform heating and ventilating, air conditioning, electrical, and plumbing work where the contract cost exceeds \$50,000.

(3) 50 percent performance bond for public works contract.

amount NA-dollar amount not available.

EXHIBIT 2. ORGANIZATION CHART: BOARD FOR LICENSING CONTRACTORS



to licensing and renewal activities. The staff is responsible for compiling the roster, renewing licenses, issuing original licenses, preparing for board meetings, and all related notification and clerical work.

The board has proposed in its fiscal year 1978-79 budget to computerize the licensing process at a cost of \$2,894. The computer could send out renewal notices and type renewal licenses, post renewal payments, notify delinquent contractors, keep track of expired licenses, type the annual roster, type and address all mailing labels and keep a record of all licensing information such as bid limits and classifications. These are essentially the same functions a Clerk II now performs. Generally, a computerized system requires careful planning for successful implementation. A computerized system is usually added when it results in savings in time and personnel costs.

Recently many states have included public members on regulatory boards. This trend has resulted from criticism that licensing boards are composed exclusively of representatives of the regulated industry or profession. The Tennessee Board for Licensing Contractors does not have a public member.

The board is required by law to meet six times per year (in January, March, May, July, September, and November) for interviewing applicants and evaluating applications and extensions of bid limits. Each session lasts two to three days and board members are compensated for travel and boarding expenses but receive no per diem. Members of all other regulatory boards in the Department of Insurance receive compensation (salary or per diem) and travel and boarding expense. In all other southeastern states that license contractors, board members receive per diem payments.

LICENSING ACTIVITIES

1. Licensing Procedures

According to the contractors' rules and regulations 0680-1-.01, an applicant desiring to be licensed must have reference inquiries from: (1) an architect or engineer; (2) a bank; (3) a material or supplies dealer; and, (4) another contractor. The candidate must also complete a personal questionnaire covering his business finances, equipment and experience. For bid limits under \$500,000 the financial statement in the questionnaire may be prepared by the applicant and notarized; if not prepared by the applicant it must be signed by a certified public accountant (CPA), a public accountant (PA), or a bank officer. For bid limits over \$500,000 the financial statement must be prepared by a CPA, PA, or bank officer. The financial statement required of the applicant is a balance sheet, which is not required to be audited, and which may or may not reflect an accurate picture of his financial situation. The board has the authority to require an audited financial statement before a license is issued; however, they have not utilized this authority.

After all reference and questionnaire forms have been properly completed the applicant is scheduled for a hearing with the board. During the hearing, or interview, the board divides into groups to question the applicant in order to insure that he has proper experience, finances, and equipment. If the applicant's finances are on the "light side" as determined by the board, the board will require the applicant and/or partners to indemnify the company. Indemnification is a procedure which requires that applicants send in current personal financial statements and agree to stand personally liable for their company's actions. Subsequent to the interview the board determines the classification and bid limit that is warranted by the applicant's finances,

experience, and equipment. For example, an applicant might be granted a license to engage in the classifications of residential and commercial building with a per contract bid limit of \$200,000. This does not restrict the licensee from taking on any number of jobs at this bid limit. For example, a contractor with a \$100,000 bid limit could have ten or fifty jobs for \$100,000 each underway at any one time. Therefore, the bid limit in itself is not an effective method of insuring financial responsibility.

In the first year of the board's operations, 177 general contractors were licensed. As of 1977 over 6,511 contractors and subcontractors were licensed by the board. According to the board, from 1974 to June 1977, 33 applicants, or 1.45 percent of those who applied, were denied licenses.

Reasons for Application Denials

A. Insufficient Working Capital	21
B. Lack of Experience	3
C. Bad Recommendations	5
D. Lack of Required Information Submitted	3
E. Information Submitted Falsified	1

2. Classification

There are approximately 200 different classifications of construction work in Tennessee. There is no easy way to get an accurate total number of classifications, due to the lack of a standardized or uniform classification system. The effect of this is that it is not clear what types of construction activities the board is authorizing when it issues a license. This is especially true in specialized fields of contracting such as utility construction. The board has realized these difficulties and has been working on a new classification system which should be adopted sometime in the spring of 1978.

The idea behind classifying contractors is to make sure that contractors engage in only the categories of work for which they are qualified by experience and expertise. Although currently no guidelines exist for determining whether or not a contractor is qualified in a certain classification and there are difficulties in the standardization of categories, classifying contractors is still one of the most effective means available to the board to assure quality construction. It is especially important in the more technical areas of construction which demand more expertise—for example, high rise buildings or sewage treatment plants.

3. Criteria for Licensing

As previously mentioned, the factors the board considers when issuing a license are the applicant's experience, equipment, references, and financial situation. The principal determinant appears to be the applicant's financial situation and the second most important is evidently experience. The applicant's references are not verified, and it appears to be sufficient to have access to the right type of equipment to be licensed.

Neither the contractors law nor the rules and regulations states any criteria to guide the board in its decisions. The rules and regulations 0680-0-.01 state "Sufficient finances, equipment, and experience must be shown to enable the contractor to do the work applied for, in the discretion of the Board" (emphasis added). How the board arrives at the classifications and bid limits that are granted is unclear. For example, there are no established criteria regarding the experience requirements or the examination.

Five of the eight southeastern states that license contractors require applicants to pass written examinations before licensure. The written examinations cover the applicant's general knowledge in the classification of work

applied for, general knowledge of construction methods, safety, health and lien laws of each state. The southeastern states that require examinations are shown below:

<u>Southeastern States</u>	<u>Examinations</u>
1. Virginia	written*
2. Florida	written
3. Louisiana	written
4. North Carolina	written
5. South Carolina	written
6. Tennessee	oral or written
7. Alabama	oral or written
8. Mississippi	oral or written

*written exam required for plumbers and electricians

Currently, the Tennessee Board for Licensing Contractors gives an interview or oral exam. The board prefers an interview over a written test for the following reasons:

1. Knowledge of the contractor concerning experience, equipment, and specialties is examined through the interview.
2. Some contractors cannot pass a written exam but can perform quality construction work.
3. Compiling a fair test on methods, specialties, etc., would be difficult.
4. An exam on safety and lien laws would be unfair because they are constantly changing.
5. Some construction companies or corporations are highly specialized and rely on several partners' expertise to run their companies. Therefore, it would be difficult to test only one partner, and unfair to test all.

The arguments for a supplemental written exam are:

1. More objectivity is instilled in the board's decision-making.
2. Greater uniformity in the granting of licenses is assured.
3. Increased assurance is obtained that contractors are familiar with state health, safety, and lien laws.

Tennessee does not have any stated criteria for determining bid levels. The board has followed an unofficial policy of issuing a bid limit of 10 times the candidate's quick assets.¹ However, the board frequently deviates from this policy. In a random sample of 110 renewal financial statements, original licenses, and extensions; 31.8 percent of the bid levels were over 10 times the applicant's quick assets, and 17.2 percent had negative net working capital.

Other states have established minimum criteria that candidates must meet to be licensed at a certain bid level. For example, in North Carolina:

Total current assets of at least \$7,500 in excess of total current liabilities are required for a Limited License. Total current assets of at least \$35,000 in excess of current liabilities are required for an Intermediate License. Total current assets of at least \$65,000 in excess of total current liabilities are required for an Unlimited License.²

Written minimum criteria give notice to the applicant of what is required for a bid limit, allow for greater uniformity between bid levels, and help to assure continuity of action when the composition of the board changes. For example, a minimum standard for a bid limit of \$50,000 might be one year of experience in the type of construction classification sought, and a net working capital of \$5,000.

Several members of the board expressed the view that applicants' experience and expertise are adequately checked through the interview. However, observation of the interviews revealed them to be quite brief—five to ten minutes long—and emphasizing the financial status of the applicant.

¹Quick assets, or net quick, is (current assets-inventory) - current liabilities.

²Correspondence with C. S. Scatton, Assistant to Secretary-Treasurer, North Carolina Licensing Board for Contractors, January 11, 1978.

Renewals

Licensed contractors are required by law to renew their licenses annually and pay a renewal fee of \$35. Before 1972, contractors were required to submit renewal forms prior to December 31 of each year. Contractors licensed after 1972 are required to send in renewals during the month of original licensure. Although renewals were staggered by this change, approximately 30 percent (or 2,000) of the renewals still come in during November and December. As a result of this peak workload, the activity of the administrative staff increases for two months, and decreases in other months. A possible solution is to stagger renewal dates so the workload will be equalized throughout the year.

Beginning in November 1976, contractors were required to send in current financial statements in order to renew their licenses. The rationale for this requirement is that the financial status of a contractor can change drastically from one year to the next. The board is currently in favor of lowering the bid limits of contractors with financial problems, although they have not lowered bid limits in the past. They have not set up any criteria to aid in making decisions on lowering bid limits, and they emphasize that limits should be lowered only when there is a clear need, not just because a contractor has a bad year.

Although the procedure requiring financial statements is commendable, the board does not require the financial statements to be audited. Assets could easily be overstated, liabilities understated, or the statements otherwise prepared in a misleading manner. Requiring that all financial statements be audited every year would probably impose an unjustifiable burden on contractors. However, unless the statements are audited, the board has no assurance of their reliability except for the contractor's integrity. Many

contractors already submit audited statements. The board could obtain assurance of the validity of financial statements and otherwise ease the burden on contractors by periodically requiring that statements be audited.

The Board for Licensing Contractors has not reviewed any of the renewal financial statements submitted since they were first required in 1976. The board has an informal agreement with the Comptroller of the Treasury, Division of State Audit to review the financial statements of contractors. The state auditors calculate net worth and net working capital for each contractor, review the financial statements, and "red flag" those with problems for the board's attention. During calendar year 1977 over \$20,000 was charged for these services; however, the results of the work have not been utilized. According to the executive director of the board, the renewal financial statements have not been utilized because of a shortage of personnel in the office of the board and a failure of State Audit to return the financial statements in a timely manner. The statements were not returned in a timely manner because of the lack of emphasis put on them by the board. The result has been that the statements have been filed away without the board's consideration, in effect wasting the \$20,000 paid to the Division of State Audit to review them. Another result has been the approval of renewals without reviewing the financial statements, thereby granting license renewals to contractors whose financial positions may have changed. In these cases, if the financial statements had been examined, the board might have required further evidence of financial stability or lowered the license limits of some contractors.

A further difficulty with the current renewal procedure is that financial statements have been taken from the office of the board for review by State Audit, sometimes for extended periods of time. According to the executive

director of the board, it is often necessary to refer to those files which are removed from the office. The board has requested an Auditor III position for the review of financial statements in their office. This position was approved in the fiscal year 1978-79 budget. The auditor should save both money and time in reviewing the financial statements. However, to perform his or her job adequately the workload would have to be rearranged so that a manageable number of renewals were due each month.

ENFORCEMENT

The Board for Licensing Contractors only investigates complaints about unlicensed contractors, licensed contractors bidding on contracts over their bid limit, or contractors bidding in areas of construction for which they are not licensed. Most of these investigations stem from written complaints, telephone complaints, and Dodge Reports. Dodge Reports is a periodical which publishes construction projects up for bid, the contractors who bid on the projects, the bid prices, and the contractors who are awarded the projects. The board's investigator examines these reports to assure that contractors are properly licensed, classified, and within their proper bid levels. The emphasis of the investigative work is not on the quality of contractors' work.

In addition to investigating licensing violations, the investigator has attempted to inform municipal building and housing inspectors as to which contractors are required to be licensed by the state. According to the investigator, many licensing violations could be resolved by local building inspectors. TCA 62-621 states in part: "No official of the State, or any political subdivision thereof, shall issue a permit or contract work order to any applicant therefor, to do contract work, unless such applicant at the time holds a license as a contractor under the provisions of this chapter..." According to the board, cooperation by the building inspectors has been weak in the areas of issuing building permits to contractors who are not properly

licensed, and in the referral to the board of complaints about the quality of contractors' work. Improved cooperation and coordination of efforts between the board and the building inspectors could expedite the enforcement of the law.

TCA 62-617 stipulates that it is the duty of the board before granting a renewal to gather or receive satisfactory evidence that a contractor has paid all state, municipal and county taxes. The board presently requires a notarized statement from the contractor stating that all taxes have been paid; however, not all contractors have submitted these statements. The board has not verified the statements that were submitted or followed up on those that were not.

RATIONALE FOR LICENSURE

The construction industry's main characteristics are its low profit margin, competitive bidding, and its reaction to the trends in the national economy. All of these characteristics promote a high failure rate. It is theorized that the licensing of contractors protects the public welfare by qualifying applicants so they can better react to the economy and thus maintain financial responsibility. It is also postulated that the qualification of contractors promotes better quality work, and that the Board for Licensing Contractors serves as a forum for public complaints. Theoretically, the classification of contractors protects the public by assuring that the contractor possesses the minimum level of financial means, experience, and expertise to engage in the specific area of construction for which a license is sought.

How do these theories hold up in practice? First, the Board for Licensing Contractors does not effectively assure financial responsibility. The bid limits established by the board are for per contract bids, and do not prevent a contractor from having ten or a hundred projects of that size in progress at one time. Also the procedure for arriving at those bid limits is questionable; it is not based upon any stated criteria and can be circumvented in several ways. Renewal financial statements have not been utilized by the board; consequently, contractors who might once have had sound financial positions could now have limits greater than their resources justify.

Second, the Board for Licensing Contractors presently does not assure the competence of contractors. The references contractors submit are not verified, the interviews are quite brief, and there are no minimum criteria established for either experience or financial responsibility. Further, although the board inspector is vigorous in seeking out contractors who are not licensed, in the past the board has not actively reviewed complaints regarding the quality of contractors' work.

Although the Board for Licensing Contractors is a group of dedicated individuals who have tried to protect the public as well as possible within the framework of the current law, the net effect of the operations of the board has not been the protection of the public. On the other hand, the public has not been adversely affected by the licensing of contractors. In essence the gains to the public from licensing have not been commensurate with the burden on contractors of complying with another set of government regulations. It is not clear what the effects of terminating the board would be; however, 22 states in no way license contractors.

Crackdown sought on no-license contractors

By PAUL LAIRD
AJC Editor

Earl Carlyle is a painting contractor who's mad as hell and isn't going to take any more.

A licensed painting contractor who's mad as hell and isn't going to take any more.

The owner of Earl's Custom Home Painting in Anchorage, this uncaped crusader is conducting a one-man campaign to mobilize licensed specialty contractors throughout Alaska and force the state to crack down on unlicensed contractors in all trades.

"I don't know about doing research," he said. "I do know about raising a lot of hell. I'm tired of living in a trailer and not being able to prosper even after seven years in business."

What he lacks in research expertise he compensates for in ability to match names in a state directory of licensed contractors against names of contractors listed in the Yellow Pages of the Greater Anchorage telephone directory.

State law prohibits unlicensed contractors from advertising. Nonetheless, Carlyle says he's found nearly 500 contractors without licenses advertised in the phone book.

State Rep. Walt Furnace, R-Anchorage and chairman of the House Labor & Commerce Committee, said many contractors don't bother to secure state licenses because the process is time-consuming.

"The process isn't cumbersome, but it is time-consuming," he said. "We all have a thing about filling out forms."

While requirements for contractors' licenses aren't that stringent, they do require somewhat of a commitment from the applicants. To secure licenses, contractors must have bonding, insurance and workers' compensation programs.

Carlyle said that by avoiding those requirements, unlicensed contractors are able to underprice those with licenses, and they also sidestep accountability for their work.

He said his investigation of the problem through classified advertising in daily newspapers and bidding forms published by general contractors for their projects leads him to believe the 500 unlicensed contractors in the Yellow Pages are only the tip of the iceberg.

During the summer, there could be as many as 2,000 unlicensed contractors operating in the Municipality of Anchorage, he said.

Furnace said most unlicensed contractors in the Anchorage area seem to be subcontractors. It's licensed companies operating in a subcontractor capacity that seem to be injured most.

Carlyle said some licensed contractors in Alaska have been forced out of business by price undercutting from unlicensed competition, both from within Alaska and Outside. Others have been forced to live indefinitely from one job to the next.

"Fly by nighters" who "guarantee their work right up to the time when the plane leaves" cost his business about \$500,000 in jobs during his first five years of painting contracting, he said. Now he's beginning to live off referrals.

"These fly by nighters bring their out-of-state prices with them, and a licensed contractor can't compete," he said. "They don't keep books, they don't pay taxes and they don't incur the expenses of doing business here during the winter."

"They just come in the spring and split in the fall when it gets cold. They don't have to eat their mistakes; the consumer does."

Earlier this year he engineered a write-in campaign of more than 1,000 of the state's specialty contractors to the governor, key legislators and other state officials. Goal of the campaign was to build awareness of the problem and to prompt stricter enforcement of state law barring unlicensed contractors from working in Alaska.

One legislator reported receiving more than 1,000 letters from specialty contractors throughout Alaska.

"That must mean there are 1,000 specialty contractors who are as mad as I am," Carlyle said. "I think we're starting to get some attention now."

Although the Anchorage painting contractor said he's contemplating another mailing blitz, the first one apparently found its mark.

Furnace said his committee is studying the problems of local hire and unlicensed contractors before the next legislative session begins in January, and public hearings will be scheduled for Anchorage, Fairbanks, Ketchikan or Juneau and possibly Bethel or Kotzebue sometime this month.

"At this point we don't know what the overall effect of unlicensed contractors operating

in the state is, and we don't know how severe the income loss is to licensed contractors," Furnace said. "That's what we hope to determine from testimony at these hearings."

Carlyle blames the unlicensed contractor problem on spotty enforcement by the state, and Furnace agrees. The Anchorage legislator said the Department of Commerce & Economic Development division responsible for enforcement—the Division of Occupational Licensing—has been stymied by manpower shortages.

There are too few people responsible for keeping track of too many things in the division," Furnace said. He added he believes the problem is not a lack of money in the department's budget, but rather questionable priorities of how the money is spent.

"There's never been a shortage of money (in the department)," he said. "The shortages in enforcement manpower have been the result of the way the money is allocated."

A number of approaches to the problem are being considered, and notification of this month's hearings will be mailed to nearly 2,000 specialty contractors statewide to generate responses to existing proposals and other ideas.

The Anchorage painting contractor said he expects widespread support for the move to push for stricter enforcement, but he also anticipates resistance from some general contractors who capitalize on the availability of cheaper unlicensed subcontractors.

He said he's encountered a handful of subcontractors afraid to become active in the involvement for fear general contractors will refuse them work.

Established contractors' organizations won't resist the move, he said, but some individual general contractors who use unlicensed subcontractors will lobby against it.

"We're going to need strong organization before the legislative session starts if we want to accomplish anything," he said.

Though shoddy workmanship and lack of accountability are major problems with unlicensed contractors, Carlyle said the state should not instate written examinations to assure competency.

"Some real artists and craftsmen couldn't pass a written test, but they could certainly pass a test on the job," he said.

Carlyle received an assurance from a special assistant to Gov. Bill Sheffield late in the spring that the Division of Occupational Licensing has been working with the Department of Law to develop a citation program to enforce regulations restricting unlicensed contractors.

The special assistant wrote Carlyle that some names he supplied to the division indeed are practicing without licenses, and those violators were sent warning letters.

"The list of names will be monitored for compliance and are potentially the first to be cited when the program begins if they are not licensed," the special assistant wrote.

Furnace said he believes many of the violators simply don't know they're not complying with state regulations, and he hopes to avoid an enforcement approach that will be punitive.

"Some contractors think all they need is a business license," he said. "It's one of the problems of the easy entrance and

easy exit in business in Alaska."

He added he hopes the problem can be addressed at least partially without adding to state statutes.

"The main thing is that we have to prevent unlicensed people from posing as experts by advertising," he said.

A possible solution, the Anchorage legislator said, is soliciting voluntary cooperation from newspapers of general circulation and from the people who compile the Yellow Pages.

By screening unlicensed contractors from advertising, those sources could prevent unlicensed contractors from posing as experts, Furnace said. One Anchorage daily already operates under that policy, he added, but the other doesn't.

"We'd like not to have to put that kind of thing into statute form, but we do need the help of the private sector in attacking the problem," Furnace said.

He added he doesn't believe the licensing process on the books now is in need of revamping.

An aide to Furnace said the following list of solutions is being studied, but some are believed unworkable. The legislator's office is soliciting reactions to and suggestions about these proposals:

- Require all contractors to include contracting license numbers in all advertising.

- Require contractors to place signs on both sides of their vehicles stating company names and contracting license numbers.

- Increase bonds for specialty contractors to \$5,000 and for general contractors to \$15,000.

- Give enforcement inspectors authority to check identification and issue citations.

- Establish a state division for policing contracting laws.

- Mandate that enforcement officers to police newspapers, Yellow Pages, television and radio for violators.

- Adopt legislation requiring telephone utilities to disconnect service for unlicensed contractors.

- Impose stiffer penalties for violators.

- Prohibit state agencies from contracting with unlicensed contractors and licensed contractors who subcontract to unlicensed subcontractors. Prohibit projects using unlicensed contractors or subcontractors from taking advantage of state financing or refinancing for one year.

- Have a computerized list of contractors available on demand that would include the kind of contractor, license number, company name and address.

Proposals for ensuring compliance with local hire laws include requiring the submission and monitoring of a statement of the percent of work force to be hired locally when state funds are involved, requiring quarterly filings of compliance statements and the use of spot audits and penalties.

T.R. Baber

Amendments Proposed:

1. Delete all reference to a board.
2. The below amendments if the bill is passed.

Page 1 - Delete reference to a Board of Builders.

Line 11 - Delete
 Lines 18 to 20 - Delete.

Page 3, line 13, section 8 - Delete.

Insert between lines 18 and 19, page 3:

*Section AS 08.18.011 is amended to read:

Sec. 08.18.011. REGISTRATION REQUIRED. (a) It is unlawful for a person to submit a bid or work as a contractor until that person has been issued a certificate of registration by the Department of Commerce and Economic Development. A bid submitted for work as a contractor by a person or firm not registered under this chapter prior to the bid is invalid and shall be rejected.

(b) A bid submitted for contracts involving electrical work by a registered contractor who is not a licensed electrical administrator, or does not have in his employ, an electrical administrator qualified under AS 08.40.090 is invalid and shall be rejected. A registered electrical contractor who has been retained must qualify under AS 08.40.090.

(c) A general or specialty contractor registered under this chapter, prior to bidding on a contract involving electrical work, must

(1) be an owner licensed as an electrical administrator and licensed to perform electrical work in the category to be performed under the contract on which the contractor is bidding, or;

(2) have in his employ, prior to bidding, a person licensed as an electrical administrator in the category of the work to be performed under the contract on which the contractor is bidding.

Line 23 - Delete "By the Board".

*Sec. 2. AS 08.18.026 is amended to read:

Sec. 08.18.026. ELECTRICAL CONTRACTORS. (a) The department may not issue a certificate of registration as an electrical contractor to an applicant unless the applicant is, or employs, a person currently licensed as an electrical administrator under AS 08.40.

(b) Each applicant for an electrical contractor's certificate of registration may employ more than one electrical administrator.

(c) If the relationship of the [ONLY] electrical administrator with a registered electrical contractor is terminated, the contractor must notify the department within seven days following the termination. Registration is void 30 days after termination [THE NEXT REGULARLY SCHEDULED EXAMINATION] unless the electrical contractor has hired a licensed electrical administrator in the interim.

Insert after line 20, page 4:

*Sec. 3. AS 08.18.121 is amended to read:

Sec. 08.18.121. SUSPENSION AND REVOCATION OF REGISTRATION.

(a) If the insurance required in AS 08.18.101 ceases to be in effect, the registration of the contractor shall be suspended until the insurance has been reinstated.

(b) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposit so that there is not in effect a bond undertaking or cash deposit in the full amount prescribed in AS 08.18.071, the registration of the contractor involved shall be suspended until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(c) If a bonding company cancels its bond of a contractor the contractor's registration shall be revoked. The contractor may again obtain registration by complying with the requirements of this chapter.

(d) If a licensed contractor fails to fulfill the contractor's obligations as set out in AS 08.18.071 the contractor's license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions the contractor's license may be permanently revoked.

(e) Proceedings to suspend or revoke a license issued under this chapter are governed by the Administrative Procedure Act (AS 44.62).

(f) If the commissioner of commerce and economic development or the commissioner of labor determines that a person is acting as a contractor in violation of this chapter, the commissioner of commerce and economic development or the commissioner of labor shall give written notice prohibiting further action by the person as a contractor. The prohibition continues until the person has submitted evidence acceptable to the commissioner [OF LABOR] showing that the violation has been corrected.

(g) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner of commerce and economic development or the commissioner of labor from enforcing the order.

(h) The departments of commerce and economic development and labor may investigate alleged or apparent violations of this chapter. Upon demand, a contractor or his representative must produce evidence of current registration. Refusal or failure to provide proof of current registration constitutes violation of this chapter.

(i) Registered contractors utilizing subcontractors shall ensure that these contractors meet the registration requirements of this chapter.

Page 4, lines 21 to 29, section 13 - Delete question - Why a highway specialist?

Page 5, lines 1 to 23 - Delete.

Line 24, Section 15 - As read, this section would take the jurisdiction away from the Department of Labor, Mechanical Inspectors and Department of Commerce and Economic Development Investigators.

We would prefer to see the authority for issuance of misdemeanor citations with mandatory court appearance. This would demand the "fly-by-night operators" to become licensed or leave the industry. The citation program should extend to legitimate contractors using unlicensed subcontractors.

*Sec. 4. AS 08.18.131 is amended to read:

Sec. 08.18.131. INJUNCTION. In an action instituted in the superior court by the commissioner of commerce and economic development or the commissioner of labor or a [THE] commissioners' [COMMISSIONER'S] representative, a person acting in the capacity of a contractor in violation of this chapter may be enjoined from doing so.

*Sec. 5. AS 08.18.141 is amended to read:

Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity of a contractor in violation of this chapter is guilty of a misdemeanor. An authorized representative of the commissioner of commerce and economic development or the commissioner of labor may issue a misdemeanor citation to a person, firm, partnership, corporation, or any other entity that is doing contracting work if the person, firm, partnership, corporation, or other entity does not have a valid certificate of registration under AS 08.18.011 or AS 08.18.026.

Section 17, lines 7 to 14 - Delete.

If not, then line 9 - Change to quarterly if necessary. This should be by regulation, not statute.

Line 12 - Delete telephone numbers.

Section 18, line 22 - Delete.

TESTIMONY OF

BILL REEVES

ALASKA CHAPTER

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

TO THE

HOUSE LABOR AND COMMERCE COMMITTEE

ON

LEGISLATION ESTABLISHING A BOARD OF BUILDERS (HB 610)



The Alaska Chapter, Associated General Contractors of America, (A.G.C.) represents more than 800 companies, including most of the general contracting companies engaged in commercial construction. We appreciate the opportunity to present A.G.C.'s views on HB 610.

The A.G.C. opposes HB 610. In its present configuration, HB 610 includes commercial contractors within a statutory framework aimed at residential home contractors. A.G.C. urges this committee to scrutinize any legislation creating any new "Board" as the State is presently inundated with Boards and Commissions. Finally, A.G.C. opposes the broad powers vested in the proposed Building Board by this legislation. There are no standards of conduct established or criteria other than basic licensing requirements. In short, a "board" is not necessary to enforce what is already the law.

Specifically, A.G.C. objects to the creation and all references to a "Board of Builders". The inappropriateness of the formation of this board is nowhere more apparent than in Section 13 of proposed House Bill 610. Section 13 attempts to create and defines the membership of the Board of Builders. Three general contractors are provided for in this section, one of which must be a "remodeling specialist" (a term which seemingly contradicts the term "general contractor") and one of whom is a Highway specialist. The one remaining "general contractor" Board member would be picked from general contractors with such varied expertise as a residential contractor building five houses a year, a residential housing contractor building 200 multi-family units per year, a commercial building contractor constructing small shopping centers, a commercial building contractor constructing large public and private buildings such as the Convention Center, ARCO or SOHIO buildings, a heavy and industrial general contractor constructing such items as major hydroelectric projects and refining plants, and any one of more than hundreds of different contractors with different areas of focus. All of these contractors will have

different perspectives; therefore, it seems inappropriate to elevate to a special status a remodeling specialist and a highway specialist.

With respect to including the registration number on stationery and on vehicles as required by Section 11; the A.G.C. recommends modification if this provision is felt to be necessary. We recommend that Page 4, Lines 7-9 be changed to read:

c) A motor vehicle displaying the name of a contractor shall also display the registration number of the contractor.

We further recommend an effective date of January 1986 to allow for utilization of supplies which do not contain the registration number.

The Alaska Chapter, A.G.C. does not oppose increasing the bond limits as provided in Section 12. In fact, A.G.C. does not oppose raising the bond limits even further. *oh*

In summary, the Alaska Chapter, A.G.C. opposes all of the provisions of HB 610 with the exception of raising the bonding limits for contractors.

The labor and commerce committee appears to be responding to a statewide need on two separate and unrelated issues. First, is the claim by many licensed residential contractors that they are competing with unlicensed contractors -- in particular the small specialty subcontractor. Second, many home purchasers complain of construction quality and the inadequate legal remedy that presently exists -- especially if the contractor is no longer in the state.

HB 610 as proposed will not solve either problem. Unlicensed contractors are illegal under present law -- creating a "board" will not solve the problem. Shoddy construction and an inadequate remedy for home purchasers will continue as long as home purchasers do not check into the reputation of the contractor. Raising the bonding limits to \$10,000 still will not provide an adequate safeguard.

The Alaska Chapter A.G.C. submits that the present system can work if everyone knows the laws that presently exist, and if the bonding limits are increased to an effective level. Present laws prohibit an unlicensed contractor from suing for compensation or a breach of contract. A public awareness campaign of this fact may stimulate many individuals to obtain licenses.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 610
Title: "An Act establishing a Board of Builders."
Sponsor: Rep. Furnace
Requestor: Labor & Commerce
Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	72.6	76.2	80.0	84.1	88.2
200 TRAVEL	0	36.3	38.1	40.0	42.1	44.2
300 CONTRACTUAL	0	87.9	92.3	96.9	101.8	106.9
400 SUPPLIES	0	1.8	1.9	2.0	2.1	2.2
500 EQUIPMENT	0	12.6	0	0	0	0
600 LAND & STRUCTURES	0	6.1	6.4	6.7	7.0	7.4
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0		0	0	0	0
TOTAL OPERATING	0	217.3	214.9	225.6	237.1	248.9
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	217.3	214.9	225.6	237.1	248.9
FEDERAL FUNDS						
OTHER						
TOTAL	0	217.3	214.9	225.6	237.1	248.9

POSITIONS:

FULL-TIME						
PART-TIME -seasonal	0	3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by the Sponsor

ANALYSIS: Attach a separate page for analysis (See Attached)

Prepared By: Darrell Miller

Division: Occupational Licensing

Phone: 465-2535

Date: March 6, 1984

Approved by Commissioner: Richard A. Lyon

Agency: Commerce & Economic Development

Date: 3/8/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS

HB 610

Assumptions:

This bill creates a new seven member board to govern an established licensing function within the Department of Commerce and Economic Development, Division of Occupational Licensing, Construction Contractors.

There are currently approximately 7,000 licensed contractors and an estimated 2,500 to 3,000 contractors that have not renewed their registration and are considered inactive.

This bill is silent on the number of meetings that the board shall hold each year. In the absence of specific statutes, AS 08.01.070(2) shall prevail. This states that each board shall hold a minimum of one meeting each year. With the number of licensed contractors, it is anticipated that it would be necessary for the board to hold at least quarterly meetings and in geographic locations of the State to cover Southeastern, Interior and Southcentral, with at least two of the meetings to be held in Anchorage, with each meeting, including travel time, being three days duration, in order to competently address the business of the board.

Travel and Per Diem costs would be incurred for board members and division administrative support staff to attend the board meetings.

This bill does not address the registration or renewal fee structure, as specified in AS 08.18.041, therefore no fiscal impact would be incurred on revenue.

The bill does provide for civil penalties for violations, however it would be extremely difficult to project any revenue from civil penalties imposed on licensed contractors by the board.

The bill does not address the issue of geographic areas of the State that board members shall reside in as a criteria for appointment to the board to ensure equal representation for contractors throughout the State. It is anticipated that three of the board members would be from the Interior area, three for Southcentral and the remaining one would be from the Southeastern area. Travel cost projected is based on this assumption.

This bill transfers the enforcement responsibility for construction contractor statutes and regulations from the Department of Labor to the Department of Commerce and Economic Development, Board of Builders. Additional investigative personnel would be required for this activity and travel and per diem costs would be incurred for investigations.

HOUSE BILL NO. 610

100 PERSONAL SERVICES - (FY '84 Salary Schedule with a 5%
inflation factor projected for
succeeding Fiscal Years)

2 Investigators, Range 18A, General Government, Seasonal - 6 months each (March through September) 1 located in Anchorage and 1 located in Juneau	\$ 46,299.48
1 Investigator, Range 18E, General Government, Seasonal - 6 months (March through September) to be located in Fairbanks	<u>26,301.85</u>
Total:	\$ 72,601.33

200 TRAVEL (Estimated)

2 Staff travel from Juneau to attend board meetings:

Anchorage: 2 meetings Transportation: \$400.00 each x 2 staff x 2 meetings =	\$ 1,600.00
Per Diem: 2 staff - 2 meetings 3 days each @ \$80.00 per day =	960.00
Fairbanks: 1 meeting Transportation: 2 staff x \$475.00 each =	950.00
Per Diem: 2 staff 3 days each @ \$90.00 per day =	540.00

Board Travel:

Transportation: Juneau meeting 3 members from Anchorage @ \$400.00 each =	1,200.00
3 members from Fairbanks @ \$475.00 each =	1,425.00
Per Diem: 7 members - 3 days each @ \$80.00 per day =	1,680.00
Transportation: Anchorage meeting 1 board member from Juneau @ \$400.00 each x 2 meetings =	800.00
3 board members from Fairbanks @ \$250.00 each x 2 meetings =	1,500.00
Per Diem: 7 board members 3 days each x 2 meetings @ \$80.00 per day =	3,360.00

Transportation: Fairbanks meeting	
1 board member from Juneau @ \$475.00 =	475.00
3 board members from Anchorage @ \$250.00 each =	750.00
Per Diem: 7 board members @ \$90.00 per day x 3 days each =	1,890.00

Investigator Travel:

Fairbanks: 1 Investigator - 1 airline trip per month @ \$300.00 x 6 months =	1,800.00
Per Diem: 8 days per month @ \$90.00 per day x 6 months =	4,320.00

Juneau/Anchorage: 2 Investigators 1.5 air- line trips per month each @ \$300.00 x 6 months =	5,400.00
Per Diem: 8 days per month per Investigator @ \$80.00 per day x 6 months =	<u>7,680.00</u>

TOTAL TRAVEL:	\$36,330.00
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300 CONTRACTUAL (Estimated costs)

Postage, telephone and operating costs, 3 Investigators @ \$250.00 per month each x 6 months =	\$ 4,500.00
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Investigator Leased Vehicles, dry,W/Maintenance:

Juneau: 1 vehicle @ \$425.00 per month x 6 months =	2,550.00
Anchorage: 1 vehicle @ \$410.00 per month x 6 months =	2,460.00
Fairbanks: 1 vehicle @ \$540.00 per month x 6 months =	3,240.00

Fuel: 3 leased vehicles @ estimated \$175.00 per month each x 6 months =	3,150.00
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Disciplinary Hearings:

Estimated 36 hearings under the Administrative Procedure Act for disciplinary sanctions with an estimated cost per hearing @ \$2,000.00 =	<u>72,000.00</u>
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TOTAL CONTRACTUAL:	\$87,900.00
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400 COMMODITIES (Estimated costs)

Stationery, Typewriter ribbons, pens, pencils, tablets, and other miscellaneous desk top supplies: 3 Investigators @ \$100.00 per month each x 6 months =	1,800.00
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500 EQUIPMENT (One time cost - FY '85 only- based on estimated
Juneau costs for FY '85)

3 Investigators- Juneau, Anchorage and Fairbanks:

3 Desks, double pedestal, 60" x 30" @ \$568.22 each =	\$ 1,704.66
3 Chairs, Executive Swivel, with arms @ \$313.30 each =	939.90
3 Typewriters, IBM Correcting Selectric with dual pitch, 15.5 inch paper capacity @ \$1,369.36 each =	4,108.08
3 Typewriter Tables @ \$135.65 each =	406.95
3 Calculators, Desk, printing and display, 12 digit, @ \$364.66 each =	1,093.98
3 Chairs, Side without arms, contour style @ \$114.60 each =	343.80
3 Recording Machines, Lanier, portable @ \$775.87 each =	2,327.61
3 Book Cases, with adjustable shelves (3) @ \$164.69 each =	494.07
3 File Cabinets, 5 drawer, legal with lock @ \$406.91 each =	<u>1,220.73</u>
TOTAL EQUIPMENT COSTS:	\$12,639.78

600 LAND & STRUCTURES (Estimated costs)

Office space for 3 Investigators:

Juneau: 150 square feet @ \$2.25 per foot per month x 6 months =	\$2,025.00
Anchorage: 150 square feet @ \$2.00 per foot per month x 6 months =	1,800.00
Fairbanks: 150 square feet @ \$2.50 per foot per month x 6 months =	<u>2,250.00</u>
TOTAL LAND & STRUCTURES COST:	\$6,075.00

TOTAL OPERATING COSTS: \$217,346.11

1.	POSITION TITLE Investigator III			RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION SFI	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.	

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	17,790.00	
6.	Benefits	2,905.11	
7.	Supplemental Benefits	1,090.53	
8.	Fixed Benefits	1,364.10	
9.	TOTAL PERSONAL SERVICES	01	23,149.74
10.	Travel	02	6,540.00
11.	Contractual	03	5,100.00
12.	Commodities	04	600.00
13.	Equipment	05	4,213.16
14.	Other -land & structures		2,025.00
15.	TOTAL COST		41,627.90

JUSTIFICATION

This position would be necessary to implement the provisions of HB 610, which creates the Board of Builders and transfers investigations and enforcement of Construction Contractor statute, AS 08.18, and regulations adopted to implement the statute, from the Department of Labor to the Department of Commerce and Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18, and of alleged violations of the regulations and orders of the Board of Builders during the peak months of the construction season.

RECEIPT CODE	FUNDING SOURCE	
16.	Federal Receipts 1002	
17.	G.F. Match 1003	
18.	General Funds 1004	41,627.90
19.	I-A Receipts 1005	
20.	Program Receipts 1028	
21.	Other	

FOR B&M USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
 PROGRAM Consumer Protection
 BRU Occupational Licensing
 COMPONENT Investigations

FY 84

Page 1 of 3
Revised Date _____

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION SFT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		17,790.00							
6.	Benefits		2,905.11							
7.	Supplemental Benefits		1,090.10							
8.	Fixed Benefits		1,364.10							
9.	TOTAL PERSONAL SERVICES		01		23,148.74					
10.	Travel		02		6,540.00					
11.	Contractual		03		5,010.00					
12.	Commodities		04		600.00					
13.	Equipment		05		4,213.26					
14.	Other- land & structures				1,800.00					
15.	TOTAL COST				41,312.00					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Match 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1028					
21.					Other					
FOR B&M USE ONLY										
4A KEY NUMBER										

This position would be necessary to implement the provisions of HB 610, which creates the Board of Builders and transfers investigations and enforcement of Construction Contractor statute, AS 08.18, and regulations adopted to implement the statute, from the Department of Labor to the Department of Commerce and Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18, and of alleged violations of the regulations and orders of the Board of Builders during the peak months of the construction season.

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

FY 84

Page 2 of 3
Revised Date _____

1.	POSITION TITLE Investigator III				RANGE/STEP 18E	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.		
2.	TYPE OF POSITION SFI	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT	LEG.				
3.	CONTINUATION LEVEL				JUSTIFICATION							
4.	TYPE OF EXPENDITURE				<p>This position would be necessary to implement the provisions of HB 610, which creates the Board of Builders and transfers investigations and enforcement of Construction Contractor statute, AS 08.18, and regulations adopted to implement the statute, from the Department of Labor to the Department of Commerce and Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18, and of alleged violations of the regulations and orders of the Board of Builders during the peak months of the construction season.</p>							
	1		2								3	
	PERSONAL SERVICES											
5.	Salary		20,364.00									
6.	Benefits		3,325.44									
7.	Supplemental Benefits		1,248.31									
8.	Fixed Benefits		1,364.10									
9.	TOTAL PERSONAL SERVICES		01								23,301.85	
10.	Travel		02								6,120.00	
11.	Contractual		03								5,790.00	
12.	Commodities		04								600.00	
13.	Equipment		05								4,213.26	
14.	Other - land & structures										2,250.00	
15.	TOTAL COST										42,275.11	
16.	RECEIPT CODE	FUNDING SOURCE										
17.		Federal Receipts 1002										
18.		G.F. Match 1003										
19.		General Funds 1004		42,275.11								
20.		I-A Receipts 1005										
21.		Program Receipts 1028										
		Other										
FOR B&M USE ONLY												
4A KEY NUMBER _____												

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

FY 84

Page 3 of 3
Revised Date _____

Section 5, Page 2, Line 13:

Adds a new section authorizing the Department of Commerce and Economic Development enforcement and citation powers.

Section 6, Page 3, Line 15 and Section 7, Line 25 and 26:

This subsection addresses the authority of the commissioner of labor but, adds "or the commissioner of commerce and economic development".

RECOMMENDATION:

Either the Department of Labor or the Department of Commerce and Economic Development have enforcement and citation authority but, not both. This would help avoid the potential for conflicting regulations and actions.

Section 3, Page 1, Line 29:

Adds that all advertising and contracts are to include the registration number.

RECOMMENDATION:

Most telephone yellow page advertisements are prepared long in advance. The effective date of this bill is July 1, 1984 therefore any advertising appearing in a telephone book after that date would be in violation. An effective date of January 1, 1986 for Section 3 would avoid this problem.

Section 1, Page 1, Line 12 and 13:

The word "person" is used. It is unclear if "person" means an individual person hired to do some work or a firm that is a specialty contractor.

RECOMMENDATION:

The language be clarified to indicate that this section is addressing the hiring of a specialty contractor firm and not and an individual person.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 28, 1984

REQUEST

Bill/Resolution No.: CS HB 610
Title: "An Act relating to
Construction Contractor"
Sponsor: Labor & Commerce Committee
Requestor: Labor & Commerce Comm.
Date of Request: 3/28/84

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES	0	72.6	76.2	80.0	84.1	88.2
200 TRAVEL	0	19.2	20.2	21.2	22.2	23.3
300 CONTRACTUAL	0	15.8	16.6	17.4	18.3	19.2
400 SUPPLIES	0	1.8	1.9	2.0	2.1	2.2
500 EQUIPMENT	0	12.6	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	0	5.9	6.1	6.4	6.7	7.1
700 GRANTS, CLAIMS	0	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	0	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	0	127.9	121.0	127.0	133.4	140.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	127.9	121.0	127.0	133.4	140.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	127.9	121.0	127.0	133.4	140.0

POSITIONS:

FULL-TIME						
PART-TIME	0	3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

NOT IDENTIFIED BY THE SPONSOR

ANALYSIS: Attach a separate page for analysis SEE ATTACHMENTS

Prepared By: *Darrell Miller*
Darrell Miller Phone: 465-2535
Division: Occupational Licensing Date: 3/28/84

Approved by Commissioner: Richard A. Lyon Date: _____
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

FISCAL ANALYSIS

CS HB 610

Assumptions:

This bill does not address the registration or renewal fee structure, as specified in AS 08.18.041, therefore no fiscal impact would be incurred on revenue generated by licensing.

This bill does provide for civil penalties for violations, however it would be extremely difficult to project any revenue generated from civil penalties imposed under the provisions of this bill. A fiscal impact would be incurred on revenue generated from civil penalties.

The provisions of this bill transfers the enforcement responsibility for the construction contractor statute and regulations from the Department of Labor to the Department of Commerce and Economic Development. This will require additional investigative personnel for this activity and travel and per diem costs would be incurred for investigations as well as personal services.

CS HOUSE BILL NO. 610

100 PERSONAL SERVICES: (FY '84 salary schedule with a 5%
inflation factor projected)

2 Investigators, Range 18A, General Government, Seasonal - 6 months each (April through September) located in Anchorage	\$46,299.48
1 Investigator, Range 18E, General Government, Seasonal - 6 months (April through September) located in Fairbanks	<u>26,301.85</u>
Total Personal Services:	\$72,601.33

200 TRAVEL: (Estimated)

Anchorage: 2 Investigators - 1.5 airline trips per month each @ \$300.00 x 6 months	\$ 4,400.00
Per Diem: 8 days per month per Investigator @ \$80.00 per day x 6 months	7,680.00
Fairbanks: 1 Investigator - 1 airline trip per month @ \$300.00 x 6 months	1,800.00
Per Diem: 8 days per month @ \$90.00 per day x 6 months	<u>4,320.00</u>
Total Travel Costs:	\$19,200.00

300 CONTRACTUAL: (Estimated)

Postage, telephone and operating costs: 3 Investigators @ \$250.00 per month each x 6 months	\$ 4,500.00
Investigator Leased vehicles, dry W/Maintenance:	
Anchorage: 2 vehicles @ \$410.00 per month each x 6 months	4,920.00
Fairbanks: 1 vehicle @ \$540.00 per month x 6 months	3,240.00
Fuel: 3 leased vehicles estimated @ \$175.00 per month each x 6 months	<u>3,150.00</u>
Total Contractual Costs:	\$15,810.00

400 COMMODITIES: (Estimated costs)

Stationery, typewriter ribbons, pens, pencils, tablets
and other miscellaneous desk top supplies: 3 Investigators
@ \$100.00 each per month x 6 months \$1,800.00

500 EQUIPMENT: (One time cost - FY '85 only)

3 Investigators: 2 Anchorage and 1 Fairbanks:

3 desks, double pedestal, 60" x 30" @ \$568.22 each	\$ 1,704.66
3 chairs, executive swivel, with arms, @ \$313.30 each	939.90
3 typewriters, IBM correcting Selectric with dual pitch, 15.5 inch paper capacity @ \$1,369.36 each	4,108.08
3 typewriter tables @ \$135.65 each	406.95
3 calculators, desk, printing and display, 12 digit, @ \$364.66 each	1,093.98
3 chairs, side without arms, contour style, @ \$114.60 each	343.80
3 recording machines, portable, Lanier, @ \$775.87 each	2,327.61
3 bookcases with 3 adjustable shelves @ \$164.69 each	494.07
3 file cabinets, 5 drawer, legal with lock, @ \$406.91 each	<u>1,220.73</u>

Total Equipment Cost: \$12,639.78

600 LAND & STRUCTURES: (Estimated Costs)

Office Space:

Anchorage: 2 Investigators - 150 square feet @ \$2.00 per
foot each per month x 6 months \$3,600.00

Fairbanks: 1 Investigator - 150 square feet @ \$250.00
per foot per month x 6 months 2,250.00

Total Land & Structures Cost: \$5,850.00

TOTAL OPERATING COST: \$127,901.11

1.	POSITION TITLE Investigator III			
2.	TYPE OF POSITION SFT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER
3.	CONTINUATION LEVEL	ADDITION		
4.	TYPE OF EXPENDITURE			AMOUNT
	1	2		3
	PERSONAL SERVICES			
5.	Salary	17,790.00		
6.	Benefits	2,905.11		
7.	Supplemental Benefits	1,090.10		
8.	Fixed Benefits	1,364.10		
9.	TOTAL PERSONAL SERVICES	01		23,148.74
10.	Travel	02		6,540.00
11.	Contractual	03		5,010.00
12.	Commodities	04		600.00
13.	Equipment	05		4,213.26
14.	Other - Land & Structures			1,800.00
15.	TOTAL COST			41,312.26

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	41,312.26
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER _____

RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
HRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.		

JUSTIFICATION

This position would be necessary to implement the provisions of CS HB 610, which transfers the investigations and enforcement of Construction Contractor statute, AS 08.18, from the Department of Labor to the Department of Commerce and Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18 and alleged violations of the regulations in 12 AAC 21, adopted to implement the provisions of AS 08.18, during the peak months of the construction season.

13 REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

Page 1 of 3
Revised Date 3/28/84

FY 84

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION SFT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE			AMOUNT							
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		17,790.00								
6.	Benefits		2,905.11								
7.	Supplemental Benefits		1,090.10								
8.	Fixed Benefits		1,364.10								
9.	TOTAL PERSONAL SERVICES		01		23,148.74						
10.	Travel		02		6,540.00						
11.	Contractual		03		5,010.00						
12.	Commodities		04		600.00						
13.	Equipment		05		4,213.26						
14.	Other - Land & Structures				1,800.00						
15.	TOTAL COST				41,312.26						
	RECEIPT CODE				FUNDING SOURCE						
16.					Federal Receipts 1002						
17.					C.F. Match 1003						
18.					General Funds 1004						
19.					I-A Receipts 1005						
20.					Program Receipts 1028						
21.					Other						
FOR B&M USE ONLY											
4A KEY NUMBER _____											

This position would be necessary to implement the provisions of CS HB 610, which transfers the investigations and enforcement of Construction Contractor statute, AS 08.18, from the Department of Labor to the Department of Commerce and Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18 and alleged violations of the regulations in 12 AAC 21, adopted to implement the provisions of AS 08.18, during the peak months of the construction season.

13 REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

Page 2 of 3
Revised Date 3/28/84

FY 84

1.	POSITION TITLE Investigator III		
2.	TYPE OF POSITION SFT	STAFF MONTHS 6	PCN NUMBER
3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	20,364.00	
6.	Benefits	3,325.44	
7.	Supplemental Benefits	1,248.31	
8.	Fixed Benefits	1,364.10	
9.	TOTAL PERSONAL SERVICES	01	26,301.85
10.	Travel	02	6,120.00
11.	Contractual	03	5,790.00
12.	Commodities	04	600.00
13.	Equipment	05	4,213.26
14.	Other - Land & Structures		2,250.00
15.	TOTAL COST		45,275.11

RANGE/STEP 18E	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT	LEG.		

JUSTIFICATION

This position would be necessary to implement the provisions of CS HB 610, which transfers the investigations and enforcement of Construction Contractor statute, AS 08.18, from the Department of Labor to the Department of Commerce & Economic Development. This would be a seasonal position of 6 months duration to conduct investigations into alleged violations of AS 08.18, and alleged violations of the regulations in 12 AAC 21, adopted to implement the provisions of AS 08.18, during the peak months of the construction season.

RECEIPT CODE	FUNDING SOURCE	AMOUNT
16.	Federal Receipts 1002	
17.	G.F. Match 1003	
18.	General Funds 1004	45,275.11
19.	I-A Receipts 1005	
20.	Program Receipts 1028	
21.	Other	

FOR B&M USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Commerce & Economic Development
 PROGRAM Consumer Protection
 BRU Occupational Licensing
 COMPONENT Investigations

FY 84

Page 3 of 3
Revised Date 3/28/84

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1984

SUBJECT: Construction contractors
(CSHB 610(L&C))

TO: Representative John Cowdery
Chairman, House Labor and Commerce Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is the section by section analysis that you requested of the draft CSHB 610(L&C).

Section 1 makes it unlawful for a general contractor to authorize a person to begin work as a specialty contractor unless the person is registered.

Section 2 prohibits the commissioner of commerce and economic development from issuing a registration or renewing a registration of an applicant whose registration has been revoked or suspended or against whom a fine has been imposed until the period of revocation or suspension has expired and the fine has been paid.

Section 3 requires that advertising and contracts include the contractor's registration number.

Section 4 raises the amount of bonds to \$10,000 for a general contractor and \$5,000 for a specialty contractor.

Section 5 requires the department of commerce and economic development to provide investigative services to enforce AS 08.18. A peace officer or employee designated to conduct investigations may issue a citation for a violation of AS 08.18. Each day a violation continues is a separate violation. The Supreme Court is required to establish a schedule of bail amounts for violations. A person cited may deliver to the clerk of the court in which the citation is filed the amount of bail and a copy of the citation

indicating that the right to an appearance is waived, a plea of no contest entered, and bail is forfeited. Forfeiture of bail is a complete satisfaction for the violation. If the person cited fails to pay the bail amount or to appear in court, the citation is considered a summons for a misdemeanor.

Section 6 allows the commissioner of commerce and economic development as well as the commissioner of labor to prohibit a person from engaging in action as a contractor in certain situations.

Section 7 allows a person affected by an order issued by the commissioner of commerce and economic development, as well as those affected by an order from the commissioner of labor, to seek equitable relief.

Section 8 allows the commissioner of commerce and economic development as well as the commissioner of labor to seek an injunction against a person acting in the capacity of a contractor in violation of AS 08.18. A civil penalty not to exceed \$250 may be imposed for each violation and each day that an unlawful act continues is a separate violation.

Section 9 provides that a person acting in the capacity of a contractor in violation of AS 08.18 is guilty of a class A misdemeanor. A class A misdemeanor is punishable by a term of imprisonment of not more than one year and by a fine of not more than a \$5,000.

Section 10 prohibits a state agency, corporation or authority from lending money for construction of a project that is constructed in violation of AS 08.18.011 and requires the lending institution to make reasonable efforts to determine whether construction is proceeding in accordance with that section before releasing money under a construction loan.

Section 11 adds a definition of department for purposes of the chapter.

Section 12 ties the effective date to the beginning of the new fiscal year.

TBC:ojb
J5/020

HB

611

M E M O R A N D U M

DATE: 29 March 1984
TO: Representative Rick Uehling
FROM: John Geary
RE: Dental Hygienists, CSHB 611

You have requested that I review CSHB 611 an act relating to dentists and dental hygienists. This act, introduced by Representative Walt Furnace, consists of 41 sections which divide into three major topics.

1. Sections 1-15 regulate the practice of dental hygienists.
2. Sections 16-21 regulate the board of dental examiners who oversee both dentists and dental hygienists.
3. Sections 22-41 amends the current regulations of dentists.

For such an overall lengthy bill it reads coherently and is popular with the dentists themselves

MARCH 29, 1984

TO: JOHN

FROM: KEN

RE: HB 611 "RELATING TO DENTISTS AND DENTAL HYGENTISTS"

HB 611 WOULD UPDATE THE CURRENT STATUTES WHICH GOVERN THE LICENSING, EXAMINATIONS, AND PRACTICES TO WHICH DENTISTS AND DENTAL HYGENTIST MUST COMPLY. THIS BILL IS INTENDED TO GIVE MORE CLARITY TO THOSE STATUTES WHICH COVER: LICENSES AND REGISTRATION, TESTING OF APPLICANTS, DISCIPLINARY SANCTIONS, AND THE OPERATION OF THE BOARD OF DENTAL EXAMINERS. TO DATE THE COMMITTEE HAS HELD ONE PUBLIC HEARING ON HB 611, AND SINCE THAT TIME REPRESENTATIVES OF THE DIVISION OF LICENSING, THE BOARD OF DENATL EXAMINERS, THE ALASKA DENTAL SOCIETY, AND THE DENTAL HYGENTISTS SOCIETY, HAVE MET. IT IS MY UNDERSTANDING THAT THE BASIC PROBLEMS HAVE BEEN WORKED OUT. DURING TO TODAYS SESSION I HOPE ANY OTHER NECESSARY CHANGES CAN BE MADE TO THE LEGISLATION.

Delete all references to certificate or registration. Retain the word license.

Page 1

Line 12 add current after "without a."

Line 12/13 delete all after [and a current certificate of registration].

Line 15 delete [and registration].

Line 16 delete [and registration].

Page 2

Line 5 delete [a professional dental or dental hygiene association].
Insert [Another Dental Licensing jurisprudence].

Line 9 delete [and registration].

Page 3

Begin on Line 1. Oppose as unnecessary. The language can be restrictive to the board. The size of the board and number of applicants could be burdensome to meet this statutory requirement.

Line 18 add this new sentence [If the board has reason to believe the applicant cannot practice safely on a clinical patient].

Line 20 delete [REGISTRATION AND].

Line 21 delete [If the applicant passes the examination].

Line 21 change "t" to "T".

Line 28 and 29 delete. Retain only the term of license or licensure.

Page 4

Line 6, 7 and 8 delete words "registration or registration certificate".

Line 29 change to (5) license renewal fee.

Page 5

Section 10

Line 19, 20 and 21 request the direct and indirect term be clarified.

Line 21 add (b) eliminate intra oral (Lois Reeder).

Section 11

Recommend the wording be changed to: (Begin on line 24) "The board may revoke or suspend the license of a dental hygienist, after a hearing, or may reprimand, censure, or discipline a licensee, if the board finds that the licensee...." This change would give the board the authority to act timely for minor infractions without threatening the loss of a license.

Line 28

(1) delete or change the word knowingly.

This causes an extra burden of proof on the disciplinary body. It offers an affirmative defense or raises an issue that could cloud the main concern. It is fair to assume a licensee of this intelligence level would not participate in securing a license except by the same method the licensee applied.

Page 6

Line 1 add "or registration."

Line 5 and 6 delete (3) as unnecessary. Item (2) of the same section would cover the false or misleading advertising.

Line 6 delete [in violation of regulations adopted by the board].

Line 15 delete as over stating. "Severe" need not be stated if one is dependent on a substance such as alcohol or drugs so their reliability to protect the public is a question.

Section 12

Delete Section 12 beginning on line 25 continuing on to page 7, line 9. (Per Lois Reeder, and agreed by DOL).

Line 28 delete the word "Board." The board sits as the final judge they should not be the "investigators."

Page 7

Line 2 - Oppose. Prejudgment could be dangerous to fairness. The panel could recommend for reprimand or censure, not for hearing.

Page 9

Begins addressing AS 08.36 Dentist

Line 5 and 6 change after the word "state" who teaches or demonstrates clinical techniques at a seminar or limited course of instruction.

Line 9 to 11. Delete (4) instructors should be the first to be licensed.

Line 26 and 27 delete [FOR CAUSE] . Board members should be appointed and removed by the Governor.

Page 10

Section 18

Line 1 change [is] to "may be"

Line 5 - change "once" to read four.

This would allow proper budgeting. If once or one the agency would be able to budget for one meeting.

Line 12 to 14 - Delete as unnecessary beginning with "The department shall reimburse a member, etc...."

Page 11

Line 21 - This is fine, however, should it be required in statute?

Line 27 - Item (11). OK. However, the Association of Dental Hygienist wanted to respond.

Line 28 add the word "specific" after for.

Line 29 change special to "specific" and after training add "as determined by."

Page 12

Section 21

Oppose to and request deletion of lines 13 to 17. This not only circumvents state hiring procedures but dictates the service which the investigator will serve under ("exempt").

The current system provides for investigation when funded. Contractual monies are available for hiring expert help in the professional evaluations when needed. At present, there is insufficient cases to have one investigator serve just the dental board.

Line 26 and 27

The Dental Board requests change of the word "is a" to "has" on line 26 and line 27 after graduate add or will graduate.

Page 13

Section 24

Line 8 change [30] to 45.

Line 21 change [shall] to may. The board will have the latitude to follow the national acceptable standard; however, if the national standard falls below the State level, the board is not statutorily required to follow it.

Line 27 add "if the board has reason to believe the applicant cannot practice safely on a clinical patient."

Page 14

Line 5 add "regulation of."

Page 15

Section 27

Line 1 delete "professional association peer review procedure."

Line 2 change "professional dental association" to ANOTHER DENTAL LICENSING JURISDICTION.

Section 29 (continues on to page 16)

(b) delete as unenforceable. Licensing should be as stated in the above AS 08.36.246(a)(1), (2) and (3) as all that is necessary.

Page 16

Section 30

Line 9 to 11 delete.

Opposed as increasing the number of board members.

Page 17

Section 33

Line 17 to 22 (see prior recommendation Section 11)

Line 23 - Delete "knowingly."

Page 18

Line 16 delete the word severe.

Line 24 add "in violation of."

Line 26 add after "board" - through the Division of Occupational Licensing

Reason - Board members are not always available.

Delete all of Section 34 beginning on page 18 and continuing to line 12 of Page 19.

Page 21

Line 11 add after "who" teaching or

Line 12 add after "a seminar or limited course of instructions."
Delete the word "meeting."

Line 15-17 - delete. The Dental Hygienist School requires a current licensed dentist (see AS 08.32.095(1)).

Page 22

Section 40

Delete. The purpose of this new section is unclear. It enables one to violate this chapter under research.

HDT/kkkB41
32884b

✓ Sec. 08.36.140. Out-of-state examination. If an applicant requests the board to hold an examination outside the state, the board may require the applicant to pay the transportation costs to the members of the committee conducting the examination. (Sec 3 art III ch 186 SLA 1955)

✓ Sec. 08.36.150. Examination in out-of-state dental schools. The examination committee, with the approval of the board, may conduct an examination in the clinic of an approved dental school within the continental limits of the United States and admit to the examination a dental student in his last year of school who would otherwise be eligible for admission to examination and licensing in the state upon completion of his education. (Sec 3 art III ch 186 SLA 1955)

✓ Sec. 08.36.170. Partial examination. A student at least 19 years of age who has satisfactorily completed regular courses of instruction in dentistry in at least two different school years at an approved dental school, and who is certified by the dean of the college as having satisfactorily completed the subjects included in Section I of the examination may take Section I of the examination. If the student passes Section I and subsequently takes the full examination, the requirements of Section I are waived. (Sec 5 art III ch 186 SLA 1955)

✓ Sec. 08.36.200. Waiver of written examination. The board may waive the requirement for written examination for an applicant who holds a certificate from the National Board of Dental Examiners that he has passed the theoretical or written examination given by the national board. (Sec 8(a) art III ch 186 SLA 1955)

✓ Sec. 08.36.280. Temporary permit. (a) The board may issue a one year temporary permit without examination to an applicant to practice dentistry in a locality requested by the applicant if the locality is of the type specified in (2) of this subsection and the applicant

(1) meets the requirements of Sec 110 of this chapter;

(2) desires to practice dentistry in a city or rural village which does not have a resident licensed dentist in active general practice;

(3) has a license in good standing to practice dentistry in a state, territory, district or possession of the United States;

(4) tenders and pays the fee prescribed in AS 08.36.290(9).

(b) The board may authorize a temporary permittee to practice dentistry in more than one city or rural village of the type specified in (a)(2) of this section.

(c) The board may annually renew a temporary permit upon written application of an applicant and upon payment of the prescribed fee if the applicant has not committed an act which is a ground for revocation in Sec. 310 of this chapter, but in any case, within two years from issuance of his first temporary permit, the applicant must pass a board exam.

(d) A temporary permit may be revoked, suspended or annulled, or the permittee may be reprimanded, censured or disciplined by the board in the same manner and for the same cause as a licensed dentist under Sec. 310 of this chapter.

(e) The board shall grant or deny an application for a temporary permit within 60 days after it is received. (Sec 15 art III ch 186 SLA 1955; am Sec 4 ch 26 SLA 1965; am Secs 8, 9 ch 121 SLA 1972; am ch 59 SLA 1982)

MARCH 21, 1984

TO: JOHN

FROM: KEN

RE: HB 611 "RELATING TO DENTISTS AND DENTAL HYGENTISTS"

HB 611 WOULD UPDATE THE CURRENT STATUTES WHICH GOVERN THE LICENSING, EXAMINATIONS, AND PRACTICES TO WHICH DENTISTS AND DENTAL HYGENTIST MUST COMPLY. THIS BILL IS INTENDED TO GIVE MORE CLARITY TO THOSE STATUTES WHICH COVER: LICENSES AND REGISTRATION, TESTING OF APPLICANTS, DISCIPLINARY SANCTIONS, AND THE OPERATION OF THE BOARD OF DENTAL EXAMINERS.

QUESTIONS:

1. THIS BILL HAS A STRONG EMPHASIS ON DISCIPLINARY ACTIONS. IS THERE SERIOUS PROBLEMS IN THE INDUSTRY TODAY THAT WARRANTS THIS IN THE BILL ?
2. WHAT ARE THE FEELINGS ON THIS BILL OF THE DENTAL ASSOCIATIONS AND DENTAL SOCIETIES AROUND THE STATE ?
3. PARAGRAPH D OF SECTION SEC. 11, PAGE 6 LINE 19 SUGGESTS A CONTINUING EDUCATION PROGRAM SHOULD BE IN PLACE. AT