

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2717 SLC HB 274 - HB 302 (FILE 1)

2717

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IDE . . .

gas decontrol, p. 2

policy shift clouds funding, p. 6



Mayor Tom Bradley gives testimony. Photo by Bill Wilson

## GRS scores big gain but obstacles lie ahead

by Frank Shaforth

Cities emerged from the first round of Congressional consideration of General Revenue Sharing with a major victory—but with a warning of how difficult final success will be.

The House subcommittee on intergovernmental relations and human resources agreed last Wednesday on a 5-year reenactment of revenue sharing with a 16 percent increase for local governments (HR 1930). Rep. Ted Weiss (D-N.Y.) chairs the subcommittee. The early subcommittee agreement augured well for the tentative full House Government Operations consideration of GRS reenactment on Tuesday, May 3rd.

While the subcommittee mark-up amounts to a critical victory for cities, the bill did not emerge with bipartisan support. Thus there are hints of major obstacles which confront GRS in the full committee.

Both ranking minority subcommittee member Robert Walker (R-Pa.) and Government Operations Committee Chairman Jack Brooks (D-Tex.) expressed reservations about Weiss's proposed increase in the local share. Likening local revenue sharing to liquor or marijuana,

Brooks described the program as "addictive" and an "insidious cancer." It "might be wise," he said, "to consider limiting (the) increase in light of the federal deficit, cuts in social spending, and cuts in the defense increase."

See p. 7, col. 1

## Revised cable TV bill reflects NLC, NCTA agreement

by Cynthia Pols

The Senate Commerce Committee last week approved cable television legislation that reflects all essential aspects of the agreement between NLC and the National Cable Television Association (NCTA). The bill (S. 66), a completely revised version of Sen. Barry Goldwater's cable bill, was approved by a 15 to 2 vote; it is expected to go to the floor of the Senate in the next few weeks.

The revised bill reflects changes made last week after NLC president Mayor Charles Royer of Seattle asked NCTA to clarify the agreement between the two groups.

NLC Executive Director Alan Beals commended Sen. Goldwater (R-Ariz.)

free of pressing infrastructure problems at this time," Bradley said. "Some state and federal assistance is required if some important infrastructure needs are to be met."

Bradley also pointed out that most cities, when asked to identify their top infrastructure needs and the amount of money needed for them, responded that most individual projects could be done for an amount less than \$5 million and started in less than six months.

"This is a truly modest amount of money that is needed for the essential work," said Bradley. "While the task is great, we need not be petrified by the

See p. 4, col. 1

and his staff for their strong support of a bill that provides "clear protections for the interests of cities, the cable industry, and consumers." Beals said he believes the legislation "will preserve virtually all essential aspects of local control over cable systems," and that the league looks forward to "playing an active role in the refinement of this legislation as it moves through the legislative process."

The major provisions of S. 66, as approved by the committee, are:

§ Facilities (Sec. 613). A franchising authority may require the construction of particular cable system facilities and cable related equipment as a condition of the franchise. This means that a city has authority to establish minimum channel requirements for subscriber networks

See p. 6, col. 1

Federal Cable  
Legislation  
update

Nation's Cities Weekly - April 25, 1983

of facilities.

It is unclear, however, whether a city that needs to buy a large number of buses will be able to use any of the Section 3 monies for ordinary bus purchases. Some cities simply cannot meet all of their bus needs out of their Section 9 formula grant allotment. (The Section 9 program replaces the Section 5 and 18 programs beginning in fiscal 1984.)

The Administration's position on new fixed rail starts is particularly puzzling.

In the DOT budget briefing held in late January, UMTA Associate Administrator Carole Foryst said that DOT would con-

The policy proposed by the Department of Transportation is a strict interpretation of a last-minute amendment to the 1982 Surface Transportation Assistance Act (the act that set up the nickel-a-gallon gasoline tax increase). The amendment, sponsored by Rep. Parren J. Mitchell (D-Md.), makes it a statutory requirement that no less than 10 percent of a state's transportation assistance be

continue its past policies of opposing new fixed rail starts. But in recent testimony before the Senate Appropriations sub-

nesses owned by women isn't affected by the proposed new regulations, and it will be continued. A business owned by a woman could also qualify under the new minority business regulations, as well as the existing regulations for businesses owned by women, if it can be shown that the owner or owners are "socially and economically disadvantaged," the notice says. □

committee on transportation, UMTA Administrator Ari Teele said that DOT has reconsidered its previous position on

apparently committed to the new systems in Houston and Los Angeles, systems it sees as cost-effective and that have a substantial political constituency. It is unclear, however, whether either DOT or OMB is willing to approve new starts in any other cities.

NLC members are strongly urged to contact members of the House and Senate Appropriations Committees to let them know about their cities' capital assistance needs, including new starts, and whether the Section 9 formula grant program will be sufficient to meet those needs.

## Cable TV from p. 1

and require the provision of studios and institutional networks.

§ Programming and services (Sec. 613). A franchise agreement may include requirements for the provision of particular one-way programming and two-way services, such as security services in any case in which the cable operator offered those services in its proposal. The cable operator may remove or replace a particular service only if there has been a significant change in circumstances (the quality of the service has deteriorated, for example, unforeseen circumstances have caused a substantial increase in the cost of providing a particular service, or a particular service is not available).

§ Access (Sec. 606). A franchise agreement may include requirements for the set aside of channel capacity, including capacity on an institutional network, in any case in which the cable operator offered to set aside system capacity for public, educational, or third party leased access in its proposal. The franchising authority may require the set aside of system capacity for government access. The franchise agreement may establish rules and procedures for use of access channels. The cable operator, however, may use access capacity when that capacity is not in use for access purposes.

§ Rate regulation (Sec. 607). A state

or locality may regulate rates for basic service, including installation charges and converter rentals. Under the bill, basic service is defined as the lowest cost "tier" or category of service, which includes local broadcast signals, public, educational, and governmental access channels, and any other programming service offered by the operator and specified in the franchise agreement as basic service. However, in cases in which discounted tiers such as universal or lifeline service are offered, a state or locality may regulate subscriber rates for the tier above those discounted tiers. This requirements is intended to ensure that states and localities have authority to regulate rates for the tier that is actually sold to subscribers as basic service.

The rates for basic service would be subject to deregulation in communities in which four or more conventional television stations, including all three network affiliates, can be received over the air. Deregulation of the rates for basic service in these areas, however, would not affect existing franchises for a period of five years or one half the remaining life of the franchise, whichever is longer.

Whenever rates for basic service are subject to rate regulation, the cable operator may automatically increase the basic service rates by five percent or the in-

crease in the consumer price index.

§ Franchise fees (Sec. 608). Franchise fees may not exceed five percent of the gross revenues from the operation of a cable system. Contributions, fees, and similar payments to support the provision and use of access channels which are required under existing franchises do not constitute franchise fees under S. 66 and would not be affected by this cap. Requirements which are incidental to the enforcement of a franchise—e.g., construction bond or liquidated damage requirements—are also not regarded as franchise fees and would not be subject to limitation.

§ Franchise renewals (Sec. 609). Procedures are established for negotiations with the incumbent cable operator before applications from the other cable companies are considered. The incumbent is required to submit its application at least 24 months prior to the franchise's scheduled expiration date. The franchising authority must complete action on that application within twelve months. It may not reject the application within seven months following its submittal.

A franchising authority may reject the application and consider bids from other cable companies if it finds that the cable operator has not complied with the terms of the franchise, there has been a material

change in the legal, technical, or financial qualifications of the operator, the cable system facilities to be provided are not reasonable in light of community need for an up-to-date system, the technical quality of the operator's signal has not met minimum federal standards, or the proposals are not reasonable in other areas—e.g., the provision of particular services or the set aside of system capacity for access use.

§ Effective date. All access and service requirements in existing franchise are grandfathered for the life of the franchise. Other provisions of S. 66 would take effect on the date of the bill's enactment. Requirements of existing franchise agreements that are inconsistent with the bill's requirements would be invalid six months after the bill's enactment.

Voting for the bill were: Sens. Bob Packwood (R-Ore.), Barry Goldwater (R-Ariz.), John Danforth (R-Mo.), Nancy Kassebaum (R-Kans.), Larry Pressler (R-S.D.), Slade Gorton (R-Wash.), Ted Stevens (R-Alaska), Robert Kasten (R-Wisc.), Paul Trible (R-Va.), Ernest Hollings (D-S.C.), Russell Long (D-La.), Daniel Inouye (D-Hawaii), Wendell Ford (D-Ky.), Donald Riegle (D-Mich.), and Howell Heflin (D-Ala.). Voting against the bill were J. James Exon (D-Neb.) and Frank Lautenberg (D-N.J.). □

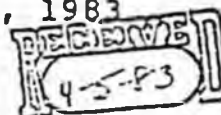
## MEMORANDUM

State of Alaska

TO: Catherine Wallen  
Department of Commerce

DATE: March 31, 1983

FILE NO:



TELEPHONE NO.

FROM: Carolyn S. Guess, Chairman  
Alaska Public Utilities Commission

SUBJECT:

Additional Commission  
Response to HB 274

There are three scenarios and resultant issues that should be considered if "total deregulation" of cable television utilities (CATV's) were effected by the Alaska Legislature.

1. If total deregulation is defined by legislation to mean the exemption of cable television utilities without regard to the various types of service they might provide, an opportunity exists for CATV's to circumvent existing statutes by providing regulated services as an unregulated carrier. For example, CATV's could offer private line/enhanced services and switched telephone service at rates subsidized from its CATV operation thereby resulting in serious economic losses to both local and longlines telephone exchange carriers. The APUC would vehemently oppose the passage of such legislation because it would create an adverse impact on the orderly development of telecommunications within the State of Alaska and because the outcome would result in higher rates to consumers of local exchange telephone service. It is through retention of the CATV certification process that the Commission can have any potential control over allocation of service rights.

2. If total deregulation is defined by legislation to mean only the exemption of entertainment services of CATV's, the question of allowing municipal franchise as a surrogate for state regulation once again surfaces. This was addressed by the Commission in its written response to a 1979 Sunset Audit recommendation:

While on the surface this appears to be an attractive alternative to state regulation, the record in recent CATV certification proceedings involving Anchorage and Fairbanks indicates that in the "Lower 48" there has been political abuse of this process and that municipalities which do not have technical and rate-making expertise are unduly burdened by the responsibility to assess which applicant best serves the public interest. In place of economic regulation, municipal bodies have in some instances substituted a shortening of the franchise period, hoping to influence the franchise holder to charge reasonable rates and provide adequate service -- a practice that could backfire and leave the consumer without any service.

If the purpose of total deregulation is only to transfer regulatory authority to municipalities, the Commission believes the public's best interest would be served by continued Commission authority because of its independent expertise.

3. If total deregulation presumes no state or local regulation, the Federal Communication Commission could not assume jurisdiction other than to guarantee what it does now, technical compliance to engineering standards, i.e., radiation, signal fidelity. Therefore, open competition by more than one carrier in a single location might reasonably be expected to occur. Because there is a physical limitation to the number of attachments which may be accommodated on existing telephone and electric poles, competitive CATV's could substantially increase and complicate the workload and existence of pole owners in terms of responding to requests for pole attachments and retrenching in existing easements. The resolution of complaints that would result from open competition lies with the Federal Communication Commission, an expensive and lengthy legal exercise for not only the CATV's but more importantly the utility owners. In addition there would be no guarantee that the cable system(s) marketed were fit and able to provide the service. Who would the complainants call when the CATV utility ceased operation or tripled their rates in 6 months because the market penetration projections were unrealistic? What happens when CATV systems are transferred to potentially irresponsible ownership?

At the present time CATV's hold APUC certificates for the following areas: Ketchikan, Sitka, Wrangell, Petersburg, Juneau, Cordova, Kodiak, Anchorage, Matanuska Borough, Kenai/Soldotna, Bethel, Barrow, Nome, Fairbanks, Hoonah, Skagway, Pelican, Port Lions, and Thorne Bay. Currently there are two competing applications for the provision of cable television service at Unalaska before the Commission. It is anticipated that future certification applications will be for service to the more rural areas of the state.

The Commission continues to support the proposed legislation that would exempt CATV's from rate regulation unless 25 percent or more of the utility's subscribers petition the Commission for economic regulation. This reserve "regulatory authority" is an acceptable compromise between the contention of CATV operators that they are not true public utilities and the public's high level of desirability for CATV service which has inherent monopolistic characteristics.

csg/dkd

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ANCHORAGE, ALASKA 99509  
248-1515



CHAIRMAN  
HOUSE JUDICIARY COMMITTEE  
MEMBER  
HOUSE RESOURCES COMMITTEE

## Representative Charlie Bussell

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES

April 19, 1983

Ms. Gloria Williams  
1800 Bannister  
Anchorage, Alaska 99504

Dear Ms. Williams:

Thank you for taking the time to express your support of the amendment to House Bill 274.

This particular bill passed the House recently without amendments. Any amendment process will now have to take place in the Senate. I will pass along your request to the Senate committee hearing this bill.

Again, thank you for becoming a part of the legislative process.

Best regards,

*Charlie*

Representative Charlie Bussell  
Chairman, Committee on Judiciary

CB:lyn

cc: ✓ Senate Labor and Commerce Committee

FROM: JUNE, ANC LIO  
TARGET: LJHL SUBJ: POM

TO: POM, JNU INFO

4/12/83, JUNE, ANC LIO, MSG 7562

M

TO: REPRESENTATIVES RUSSELL AND LINDAUER

FROM: GLORIA WILLIAMS, 1800 BANNISTER, ANCHORAGE, AK 99504  
(H) 276-2892 (W) 786-1434

I URGE YOUR SUPPORT OF AMENDMENT TO HB 274 EMPOWERING APUC TO REQUIRE USERS TO  
PROVIDE COMMUNITY ACCESS CHANNELS.

\*\*\*\*\*

Dear Governor Sheffield:

We are pleased to transmit for your consideration the attached legislation that would make permanent and clarify the present statutory exemption of cable television (CATV) public utilities from economic regulation by the Alaska Public Utilities Commission.

The existing statutory exemption of CATV systems was enacted by the Legislature in 1980 and extends only through June 30, 1980<sup>3</sup>; it was intended to be a three-year experimental deregulation program. As originally enacted, Ch. 136, SLA 1980, added subsection (1) to AS 42.05.711, but later was revised by the Revisor of Statutes as Sec. 13 of that chapter which reads:

Cable television systems are exempt from the provisions of AS 42.05, other than the provisions of AS 42.05.221 - 42.05.281, until July 1, 1983. This exemption does not apply in cities or villages which have a population of less than 3,500 people and which are not located on a state road or marine highway. The effects of the exemption of cable television systems from rate regulation by the Alaska Public Utilities Commission provided in this section shall be reviewed by the legislature before July 1, 1983. If the legislature fails to extend the exemption before July 1, 1983, this section is repealed on that date, and cable television systems lose their exempt status on that date and become subject to regulation by the Alaska Public Utilities Commission.

The proposed legislation would permanently deregulate CATV services with respect to rates and charges for those services, the quality of that service, management practices and customer complaints, but would retain the Commission's authority with respect to the issuance of a certificate of public convenience and necessity to ~~grant a certificate of public convenience and necessity to~~ a CATV public utility (AS 42.05.221-42.05.281) <sup>under</sup> which the Commission determines if an applicant CATV company is fit, willing, and able to furnish CATV service and whether the public convenience and necessity requires that CATV service be provided to the proposed service area. (Under existing AS 42.05.321(b), CATV utilities also <sup>+</sup> still are subject to Commission jurisdiction with respect to joint use and inter-connection of utility facilities.)

CATV exemption which includes within the exception those CATV systems operating in small Alaska communities if these communities are located on a "state road or marine highway". The effect of this provision has been to include within the ambit of the exemption every CATV system operating in the State except that in Barrow. Often it has been difficult to determine what constitutes a "state road," and many hours of Staff and Commission time have been consumed in making that determination. Instead the Commission proposes to simplify the exemption by substituting for that language, a provision which parallels the existing exception to economic deregulation contained in AS 42.05.711(e) (small electric and telephone utilities) and 42.05.711(i) (small garbage and refuse collection and disposal public utilities); namely, that if 25 percent or more of the subscribers to CATV service petition the Commission, CATV service in a given community would once again be subject to economic regulation. <sup>11</sup> The Commission believes that this exception to deregulation responds <sup>d</sup> to the concern of the CATV subscriber who wonders to whom the subscriber complains if he/she is dissatisfied with the service received and if resort to the CATV management does not produce a resolution of the complaint. Moreover, it furnishes a "safety valve" for CATV subscribers and a protection of them against <sup>2</sup> totally unsupervised monopoly which recent case law development in the application of anti-trust law to local governments suggests is a concern of the courts (e.g., the City of Boulder case) and is consistent with legislatively-established policy with respect to economically deregulated public utilities. Additionally, the Commission believes that this exception to permanent economic deregulation is protective of the public interest in that it recognizes that in the smaller communities in Alaska, CATV well may be the only entertainment option and also may function as an important communications medium for the community, whereas in the larger, urban areas there are ~~indeed~~ other entertainment/communications alternatives. As a practical matter, the 25 percent petition "trigger" would require substantial

in requesting your support for the proposed legislation and its presentation for consideration at the 1983 legislative session, the Commission believes that the absence of subscriber problems or concerns arising from the economic deregulation of CATV service in Alaska over the past two and one-half years, as well as the many ~~alternatives~~ <sup>entertainment/communications</sup> alternatives that now are competing in the market place for most Alaskans, are ample evidence that economic regulation by the Commission is indeed unnecessary. Additionally, continuing the present exempt status of CATV services, subject to the exception proposed above, will allow the Commission to devote its time and resources to those necessary utility services in which economic regulation is essential to protect the public interest.

If we can assist your office in responding to any questions concerning this proposed legislation, please contact me at your convenience.

Very truly yours,

ALASKA PUBLIC UTILITIES COMMISSION

Carolyn S. Guess, Chairman

Enclosure.

Sandy Richards

Bx 3111

Anch 99510

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272-6355

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Director Ak Consumer  
Advocacy

informed on  
teleconference

Bill Fact Sheet

Date Received 4/4/83

Bill Number HB274 Title Regulation of public utilities

Fiscal Note - Date Requested \_\_\_\_\_ Date Received \_\_\_\_\_

- Of Whom \_\_\_\_\_

Dept. Position Paper - Date Requested \_\_\_\_\_ Date Received \_\_\_\_\_

- Of Whom \_\_\_\_\_

Resource People

Bettisworth - back-up 4/19 (Margaret King)

Initial Hearing - Date May 17 (Tues)  
People Contacted

Bettisworth - 5/11

Carolyn Guess - 276-6222

Herb Holeman - 2846 (At Broadcasting Commission) 5/11 - inform friends

Soux Plummer - Telecommunication - 204 5/13

Katherine Wallen - 5/13

Edie - 4858 - 5/13

Follow-up Hearing - Date \_\_\_\_\_

Final Action \_\_\_\_\_ Date \_\_\_\_\_

H B

201

Offered: 4/26/83  
Referred: Judiciary

Original sponsor: Rules/Governor

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 281 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the payment of wages."

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

8 \* Section 1. AS 23.05.140(d) is amended to read:

9 (d) If an employer violates (b) of this section by failing to  
10 pay within three working days of termination, the employer may be  
11 required [HE IS LIABLE] to pay the employee a penalty in the amount  
12 [FOR PAYMENT] of the employee's regular wage, salary or other compen-  
13 sation from the time of demand to the time of payment, or for 90  
14 working days, whichever is the lesser amount.

15 \* Sec. 2. AS 23.05.180 is amended to read:

16 Sec. 23.05.180. WAGES IN DISPUTE. (a) If the amount of wages  
17 [DUE] is in dispute, the employer shall give written notice to the  
18 employee of the [AMOUNT OF] wages, or part of the wages, which he  
19 concedes to be due, and shall pay that amount, without condition,  
20 within the time set by this chapter. The employee retains all rem-  
21 edies to which he might otherwise be entitled, including those pro-  
22 vided under this chapter or AS 23.10, to any balance claimed.

23 (b) The acceptance [ACCEPTANCE] by an employee of a payment  
24 [MADE] under this section does not constitute a release of the balance  
25 of his claim, and <sup>AND</sup> a release required by an employer as a condition of  
26 payment is void.

27 \* Sec. 3. AS 23.10.060(16) is amended to read:

28 (16) an employee of a [NONPROFIT] hospital whose employment  
29 includes the provision of medical services;

1 \* Sec. 4. AS 23.10.145 is amended to read:

2           Sec. 23.10.145. DEFINITIONS. If not defined in AS 23 or in  
3 regulations adopted under AS 23, terms [TERMS] used in AS 23.10.050 --  
4 23.10.150 shall be defined [, WHERE APPLICABLE,] as they are defined  
5 in the federal Fair Labor Standards Act of 1938, as amended, or the  
6 regulations adopted under it.

23.05.140 DOCUMENT= 1 OF 1 PAGE = 1 OF 2  
CHAPTER = 23.05  
SECTION = 23.05.140  
TITLE = 23

HEADINGS TITLE 23.  
LABOR AND WORKERS' COMPENSATION.  
CHAPTER 05.  
DEPARTMENT OF LABOR.  
ARTICLE 2.  
WAGE CLAIMS.

CITATION SEC. 23.05.140.

CATCH LINE

PAY PERIODS.

TEXT

(A) AN EMPLOYEE AND EMPLOYER MAY AGREE IN AN ANNUAL INITIAL CONTRACT OF EMPLOYMENT TO MONTHLY PAY PERIODS WHEN THE EMPLOYER SHALL PAY ALL EMPLOYEES FOR ALL LABOR PERFORMED OR SERVICES RENDERED. OTHERWISE, THE EMPLOYER SHALL ESTABLISH MONTHLY OR SEMI-MONTHLY PAY PERIODS, AT THE ELECTION OF THE EMPLOYEE.

(B) IF THE EMPLOYMENT IS TERMINATED, REGARDLESS OF THE CAUSE OF TERMINATION, ALL WAGES, SALARIES OR OTHER COMPENSATION FOR LABOR OR SERVICES BECOME DUE IMMEDIATELY AND SHALL BE PAID WITHIN THREE WORKING DAYS AFTER THE TERMINATION AT THE PLACE WHERE THE EMPLOYEE IS USUALLY PAID OR AT A LOCATION AGREED UPON BY THE EMPLOYER AND EMPLOYEE.

(C) REPEALED BY SEC. 2 CH 19 SLA 1971.

(D) IF AN EMPLOYER VIOLATES (B) OF THIS SECTION BY FAILING TO PAY WITHIN THREE WORKING DAYS OF TERMINATION, HE IS LIABLE TO THE EMPLOYEE FOR PAYMENT OF THE EMPLOYEE'S REGULAR WAGE, SALARY OR OTHER COMPENSATION FROM THE TIME OF DEFAULT TO THE TIME OF

23.05.140 DOCUMENT= 1 OF 1 PAGE = 2 OF 2  
HISTORY PAYMENT, OR FOR 90 WORKING DAYS, WHICHEVER IS THE LESSER AMOUNT.  
(SEC. 43-2-11 ACLA 1949; AM SEC. 2 CH 34 SLA 1949, AM SEC. 1 CH 118 SLA 1959; AM SECS. 1, 2 CH 19 SLA 1971; AM SECS. 1, 2 CH 11 SLA 1976).

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

LABOR AND WORKERS' COMPENSATION.  
CHAPTER 05.  
DEPARTMENT OF LABOR.  
ARTICLE 2.  
WAGE CLAIMS.

CITATION SEC. 23.05.140.

CATCH LINE

WAGES IN DISPUTE.

TEXT

IF THE AMOUNT OF WAGES DUE IS IN DISPUTE, THE EMPLOYER SHALL GIVE WRITTEN NOTICE TO THE EMPLOYEE OF THE AMOUNT OF WAGES WHICH HE CONCEDES TO BE DUE, AND SHALL PAY THAT AMOUNT, WITHOUT CONDITION, WITHIN THE TIME SET BY THIS CHAPTER. ACCEPTANCE BY AN EMPLOYEE OF A PAYMENT MADE UNDER THIS SECTION DOES NOT CONSTITUTE A RELEASE OF THE BALANCE OF HIS CLAIM.

HISTORY (SEC. 43-2-11(C) ACLA 1949, AM SEC. 2 CH 34 SLA 1949)

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

LABOR AND WORKERS' COMPENSATION.  
CHAPTER 10.  
EMPLOYMENT PRACTICES AND WORKING CONDITIONS.  
ARTICLE 3.  
ALASKA WAGE AND HOUR ACT.

SEC. 23.10.060.

PAYMENT FOR OVERTIME.

NO EMPLOYER WHO EMPLOYS EMPLOYEES ENGAGED IN COMMERCE, OR OTHER BUSINESS, OR IN THE PRODUCTION OF GOODS OR MATERIALS IN ALASKA MAY EMPLOY AN EMPLOYEE NOT ACTING IN A SUPERVISORY CAPACITY, EITHER MALE OR FEMALE, FOR A WORKWEEK LONGER THAN 40 HOURS OR FOR MORE THAN EIGHT HOURS A DAY, EXCEPT THAT IF THE EMPLOYER FINDS IT NECESSARY TO EMPLOY AN EMPLOYEE IN EXCESS OF 40 HOURS A WEEK OR EIGHT HOURS A DAY, COMPENSATION FOR THE OVERTIME AT THE RATE OF ONE AND ONE-HALF TIMES THE REGULAR RATE OF PAY SHALL BE PAID, AND THIS PROVISION IS CONSIDERED INCLUDED IN ALL CONTRACTS OF EMPLOYMENT. THIS SECTION DOES NOT APPLY WITH RESPECT TO

(1) AN EMPLOYEE EMPLOYED BY AN EMPLOYER EMPLOYING LESS THAN FOUR EMPLOYEES IN THE REGULAR COURSE OF BUSINESS, AS REGULAR COURSE OF BUSINESS IS DEFINED BY REGULATIONS OF THE COMMISSIONER;

(2) REPEALED BY SEC. 33 CH 127 SLA 1974.

(3) REPEALED BY SEC. 1 CH 243 SLA 1970.

23.10.060 DOCUMENT# 1 OF 1 PAGE # 2 OF 4

(4) AN EMPLOYEE EMPLOYED IN HANDLING, PACKING, STORING, PASTEURIZING, DRYING, PREPARING IN THEIR RAW OR NATURAL STATE, OR CANNING AGRICULTURAL OR HORTICULTURAL COMMODITIES FOR MARKET, OR IN MAKING CHEESE OR BUTTER OR OTHER DAIRY PRODUCTS;

(5) AN EMPLOYEE OF AN EMPLOYER ENGAGED IN SMALL MINING OPERATIONS WHERE NOT MORE THAN 12 EMPLOYEES ARE EMPLOYED, IF THE EMPLOYEE IS EMPLOYED NOT IN EXCESS OF 12 HOURS A DAY OR 56 HOURS A WEEK DURING A PERIOD OR PERIODS OF NOT MORE THAN 14 WORKWEEKS IN THE AGGREGATE IN A CALENDAR YEAR DURING THE MINING SEASON, AS THE SEASON IS DEFINED BY THE COMMISSIONER;

(6) REPEALED BY SEC. 1 CH 45 SLA 1972.

(7) AN EMPLOYEE ENGAGED IN AGRICULTURE,

(8) AN EMPLOYEE EMPLOYED IN CONNECTION WITH THE PUBLICATION OF A WEEKLY, SEMI-WEEKLY, OR DAILY NEWSPAPER WITH A CIRCULATION OF LESS THAN 1,000;

(9) A SWITCHBOARD OPERATOR EMPLOYED IN A PUBLIC TELEPHONE EXCHANGE WHICH HAS FEWER THAN 750 STATIONS,

(10) AN EMPLOYEE OF AN EMPLOYER ENGAGED IN THE BUSINESS OF OPERATING TAXICABS,

(11) AN EMPLOYEE IN AN OTHERWISE EXEMPTED EMPLOYMENT OR PROPRIETOR IN A RETAIL OR SERVICE ESTABLISHMENT ENGAGED IN HANDLING TELEGRAPHIC, TELEPHONE, OR RADIO MESSAGES FOR THE PUBLIC UNDER AN AGENCY OR CONTRACT ARRANGEMENT WITH A TELEGRAPH OR COMMUNICATIONS COMPANY WHERE THE TELEGRAPH MESSAGE OR COMMUNICATIONS REVENUE OF THE AGENCY DOES NOT EXCEED 4500 A MONTH,

(12) AN EMPLOYEE EMPLOYED AS A SEAMAN,

23.10.060 DOCUMENT# 1 OF 1 PAGE # 3 OF 4

(13) AN EMPLOYEE EMPLOYED IN PLANTING OR TENDING TREES, CRUISING, OR SURVEYING, OR BUCKING, OR FELLING TIMBER, OR IN PREPARING OR TRANSPORTING LOGS OR OTHER FORESTRY PRODUCTS TO THE MILL, PROCESSING PLANT, RAILROAD, OR OTHER TRANSPORTATION TERMINAL, IF THE NUMBER OF EMPLOYEES EMPLOYED BY THE EMPLOYER IN THE FORESTRY OR LOGGING OPERATIONS DOES NOT EXCEED 12,

(14) AN INDIVIDUAL EMPLOYED AS AN OUTSIDE BUYER OF POULTRY, EGGS, CREAM, OR MILK IN THEIR RAW OR NATURAL STATE,

(15) CASUAL EMPLOYEES AS MAY BE LIBERALLY DEFINED BY REGULATIONS OF THE COMMISSIONER,

(16) AN EMPLOYEE OF A NONPROFIT HOSPITAL,

(17) WORK PERFORMED BY AN EMPLOYEE UNDER A FLEXIBLE WORK HOUR PLAN IF THE PLAN IS INCLUDED AS PART OF A COLLECTIVE BARGAINING AGREEMENT,

(18) WORK PERFORMED BY AN EMPLOYEE UNDER A VOLUNTARY FLEXIBLE WORK HOUR PLAN IF

(A) THE EMPLOYEE AND THE EMPLOYER HAVE SIGNED A WRITTEN AGREEMENT AND THE WRITTEN AGREEMENT HAS BEEN FILED WITH THE DEPARTMENT; AND

(B) THE DEPARTMENT HAS ISSUED A CERTIFICATE APPROVING THE PLAN WHICH STATES THE WORK IS FOR 40 HOURS A WEEK AND NOT MORE THAN 10 HOURS A DAY; FOR WORK OVER 40 HOURS A WEEK OR 10 HOURS A DAY UNDER A FLEXIBLE WORK HOUR PLAN NOT INCLUDED AS PART OF A COLLECTIVE BARGAINING AGREEMENT, COMPENSATION AT THE RATE OF ONE AND ONE-HALF TIMES THE REGULAR RATE OF PAY SHALL BE PAID FOR THE OVERTIME.

ISTORY (SEC. 3 CH 171 SLA 1959; AM SEC. 1 CH 3 SLA 1962; AM SEC. 1 CH

23.10.060 DOCUMENT= 1 OF 1 PAGE = 4 OF 4  
243 SLA 1970; AM SEC. 1 CH 45 SLA 1972; AM SEC. 33 CH 127 SLA  
1974; AM SEC. 1 CH 31 SLA 1980)

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

23.10.145 DOCUMENT= 1 OF 1 PAGE = 1 OF 1  
CHAPTER = 23.10  
SECTION = 23.10.145  
TITLE = 23

ADINGS TITLE 23.  
LABOR AND WORKERS' COMPENSATION.  
CHAPTER 10.  
EMPLOYMENT PRACTICES AND WORKING CONDITIONS.  
ARTICLE 3.  
ALASKA WAGE AND HOUR ACT.

ITATION SEC. 23.10.145.

ATCH LINE

DEFINITIONS.

EXT TERMS USED IN AS 23.10.050 - 23.10.150 SHALL BE DEFINED, WHERE APPLICABLE, AS THEY ARE DEFINED IN THE FEDERAL FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, OR THE REGULATIONS ADOPTED UNDER IT.

ISTORY (SEC. 2(2) CH 171 SLA 1959)

0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

COMMITTEE REPORT

SENATE

FURTHER:

5/20/63

Date:

5/24/63

Mr. President:

The Committee on

LABOR & COMMERCE

has had

CS 207 (S.C.)

relative to the payment of wages.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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*[Signature]*

CHAIRMAN





STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 18, 1983

The Honorable Joe L. Hayes  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the payment of wages. This bill would make discretionary the imposition of the wage claim penalty under AS 23.05.140(d) against an employer who fails to pay wages to an employee within three days of the date of termination. In addition, the bill would strengthen the protection given an employee who has been offered a partial payment of a wage claim on the condition that he release the employer from paying the entire amount of wages claimed. The bill would void such a release which is given contingent on part payment of the wage claim.

The final provision of the bill would limit the application of the definitions in the federal Fair Labor Standards Act, 29 U.S.C. 203, to only those terms used in the Alaska Wage and Hour Act which are not defined by state law or regulation.

Sincerely,

  
Bill Sheffield  
Governor

STATE OF ALASKA  
FISCAL NOTE

Revision Date: \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: HB 281  
 Title: Payment of Wages  
 Sponsor: Rules Committee  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: Gen Admin Svcs  
 FRU, Program of Subprogram(s) Affected: Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bruce Strickland  
 Division: Labor Relations

Phone: 465-4404  
 Date: March 31, 1983

Approved by Commissioner: Lisa Rudd  
 Department: Administration

Date: 4/7/83

*ca*

STATE OF ALASKA  
FISCAL NOTE

Revision Date: \_\_\_\_\_, 1983 |

I. REQUEST

Bill/Resolution No.: HB 281  
Title: Act Relating to payment of wages  
Sponsor: Governor  
Requestor: Governor

II. FISCAL DETAIL

Agency Affected: DOA  
Program Category Affected: All  
BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director  
Division: Finance

Phone: 465-2240  
Date: 3/23/83

Approved by Commissioner: Lisa Rudd  
Department: ADMINISTRATION

Date: 4/7/83

I. REQUEST  
 Bill/Resolution No.: HB 281  
 Title: "...payment of wages..."  
 Sponsor: Rules Committee  
 Requestor: Rules Committee

II. FISCAL DETAIL  
 Agency Affected: Labor  
 Program Category Affected: Public Protection  
 BRU, Program of Subprogram(s) Affected:  
Labor Standards and Safety Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: No fiscal impact.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: MS Judy Knight, Special Assistant Phone: 465-2700  
 Division: Commissioner's Office Date: March 10, 1983  
 Approved by Commissioner: MS Jim Robison Date: March 10, 1983  
 Department: Labor

LEG:A:11

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

H B

299



STATE OF ALASKA  
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: HB 299  
 Title: "relating to public records."  
 Sponsor: Rep. Abood  
 Requestor: House Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: General Govt.  
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY.87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: April 12, 1983  
 Approved by Commissioner: Richard I. Pegues / FOR Date: April 12, 1983  
 Department: Department of Law

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

HB. 299  
Fiscal Note  
Analysis

This bill amends the state's Public Records Act to include the names and addresses of subscribers of municipally owned public telephone utilities and the phone numbers of those subscribers who have not requested that their phone number be unlisted. Any action challenging the validity of withholding this information, would be between private parties and a municipality. Consequently, fiscal impact on the Department of Law would not occur.

AS09.25.110 DOCUMENT= 1 OF 1 PAGE = 1 OF 1  
CHAPTER = 09.25  
SECTION = 09.25.110  
TITLE = 09

HEADINGS TITLE 9.  
CODE OF CIVIL PROCEDURE.  
CHAPTER 25.  
EVIDENCE.

CITATION SEC. 09.25.110.  
CATCH LINE

INSPECTION AND COPIES OF PUBLIC RECORDS.

TEXT UNLESS SPECIFICALLY PROVIDED OTHERWISE THE BOOKS, RECORDS,  
PAPERS, FILES, ACCOUNTS, WRITINGS, AND TRANSACTIONS OF ALL  
AGENCIES AND DEPARTMENTS ARE PUBLIC RECORDS AND ARE OPEN TO  
INSPECTION BY THE PUBLIC UNDER REASONABLE RULES DURING REGULAR  
OFFICE HOURS. THE PUBLIC OFFICER HAVING THE CUSTODY OF PUBLIC  
RECORDS SHALL GIVE ON REQUEST AND PAYMENT OF COSTS A CERTIFIED  
COPY OF THE PUBLIC RECORD.

HISTORY (SEC. 3.22 CH 101 SLA 1962)

R0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

AS09.25.120 DOCUMENT= 1 OF 1 PAGE = 1 OF 2  
CHAPTER = 09.25  
SECTION = 09.25.120  
TITLE = 09

HEADINGS TITLE 9.  
CODE OF CIVIL PROCEDURE.  
CHAPTER 25.  
EVIDENCE.

CITATION SEC. 09.25.120.  
CATCH LINE

INSPECTION AND COPYING OF PUBLIC RECORDS.

TEXT EVERY PERSON HAS A RIGHT TO INSPECT A PUBLIC WRITING OR RECORD IN  
THE STATE, INCLUDING PUBLIC WRITINGS AND RECORDS IN RECORDERS'  
OFFICES EXCEPT (1) RECORDS OF VITAL STATISTICS AND ADOPTION  
PROCEEDINGS WHICH SHALL BE TREATED IN THE MANNER REQUIRED BY AS  
18.50.010 - 18.50.390; (2) RECORDS PERTAINING TO JUVENILES; (3)  
MEDICAL AND RELATED PUBLIC HEALTH RECORDS; (4) RECORDS REQUIRED  
TO BE KEPT CONFIDENTIAL BY A FEDERAL LAW OR REGULATION OR BY  
STATE LAW. EVERY PUBLIC OFFICER HAVING THE CUSTODY OF RECORDS  
NOT INCLUDED IN THE EXCEPTIONS SHALL PERMIT THE INSPECTION, AND  
GIVE ON DEMAND AND ON PAYMENT OF THE LEGAL FEES THEREFOR A  
CERTIFIED COPY OF THE WRITING OR RECORD, AND THE COPY SHALL IN  
ALL CASES BE EVIDENCE OF THE ORIGINAL. RECORDERS SHALL PERMIT  
MEMORANDA, TRANSCRIPTS, AND COPIES OF THE PUBLIC WRITINGS AND  
RECORDS IN THEIR OFFICES TO BE MADE BY PHOTOGRAPHY OR OTHERWISE  
FOR THE PURPOSE OF EXAMINING TITLES TO REAL ESTATE DESCRIBED IN  
THE PUBLIC WRITINGS AND RECORDS, MAKING ABSTRACTS OF TITLE OR  
GUARANTEEING OR INSURING THE TITLES OF THE REAL ESTATE, OR  
BUILDING AND MAINTAINING TITLE AND ABSTRACT PLANTS, AND SHALL

AS09.25.120 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

FURNISH PROPER AND REASONABLE FACILITIES TO PERSONS HAVING LAWFUL  
OCCASION FOR ACCESS TO THE PUBLIC WRITINGS AND RECORDS FOR THOSE  
PURPOSES, SUBJECT TO REASONABLE RULES AND REGULATIONS, IN  
CONFORMITY TO THE DIRECTION OF THE COURT, AS ARE NECESSARY FOR  
THE PROTECTION OF THE WRITINGS AND RECORDS AND TO PREVENT  
INTERFERENCE WITH THE REGULAR DISCHARGE OF THE DUTIES OF THE  
RECORDERS AND THEIR EMPLOYEES.

HISTORY (SEC. 3.22 CH 101 SLA 1962)

R0601 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

COMMITTEE REPORT

SENATE

FURTHER:

4-1775

Date:

5/20/43

Mr. President:

The Committee on

Public Health

has had

11-39

Relative to public health

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do not pass

do pass with attached amendments(s)

replace with CS for

111-11

same title  
 new title

and recommends

\_\_\_\_\_

AND attaches a "Letter of Intent"

New Fiscal Note

reports it back without recommendation

referred to the

\_\_\_\_\_

Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

do pass

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907.465.3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 19, 1983

SUBJECT: Copyright of public records  
(HB 299)

TO: Senator Richard I. Eliason  
Chairman, Senate Labor and  
Commerce Committee

FROM: Thomas A. Sofo *TAS*  
Legislative Counsel

You have asked this office to consider what effect the enactment of HB 299 will have on the ability to copyright telephone listings under the federal copyright law, 17 U.S.C. 101 et seq. Preliminarily, my review of 17 U.S.C. 102 and the notes following that section convinces me that the telephone listings of the municipal utilities are, in the absence of HB 299, eligible for copyright under the federal act. The regulations issued under the federal law, however, provide:

Works consisting entirely of information that is common property containing no original authorship such as, for example: Standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources. (Emphasis added). 37 C.F.R. 202.1(d)

The amendment to AS 09.25.110 which HB 299 adds appears to place the phone listings referred to above into the category of material which are not subject to copyright. Unfortunately, the federal statute does not include a definition of public documents. It is not clear that a public document and public record are synonymous terms for purposes of the federal copyright law. However, to the extent that the prohibition against copyright of public documents is assumed to include a prohibition against a copyright of public records, the enactment of HB 299 would prevent the future copyrighting of such telephone lists.

Senator Richard I. Eliason  
Page 2  
May 19, 1983

If I can be of any further assistance, please do not  
hesitate to contact me.

TAS:ljb  
20/030

# Alaska State Legislature

INTERIM OFFICE:  
1024 WEST SIXTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 274-2843  
HOME (907) 774-3102




HOUSE MAJORITY WHIP  
CHAIRMAN  
STATE AFFAIRS  
MEMBER  
TRANSPORTATION  
LEGISLATIVE COUNCIL

IN SESSION:  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4947

Representative Mitch Abood  
HOUSE DISTRICT 11

## MEMORANDUM

TO: Senator Richard Eliason  
Chairman, Senate Labor and Commerce Committee

FROM: Representative Mitch Abood 

DATE: May 3, 1983

RE: House Bill No. 299  
"An Act relating to Public Records"

\*\*\*\*\*

Individuals have a right to inspect and copy public records, and should not pay certified charges, if a certified copy is not required. HB 299 stipulates that the Municipally owned public telephone utilities, as well as agencies and departments of the State, are obligated to provide to the public a listing of their subscribers names and addresses, if those subscribers do not request that their name be unlisted. At the present time, it is only possible to receive certified copies of public records. The public officer issuing the list of public records would only be allowed to charge a nominal copying fee, unless a certified copy is requested. HB 299 assures that an individual could access public records of agencies and departments, including municipally owned telephone utilities, without incurring exorbitant certification costs.

There is a question of "ownership" in copyright laws. The originator of a list, invention, device, etc., can put a copyright on that which he originates, but the question remains: If the list is made available to the public by a public agency, does the public agency have the right to put restrictions on that which is public knowledge?

HB 299  
"An Act relating to public records"  
Page Two

I do recommend that the language suggested by Assistant Attorney General Thomas Jahnke, (see letter dated April 26, 1983), be incorporated into the language of the bill as follows:

DELETE: Line 18 through 21:

"If a certified copy is not requested, a public officer may only charge a fee equal to the actual costs of copying the public records requested under this section or AS 09.25.120."

ADD: Line 18:

"If a certified copy is not requested, a public officer may charge no more than an amount equal to the actual costs of searching for and copying the public records requested under this section or AS 09.25.120."

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE  
April 21, 1983  
8:33 a.m.

Members Present: Rep. Furnace, Chairman  
Rep. Cowdery  
Rep. Wendte  
Rep. Malone

Members Absent: Rep. Ringstad  
Rep. Koponen  
Rep. Uehling, Vice-Chairman

COMMITTEE CALENDAR

HB 299 "An Act relating to public records."  
SSHB 7 "An Act relating to motor vehicles; and  
providing for an effective date."

WITNESS REGISTER

Representative Mitch Abood  
Alaska State Legislature  
Capitol Building, Room 102  
Pouch V  
Juneau, Alaska 99811  
465-4947  
Position Statement: Prime Sponsor of HB 299.

Albert C. Pistorius  
Anchorage Telephone Utility  
Municipality of Anchorage  
600 E. 38th Avenue  
Anchorage, Alaska  
564-1415  
Position Statement: Testified on HB 299.

Mary Ann O'Brannon  
Alaska Directory Services  
(No address given)  
Anchorage, Alaska  
(No phone number given)  
Position Statement: Presented some background on the statewide  
telephone directory.



Statutory Reference: AS 09.25.110

SSHB 7

03/31/83: SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 by Hayes, Barnes, Phillips, Furnace, Lindauer, Abood, Uehling, Liska, Cowdery, Szymanski, Fritz, Pestinger and Bussell, entitled:

"An Act relating to motor vehicles; and providing for an effective date."

was read the first time and referred to the Labor & Commerce, State Affairs and Finance Committees.

04/04/83: Representative Cato has been added as a Co-Sponsor on SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 (relating to motor vehicles; effective date).

04/19/83: Representative Furnace moved and asked unanimous consent that Rule 23 be waived so that the Labor & Commerce Committee can hold hearings on SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 (relating to motor vehicles; effective date) on April 21, 1983. There being no objection, it was so ordered.

04/20/83: The Speaker stated that without objection, the referral of SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 7 (relating to motor vehicles; effective date) would be changed to Labor & Commerce, Judiciary and Finance. There being no objection, it was so ordered.

SSHB 7 is currently in the Labor & Commerce Committee.

Statutory Reference: AS 28; AS 28.20; AS 28.10.011; AS 28.10.021; AS 28.10.051; AS 28.10.111; and AS 21.89.020

ACTION NARRATIVE

TAPE#57 (Side A)  
Recording  
Number 0006

Chairman Furnace called the meeting to order at 8:33 a.m. Members present were: Representatives Furnace, Cowdery, Wendte and Malone. Representatives Ringstad arrived

after roll call; Uehling and Koponen were absent.

Chairman Furnace brought HB 299 before the committee for consideration.

Number 0015

Representative Mitch Abood, Prime Sponsor of HB 299, explained the provisions of the bill and the intent of the law concerning the bill.

There was discussion by the committee concerning some of the language of the bill.

Number 0098

Albert C. Pistorius, Anchorage Telephone Utility, said that the telephone utility records are open to the public, however the information is copyrighted and that private enterprise should not be able to reprint the information for a profit.

Number 0144

Albert Pistorius proposed some amendments to the bill which would ensure that private enterprise would not utilize the telephone utility records for a profit motive without paying the price.

There was discussion by the committee members and Albert Pistorius concerning the copyright.

Number 0392

Chairman Furnace invited Rep. Abood to join in the discussion. He said that telephone books is a public record and the public should not have to purchase it if they do not wish and being a public record, the public should be allowed to use it as they wish.

There was additional discussion.

Number 0402

Mary Ann O'Brannon, Alaska Directory Service, came before the committee and gave some background on the statewide telephone directory. She stated why she felt a statewide telephone directory was needed.

There was discussion by committee members with Mary Ann O'Brannon responding to questions.

Number 0477

Chuck Kelly, Alaska Directory Service, expressed support of Mary O'Brannon's testimony. He said that Alaska Directory Service is an Alaskan-owned company

providing a tremendous service to Alaskans throughout the State. He said the law should be interpreted in such a way to serve the best interest of the public.

There was discussion by the committee and Chuck Kelly concerning the Alaska Directory Service.

TAPE#57 (Side B)  
Recording  
Number 0000

Continuation of discussion.

Number 0036

Chairman Furnace stated the Chair's intent to pass the bill on to the next committee of referral.

Number 0042

Rep. Cowdery moved and asked unanimous consent to pass the bill to the next committee of referral with individual recommendations.

Number 0047

Rep. Wendte objected, saying that he would like to see the motion expanded to read, 'with recommendation do pass'.

Number 0049

Rep. Cowdery made the motion. There being no further objection, HB 299 was advanced to the next committee of referral.

Number 0063

Chairman Furnace directed the committee's attention to SSHB 7.

Number 0083

Jeff Day, Professional Assistant to Representative Joe Hayes, the Prime Sponsor of SSHB 7, began testimony by reading a letter received after the bill was introduced. The letter was from the parents of a son who was killed in a traffic accident in Anchorage (available upon request).

Number 0122

Jeff Day said that the bill will go a long way towards ensuring that those who use the privilege to drive also accept the responsibilities that go along with it, and provide the incentives to use alternate means of transportation if one does not have insurance to operator a motor vehicle.

Number 0127

Jeff Day discussed the current law and its shortcomings.

- Number 0146 He then discussed the provisions of SSHB 7 which are aimed at prevention.
- Number 0192 He commented on some possible objections which may be raised concerning the legislation.
- Number 0273 Jeff Day offered some amendments to clarify certain provisions in the bill (available upon request).
- Number 0280 Chairman Furnace asked the committee to be brief in discussion due to time constraints. He proposed to continue the hearing later in the day. The committee members elected to defer questions until a later time.
- Number 0289 Don Koch with the Division of Insurance, Department of Commerce and Economic Development, said that the Administration is not in favor of a mandatory liability insurance. He explained.
- Number 0318 He offered some recommendations to the committee concerning insurance coverage.
- Number 0346 Chairman Furnace asked the committee to take note of the proposed amendments.
- Number 0348 Mike Thomas, representing American Insurance Association, came before the committee. He referred to his letter of April 15, 1983, as the basis of his testimony. He explained the Association's opposition to compulsory automobile insurance.
- Number 0408 Mike Thomas addressed the cost factor of compulsory insurance.
- Number 0429 Dan Motley, representing Self, stated that his prime concern was with section AS 23.22.540, concerning unused motor vehicles. He explained his dilemma and said that this section poses an extreme inconvenience to him and that SSHB 7 does not contain any provision which would address his concern.
- Number 0467 Chairman Furnace recommended that after the hearing Mr. Motley share his concerns with Jeff Day in order to determine if the bill could be enhanced to make allowances for his particular situation.
- Number 0470 The meeting was adjourned at 9:52 a.m.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

May 9, 1983

Honorable Richard Eliason  
Senator  
Chairman of the Senate  
Labor and Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: HB 299, an Act relating  
to public records

Dear Senator Eliason:

The Department of Law has two suggestions concerning the last sentence of HB 299 which proposes the amendment of AS 09.25.110. It reads:

If a certified copy is not requested, a public officer may only charge a fee equal to the actual costs of copying the public records requested under this section or AS 09.25.120.

First, the language "may only charge," is probably meant to be a ceiling; but some may read it as both a ceiling and a floor, leaving no discretion to waive charges where they are very small or where the requestor is indigent or is a news organization. We suggest language to the effect that a public officer may charge no more than an amount equal to the actual cost of copying.

Second, while the amendment does not purport to forbid search charges, some might read it that way. The executive branch conducts searches of up to 10 hours per requestor per month free of charge. This standard has the force of law. 6 AAC 95.130(c). Considering salary and fringe benefits, 10 hours of free search assistance amounts to a benefit to the requestor of several hundred dollars. There are doubtless a few individuals who might abuse a totally free search policy. In the past we have received several enormous requests which might have taken weeks or months to meet, at incredible cost to the state.

We suggest that the legislature expressly authorize assessment of search costs, bearing in mind that: (1) 6 AAC 95.-



## CITY OF FAIRBANKS

*Office of City Manager*  
410 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
907-452-1881

April 21, 1983

Honorable Richard I. Eliason  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau AK 99811

Dear Senator Eliason:


I object to passage of House Bill 299. Evidently this bill has been introduced on behalf of Alaska Directory Service, Inc., a commercial directory company, in order to allow that company to make a profit printing local telephone directories without paying the local telephone utilities for their copyrighted listings. Under federal copyright law it is legal and common throughout the United States for telephone companies to copyright their directories and sell this compilation of listings for commercial reprinting to other companies.

Fairbanks Municipal Utilities System (FMUS) has offered to sell their listings for a reasonable price to ADS. In addition, ADS has an option of independently compiling their own listing. FMUS realizes a significant amount of revenue from yellow pages advertising. If ADS or other companies are permitted to use this legislation to deprive FMUS of a significant portion of this advertising revenue then FMUS will have no choice but to pass this revenue deficit along in the form of higher rates for individual and business telephone customers.

This is a particularly inappropriate time for this legislation because of the national decision to deregulate telephone companies and the pressure that is applied to Alaska telephone companies to maintain service and rates while they are facing a reduction in revenue from toll charges.

Also, these changes have absolutely nothing to do with public access to information which was the topic of AS 9.25.110. Telephone listings are already the most public information available from municipalities. They are both widely distributed in directories to all customers and available for sale at nominal amounts and available from toll free information operators. FMUS sells its copyrighted directory to anyone for \$3.00. This bill will not contribute to public information being made more available but solely to a private company making a profit at the expense of local municipal telephone utilities yellow pages advertising. It is only fair and appropriate if a private company wants to use the property interest which municipal telephone companies currently have under federal copyright law that they pay a reasonable price to the local utilities.

Sincerely,

  
W.C. Proz  
City Manager

130(c) assures free record searches of up to 10 hours; (2) the commissioner of administration must authorize the assessment of costs no matter how many hours are spent in the search; and (3) news organizations are assessed no search charges at all unless a request is in bad faith or extraordinarily large.

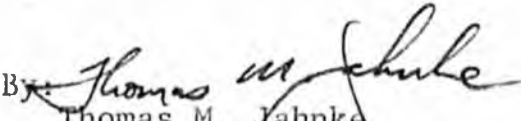
We suggest the following language to incorporate these suggestions:

If a certified copy is not requested, a public officer may charge no more than an amount equal to the actual costs of searching for and copying the public records requested under this section or AS 09.25.120.

If we may be of further assistance, please let us know.

Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By   
Thomas M. Jahnke  
Assistant Attorney General

TMJ/pjg

cc: Honorable Mitch Abood  
Representative  
Alaska State Legislature  
Juneau

Honorable Donald E. Clocksin  
Representative  
Alaska State Legislature  
Juneau

Honorable Rick Uehling  
Representative  
Alaska State Legislature  
Juneau

Emil Notti  
Legislative Assistant  
Governor's Office

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED  
MAR 24 1983  
STATE CAPITOL

JUNEAU ALASKA 99811

907-465-3800

M E M O R A N D U M

March 21, 1983

SUBJECT: Definition of public documents  
(Work Order No. 13-1067)

TO: Representative Don Clocksin

FROM: Thomas A. Sofor <sup>TAS</sup>  
Legislative Counsel

The attached bill draft brings within the definition of public records the names, addresses, and, in most cases, the phone of numbers subscribers of municipally owned utilities, such as the Anchorage and Fairbanks telephone companies. It is not clear what the effect of this amendment to the Alaska Statutes will be on any claim that the information described is protected by federal copyright law.

Typically, the doctrine of federal preemption, which is grounded on the Supremacy Clause of Article VI of the United States Constitution, prohibits a state from legislating in any way which would thwart or frustrate the operation of a federal statute on the same subject. If the federal act indeed provides an enforceable right in favor of those who have compiled such phone lists, the state will be powerless to legislate in a manner which destroys that right. However, since I am not intimately acquainted with the extensive federal patent and copyright scheme, I am not able to conclude with any certainty that the passage of the attached bill would be completely without effect. The fact that a state jurisdiction considers material that may be copyrightable to be a public record under local law, may be of some consequence since the material in this case is largely of intrastate interest.

Obviously, the full ramifications of the enactment of the attached bill are beyond the scope of this memo. I understand that litigation is pending concerning this issue and I suspect a review of pleadings and supporting memoranda filed in that case would be useful in developing a complete understanding of the federal issues involved. Due to the scope

Representative [redacted] Clocksin  
Page 2  
March 21, 1983

of the material to be covered, an undertaking of that sort would be more appropriate as an interim project of this office.

Please give me a call if I can be of further assistance on this issue.

TAS:ljb

Enclosure  
11/002

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Bill Sheffield, Governor

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

May 9, 1983

Honorable Richard Eliason  
Senator  
Chairman of the Senate  
Labor and Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: HB 299, an Act relating  
to public records

Dear Senator Eliason:

The Department of Law has two suggestions concerning the last sentence of HB 299 which proposes the amendment of AS 09.25.110. It reads:

If a certified copy is not requested, a public officer may only charge a fee equal to the actual costs of copying the public records requested under this section or AS 09.25.120.

First, the language "may only charge," is probably meant to be a ceiling; but some may read it as both a ceiling and a floor, leaving no discretion to waive charges where they are very small or where the requestor is indigent or is a news organization. We suggest language to the effect that a public officer may charge no more than an amount equal to the actual cost of copying.

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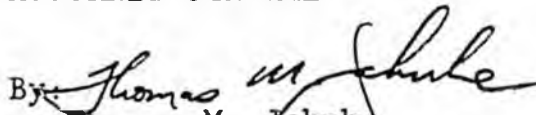
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Sincerely yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Thomas M. Jahnke  
Assistant Attorney General

TMJ/pjg

cc: Honorable Mitch Abood  
Representative  
Alaska State Legislature  
Juneau

Honorable Donald E. Clocksin  
Representative  
Alaska State Legislature  
Juneau

Honorable Rick Uehling  
Representative  
Alaska State Legislature  
Juneau

Emil Notti  
Legislative Assistant  
Governor's Office

# Alaska State Legislature

PERMANENT ADDRESS:  
1527 H STREET  
ANCHORAGE, ALASKA 99501  
(907) 278-4188

WHILE IN SESSION:  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3704



CHAIRMAN - 1981  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE  
VICE CHAIRMAN - 1981  
JUDICIARY COMMITTEE  
MEMBER - 1982  
COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

Representative Don Clocksin  
DISTRICT 7

March 11, 1982

A. C. Pistorius, General Manager  
Anchorage Telephone Utility  
600 East 38th Avenue  
Anchorage, Alaska 99503

Dear Mr. Pistorius:

Mary O'Brannon of Alaska Directory Service has contacted me regarding a problem she has had in obtaining up-to-date "white page" listings from you. My research has indicated that your failure to provide her with the information may be improper.

Alaska Statutes 9.25.110-.120 provides that "public writing or record" is available for inspection and copying by "every person" unless the writing or record is exempted. One exemption allows records to be kept confidential by "federal law or regulation or by state law." AS 9.25.120(4).

I believe utility company records are open to the public, and believe the recent issue regarding Chugach Electric payroll records confirms that. Further, I believe the specific records sought by Ms. O'Brannon are public. And further, I have reviewed the Alaska Public Utilities Commission Act (AS 42.05.010-.721) and find no statute exempting such records. Alaska Statute 42.05.671 relates only to public disclosure of APUC records and is therefore irrelevant.

There is a regulation which provides that telephone utility records are not open to the public--3 AAC 48.050(a). However, that regulation is not authorized by the statute and is not an allowable exemption under AS 9.25.120(4) since it is not an exemption "by state law."

Failure to provide a public record upon request authorizes suit under AS 9.25.125 and an injunction.

I also understand that you have taken specific action to discourage advertisers from advertising in Ms. O'Brannon's publication. See the attached letter. This effort at restricting Ms. O'Brannon's ability to sell ads is particularly of concern since you use her lack of "white page" information--information you have (perhaps illegally) refused her--as a reason for not buying advertising.

A. C. Pistorius  
March 11, 1982  
Page 2

I understand the philosophy behind regulation of utilities to be a trade-off between regulation of rates, etc. and protection from competition. If a utility is told what its rates may be, what its return will be, and what services to provide, it is not fair to subject that utility to cut-throat competition by unregulated competitors. However, I'm not sure Ms. O'Brannon's request rises to that level of threat. Absent hard evidence that rates will be seriously affected, I think the law is clear that your new "white page" listings are public records and, thus, available to Ms. O'Brannon.

I would appreciate either your cooperation with Ms. O'Brannon or a response explaining why you still do not feel cooperation is appropriate.

Thank you.

Sincerely,



Rep. Don Clocksin

cc: Mary O'Brannon  
APUC members  
APUC Executive Director

Enclosure

DC:ne

# Bill orders ATU to share listings

By STEVE SEPLOCHA

Daily News business editor

A bill that would force the Anchorage Telephone Utility to turn over its subscriber list and numbers to a competing telephone directory company was passed this week by the House in a 38-1 vote.

Rep. Mitch Abood, R-Anchorage, prime sponsor of the bill, said he understands there is a good chance for passage in the Senate.

Controversy over whether phone listings are public information surfaced when the telephone utility tried to block publication of a directory which would compete for advertising with the utility's contracted version.

The new directory was published late last year by Alaska Directory Service, Inc., owned by Mary O'Brannon. She has since been sued by the utility for copyright infringement and the litigation is pending.

Al Pistorius, general manager of the telephone utility, said Wednesday that the bill probably will have no impact on the position of the utility.

He still claims the list is protected by federal copyright law and the information requested by O'Brannon will probably cost her more than \$200,000.

Pistorius said he is trying to protect the \$5 million in "pure profit" the utility receives from GTE Directories Corporation, which has a contract for the listings.

The listing was offered to O'Brannon for \$218,000 last year, according to Pistorius. He said the names and numbers must be extracted from documents that contain confidential information about customers, and labor costs are expensive.

Whether the bill passes or not will not change these costs, he said.

O'Brannon has accused the phone company of charging an excessive amount for the lists. The bill, according to Abood, would require the utility to charge no more than duplicating fees.

Anchorage Daily News  
4/28/83

# Anchorage Daily News

351, 118 PAGES

ANCHORAGE, ALASKA, THURSDAY, DECEMBER 16, 1982

## Statewide phone directory prompts suit

By STEVE SEPLOCHA  
Daily News business editor

About 80,000 people in Anchorage have received a new statewide telephone and information directory, but the Anchorage Telephone Utility (ATU), claiming copyright infringement, has sued to stop distribution.

U.S. District Judge James von der Heydt on Wednesday denied a request for a temporary restraining order against Alaska Directory Service Inc. and will hear arguments Monday in the second phase of the injunction proceedings.

Mary Anne O'Brannon, owner of the new directory, said Wednesday that ATU is simply trying to keep competition out of the lucrative yellow pages directory business. She denied that her company has infringed on ATU phone listings and accused the utility of restraint of trade.

Al Pistorius, general manager of ATU, said he could not discuss the new directory because it is in litigation. The phone company's attorney was unavailable.

The new directory contains 350 pages of yellow pages advertising and offers phone listings and other information services on



See Back Page, NEW

Mary Anne O'Brannon shows her new telephone directory.

Provided by M. O'Brannon

# Alaska Directory Service

\*\*\*\*\*ADVERTISING RATES\*\*\*\*\*

630 E. 5th Avenue, Suite 200 • Anchorage, Alaska 99501 • (907) 272-5491

## DISPLAY ADS

<u>AD SIZE</u>	<u>UNITS</u>	<u>FULL ANNUAL RATE</u>	<u>30% DOWN WITH ORDER</u>	<u>TOTAL CASH WITH 20% DISCOUNT</u>	<u>BANK CARD 15% DISCOUNT</u>
QC	5	325.00	97.50	260.00	48.75
DQC	10	650.00	195.00	520.00	97.50
HC	10	650.00	195.00	520.00	97.50
THC	15	975.00	292.50	780.00	146.25
DHC	20	1,300.00	390.00	1,040.00	195.00
THC	30	1,950.00	585.00	1,560.00	292.50
STRIP	40	2,600.00	780.00	2,080.00	390.00
RED INK	4	260.00	78.00	208.00	39.00
COUPONS	10	650.00	195.00	520.00	97.50

## LISTINGS

WBL	1	65.00	19.50	52.00	9.75
BL	1	65.00	19.50	52.00	9.75
TN	2	130.00	39.00	104.00	19.50
TM	3	195.00	58.50	156.00	29.25
CTM	4	260.00	78.00	208.00	39.00
TBL	1	65.00	19.50	52.00	9.75
ABL	2	130.00	39.00	104.00	19.50
FL	3	195.00	58.50	156.00	29.25

## IN-COLUMN ADVERTISING

1HS	2	130.00	39.00	104.00	19.50
2HS	3	195.00	58.50	156.00	29.25
3HS	4	260.00	78.00	208.00	39.00
4HS	5	325.00	97.50	260.00	48.75

## DIRECTIONAL BLOCK - 65.00 (1 unit)

AW	1	65.00	19.50	52.00	9.75
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CD

25



### Phone competition

It is laughable to see the "Daniel (sic) and Goliath" confrontation presently occurring between our municipally owned telephone monopoly and a company which has dared to produce an independent phone listing book. Small minds are often threatened when someone challenges them.

Nationally, the telephone industry is facing many challenges as modern telecommunications and computer technology provide options beyond the scope of present telephones. The AT&T giant has been struck down by the courts in its efforts to control telephone communications from the subscriber's instrument through the network and beyond reason.

Now, in Alaska we see an independent telephone directory publishing company has rocked the cozy relationship

between Anchorage Telephone Utility and GTE Telephone Directories Company. An indignant ATU general manager, Al Pistorius, says copyright laws were broken because the new publisher did not pay enough to the utility for listings and the right to sell lucrative yellow page advertisements in the statewide directory.

A past administration "old boy" carryover, Pistorius may have a lot of reasons for being afraid of competition in the communications industry marketplace. Soon, simple adaptations to the family television may bring direct video communications without need of so many top-heavy empires like ATU funneling regulated tax dollars down a soon-to-be antiquated rat hole.

If the telephone utility were really service-oriented, it would welcome as many listings of numbers in as many places as possible. Instead, ATU is fighting consumers' best interests with tax dollars.

—Donn Liston

## O'Brannon says she'll beat ATU

by Steve Hansen  
Times Writer

Although facing a court order to come up with a plan to recall her product, the owner and creator of a statewide telephone directory said Wednesday she is "winning the war" against the Anchorage Telephone Utility.

Mary Ann O'Brannon, owner of the Alaska Directory Service, said she will continue to fight ATU and the municipality for the right to publish and distribute the new directory.

O'Brannon's statewide directory is in direct competition with the ATU phone book for local advertising.

Last week, U.S. District Court Judge James von der Heydt ruled O'Brannon was in contempt of court because she distributed about 200,000 books after agreeing to halt free distribution on Dec. 20, 1982.

O'Brannon was fined \$10,000 and ordered to submit a plan by Friday for the "total recall" of

the directories distributed after Dec. 20. The recall plan, which must be implemented by April 1, has to include the use of flyers, newspaper and television advertisements asking people to return the books to Alaska Directory Service.

About 200,000 books have already been distributed.

O'Brannon estimated advertising the recall would cost her about \$5,000.

But despite von der Heydt's action, O'Brannon said she's confident the statewide directory will prevail.

"I feel we lost the battle but are winning the war," she said.

O'Brannon said ATU has tried unsuccessfully on several occasions to gain a temporary restraining order from the court to prohibit the distribution.

Brannon has filed a restraint-of-trade and anti-trust suit against the municipality listing the 3,000 advertisers in her book as "injured parties."

"It's not just me," she said.

The municipality, however, contends that O'Brannon has violated federal copyright laws by using ATU telephone names, numbers and addresses in her book. But O'Brannon said her company is entitled to compete in the free market with municipal telephone utilities, and that she has been assured by a copyright attorney that her actions are legal.

"They're just making a last ditch effort," she said.

As for von der Heydt's contempt ruling, O'Brannon said, "I think he did what he had to do."

She said she had voluntarily stopped distribution of her directory on Dec. 20 in order to negotiate a settlement between Alaska Directory Service and ATU. However, ATU did not bargain in "good faith," she said.

"What they wanted was 30 percent of our revenue," O'Brannon said. Then (ATU general manager) Al Pistorius went to on

vacation to Hawaii for two weeks (further delaying the negotiations).

"That's when I said, 'That's it,'" she said, adding that she felt ATU had only been trying to delay her distribution until after the new ATU books were distributed.

O'Brannon said von der Heydt was then formally notified by her company that the distribution would be continued because ATU had not negotiated in "good faith."

"I think he wanted us to get the directory out, otherwise he would have done something sooner," she said.

She said she violated the court order because "I had a responsibility to the public to get the book out and I did."

"I'd do it again if I had to," she added.

"Anything that's going on now will not affect our future publication."

## letters from the people

### Take my name, please

Reference: "State directory owner seeks list free," in the Daily News, Dec. 29.

I don't understand why M. A. O'Brannon, owner of Alaska Directory Services, Inc., should pay anything for the names in the telephone book. The names were not purchased, nor are they the sole property of Anchorage Telephone Utility. I, for one, did not sell them my name and gladly will join O'Brannon in a suit requesting that my name be given to anyone who wants it. At no cost. Long live competition!

— Andre Piekarski

Thursday, February 24  
B

# Entrepreneur expects to win phone book war

by Steve Hansen  
Times Writer

Although facing a court order to come up with a plan to recall her product, the owner and creator of a statewide telephone directory said Wednesday she is "winning the war" against the Anchorage Telephone Utility.

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O'Brannon said von der Heydt was then formally notified by her company that the distribution would be continued because ATU had not negotiated in "good faith."

## Alaskans speak their minds

### Tight grip

Dear Editor:

I will surrender my Alaska telephone and information director when they pry it from my cold, dead fingers! I am a concerned

citizen and a member of the Right to Bear Directories of America.

Duane J. Bryan



ALASKA CLIPPING  
SERVICE

Kodiak Mirror  
Kodiak, AK

JAN 28 1992

45  
Alaska Directory Service and their representative Mike would like to thank Kodiak residents and businesses for their friendliness and support of the local and state wide telephone book.

If I may have inadvertently missed or overlooked any advertiser, they may call Mike collect at: 272-5491

ALASKA FEYER

SO WHAT'S  
YOUR PHONE  
NUMBER?

I CAN'T  
GIVE IT  
TO YOU...

THE PHONE  
COMPANY  
CLAIMS  
THEY OWN  
THE COPYRIGHT  
ON IT!



2-22

JERRY FLU  
THE ALASKA TIMES

ALASKA CLIPPING  
SERVICE

Ketchikan Daily  
News  
Ketchikan, AK

JAN 29 1983

## North in huff over state directory

ANCHORAGE (AP) — It's big, bold and brassy and it's got utility officials and attorneys in Anchorage and Fairbanks in a furor.

It's the Alaska Telephone & Information Directory, a statewide listing of telephone numbers in communities large and small, except for those in Southeast Alaska.

It's the brainstorm of Mary Ann O'Brannon of Anchorage.

The Municipality of Anchorage went back to federal court Friday in another effort to halt its distribution. Fairbanks City Attorney Herb Kuss said he will seek a similar injunction there.

The telephone utilities in both cities contend the directory constitutes a copyright infringement.

Ms. O'Brannon argues that they are just monopolies afraid of competition, and engaged in an illegal restraint of trade.

The distribution question is almost moot. Ms. O'Brannon said Friday about 200,000 of the hefty books have been distributed free around most of the state. That's about 90 percent of what she anticipated. She said the rest should be done within two weeks.

Callers who have business outside their community no longer are forced to thumb through dozens of phone books looking for numbers.

Besides telephone numbers, the directory contains marine radio designations for boats operating in Alaska waters. It also has maps and

594 pages of classified ads.

It's the "yellow pages" that upset the Anchorage and Fairbanks officials most, because they siphon off some of lucrative advertising.

The Anchorage Telephone Utility tried earlier to halt distribution by filing a copyright infringement suit, but U.S. District Judge James von der Heydt ruled distribution was not against the law.

Ms. O'Brannon and ATU then began voluntary negotiations to try to resolve the dispute. Distribution was halted briefly, but resumed when Ms. O'Brannon and her attorney decided ATU no longer was bargaining "in good faith."

Kuss, acting on behalf of the Municipal Utility System in

Fairbanks, said he will try to get a judge not only to order a halt, but to force distributors to pick up the books they've already handed out. He said he's also asked the FBI to investigate possible criminal infringement of the copyright laws.

Ms. O'Brannon obviously anticipated the controversy. In an "editorial" on the last of the yellow pages, she says "the fact that you are reading this is proof that courage and conviction of the people of Alaska has come through again."

"Advertisers had no alternative to the many utility directories across the state," she wrote. "Thanks to the courage & independence of the people we've sold millions of dollars of advertising."

45  
32

# Welder vows to keep his

by Ellis E. Conklin  
Times Writer

The great telephone book war isn't quite over yet.

It's a battle for legitimacy, with the Anchorage Telephone Utility and the Alaska Directory Service each claiming that its telephone book is shinier, and better than its competitor — not to mention free of copyright infringement.

Now Clay Newman has joined the book battle.

Newman is pursuing a whole new tack. Unlike virtually everyone in Anchorage who simply ig-

nored a judge's order in February to return Alaska Directory's statewide phone books to the company, Newman marched in to the Alaska Directory office Thursday morning and returned his Anchorage Telephone Utility book.

Why?

"I'm sick and tired of the Anchorage telephone book. I'm in the welding business in Eagle River and I need the Alaska book because I do a lot of work in the Bush. I tell you, the all-Alaska book was a dream come true."

For Newman, he'd rather part

with, well, just about anything before giving back that Alaska book.

"They're not getting that Alaska book. They're going to have to pry it out of my fingers. They'll have to shoot first, shoot me first or throw rocks."

Newman doesn't stop here. He also plans to hit ATU where it hurts — in the pocketbook. "When I'm down there, I'm also going to pull all of my ads out of the Anchorage book and put them in the Alaska book."

In case you missed it, the Anchorage Telephone Utility de-

## 'contraband' directory

4-3-83

clared open war on the Alaska Directory Service when the rival phone book firm went out and distributed about 200,000 of its own directories, replete with cross references and maps.

ATU, which publishes its own phone book and Yellow Pages, claimed the Alaska Directory stole the Anchorage names and phone numbers from its own white pages.

On Feb. 23, U.S. District Court Judge James von der Heydt slapped the private telephone directory with a \$10,000 contempt of court fine and ordered the

company to go out and retrieve the 200,000 copies it distributed after Dec. 20, and not to hand out and more.

Susan Blanchard, office manager at Alaska Directory Services, said only about 10 people have brought back the Alaska directory.

But Kim Tullis, a production manager for Alaska Directory Service, said to her knowledge, only one person obeyed the judge's order. In fact, the person who did surrender her Alaska book turned out to be a neighbor of Alaska Directory's president.

"It was kind of a joke," Tullis said.

Blanchard said Newman's satirical act of civil disobedience isn't the kind of support Alaska Directory Service is looking for right now.

"That's going to hurt us. It's bad publicity. It's like mud-throwing," Blanchard said. "It's nice that he'd rather have our book, but I feel that he's making the wrong statement."

"Of course, I can't say no. I can't tell him I won't take his (Anchorage Telephone Utility) book," Blanchard said.

# Phone book combines Treasure Valley listings

By DEBBY ABE  
The Idaho Statesman

Some southwestern Idahoans are letting their fingers do the walking through a new telephone book that has listings for residents and businesses throughout the Treasure Valley.

The book is the 1982-83 Treasure Valley edition of the *Aid's Telephone Directory*. It contains the resident, business and government listings included in the five Mountain Bell, Continental and Fruitland telephone company books that cover Boise and points south to McDermitt, Nev., north to White Bird and west to Vale, Ore.

Distribution of the 26,000 to 28,000 books started in December. All businesses in the Treasure Valley and a random selection of residents received one of the directories at their doorstep, said *Aid's Telephone Directory* President John Thayer, Ontario.

Thayer said he plans to print 125,000 copies of a revised edition in August. Some copies are still available at Aid's Boise office, 6027 Clinton St.

"Reaction to it has been great. We're getting good sales and good response," Thayer said. "I have yet to meet anyone who doesn't like it."

What residents — especially those in rural areas — like most, he said, is that they have access to numbers for all cities in the Treasure Valley. For example, a person in Ontario can look up a McCall phone number. And listings are as recent as the telephone companies'

books because the companies sold their listings to Aid's, Thayer said. (Phone companies are required by law to sell listings upon request.)

Many, like the directory's size, Thayer said. The 1½-inch thick, 10¾-by-7-inch book is more compact than the 9-by-11-inch Mountain Bell books. Older people like the book's large type size, he said.

The Aid's book offers some things that most phone company books do not: Idaho license plate codes, Idaho and Oregon zip codes, recreation information, a calendar of events, sports schedules and a section of coupons redeemable at Treasure Valley businesses.

But, just like the other phone books, Aid's directories are free. Advertisers in the "Yellow Pages" section of the directory paid for the book's publication and distribution. Advertising rates are 50 to 80 percent lower than Mountain Bell's rates, Thayer said.

Aid's plans to distribute a directory for the Mountain Home area soon and may eventually put out a northern Idaho directory.

"We have some investors looking at us. If they come in, we might go up there (north)," he said.

But as healthy as the young business seems now, a year ago it stood on shaky ground.

Thayer initially was a salesman for the company's original owners, Bill Landriani and Jess McCall, who operated through a corporation called L.J. Inc. Thayer was one of 200 salesmen who had worked for the business at one time or another since its start in December,

1981. The salesmen had sold more than \$100,000 worth of advertising to Treasure Valley merchants and promised them the book would come out in July 1982, as Landriani and McCall had told them, Thayer said. But when June 1982 rolled around and few layouts could be found, Thayer said, he and the three other remaining salesmen suspected the owners did not intend to publish it.

Thayer, who said he hoped to keep his reputation clean and to get in on what he thought was a good business opportunity, offered Landriani and McCall \$5,000 in June to take over the assets and liabilities of Aid's Telephone Directory.

"They were gone in three days," Thayer recalled. And "the \$60,000 to \$70,000 we had on the books turned out to be only \$10,000 or \$12,000," he said.

Thayer contacted the Boise police and local FBI office, but was told the men couldn't be sued or charged with violation of any law because they had protected themselves through their corporation.

Ken Thornberg, executive director of the Better Business Bureau of the Treasure Valley, confirmed Thayer's story of Landriani and McCall.

"They left with \$100,000 to \$130,000 and left Thayer and his group holding the bag," Thornberg said.

However, Thayer and his brother, Skip, (See BOOK, Page 2C)

(Continued from Page 1C)

Thayer of Ontario, published the book by borrowing money from friends, relatives and their ranch, the Thayer Cattle Co. of Ontario.

"In July, I owed \$100,000 to put the book out. If we hadn't had the publishers and layout people who gave us good terms and let us spread out payments, we never could have done it," he said.

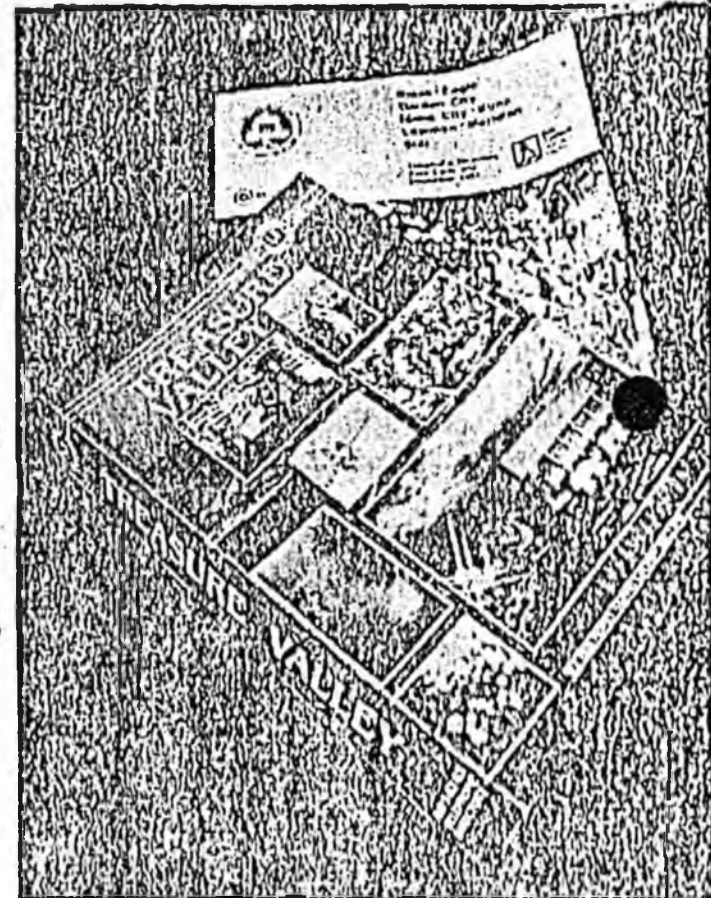
"Thayer said at least half the debt incurred to publish the book has been paid back.

"It's a miracle the book came out," he said. "I really stuck my neck out. I've realized since then (when he took it over) that I made myself liable to a lot. Our advertisers could have sued, it could have been paid back."

sought to them, but they didn't. We're really grateful."

In compensation for the company in publication and other problems, Aid's is giving advertisers in the first Treasure Valley book free advertising space in the August edition, Thayer said.

Landriani and McCall apparently moved to Oregon after their stay in Idaho, the Portland Better Business Bureau and the Portland field division of the FBI said. The Portland BBB reported that it had received complaints on the two men for conducting activities similar to those in Boise on the Oregon coast. Dorwin Schreuder, special agent and information officer for the Portland FBI office,



Aid's directory and Mountain Bell book

Bill Fact Sheet

Date Received \_\_\_\_\_

Bill Number HB299 Title \_\_\_\_\_

Fiscal Note - Date Requested \_\_\_\_\_ Date Received \_\_\_\_\_

- Of Whom \_\_\_\_\_

Dept. Position Paper -- Date Requested 5/13 Date Received \_\_\_\_\_

- Of Whom Ron Lorensen (Dept of Law)

Resource People

Initial Hearing - Date 5/17/83

People Contacted

Ron Lorensen - 3600

Ann (Mitch Apood) - 5/16 - told earlier tho - want scheduled around 2:30

Wally Kubley - 5/16

Sharon Mc -

Ginny . 5/12

Follow-up Hearing - Date \_\_\_\_\_

Final Action \_\_\_\_\_ Date \_\_\_\_\_

HB

302

#1

# TELEGRAM

ALASCOM, INC.  
PHONE: 586-6442  
JUNEAU, AK 99802

06005 TDJU SITKA ALASKA 54 05-25 1153A PDT

PHS SENATOR RICHARD ELIASON

POUCH V

**4693**

JUNEAU AK 99811

SENATOR ELIASON:

THE SITKA COMMUNITY ASSOCIATION RESPECTFULLY REQUESTS YOUR  
ASSISTANCE TO AMEND ALASKA STATUTE 1.55.996 AS FOLLOWS:

ADD A PARAGRAPH TO INCLUDE THE SITKA COMMUNITY  
ASSOCIATION (BARANOF ISLAND HOUSING AUTHORITY)  
TO THE LIST OF ASSOCIATIONS AUTHORIZED TO FORM  
NATIVE HOUSING AUTHORITIES.

THANK YOU VERY MUCH FOR YOU SUPPORT ON THIS MATTER.

HILLIAM H. BRAD, PRESIDENT

SITKA COMMUNITY ASSOCIATION

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHR 302 (Fin) (Page 1 of 8)  
 Title State Housing Loans  
 Requested by House Finance Date 5/17/83

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs  
 Program Category Affected Development  
 BRU, Program, Or Subprogram(s) Affected Housing Assistance  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		141	193	205	217	230
200 TRAVEL		41	44	46.1	48.9	51.8
300 CONTRACTUAL		12	13	13.5	14.3	15.2
400 COMMODITIES		29	31	32	33	34
500 EQUIPMENT		3	3.1	3.3	3.5	3.7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		226	284.1	299.9	316.7	334.7

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source) Program Receipts		226	284.1	299.9	316.7	334.7

POSITIONS

FULL TIME		5	5	5	5	5
PART TIME						
TEMPORARY						

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

This appropriation will fund the increased costs of operating the home ownership assistance program created in this bill. It is the only appropriation, in addition to the funding provided in CSHR 315 (Finance), which is necessary to provide these low interest loans. These costs will be funded with program receipts. See the attachment for details on the funding provided through this fiscal note.

IV. DATE 5/17/83 PREPARED BY Al Adams, Chairman **APA**  
 AGENCY House Finance Committee  
 Original: Legislative Finance PHONE 665-1100

Home Ownership Assistance Fund (HOAF) Assumptions for Fiscal Note

Expenditures

OPERATING:

Personal Services

\$141,000

<u>Position</u>	<u>Salary &amp; Benefits</u>
Loan Examiner I	\$ 41,867 (12 months)
Clerk Typist III	20,335 (9 months)
Accountant III	25,883 (6 months)
Accounting Clerk III	22,890 (9 months)
Documents Processing Clerk III	<u>30,519 (12 months)</u>
	\$141,000 (rounded down)

All salaries are based on GGU Salary Schedule for A ranges Effective 1/1/83 for number of months requested.

Benefits were calculated at .0613 of gross salaries.

Supplemental benefits were calculated at DCRA FY'84 variable rate of .1537.

Fixed benefits were calculated at gross salary x 240.

FY'84 impacts for new positions varied between 12 and 6 months. FY'85 projections assume all positions at 12 month plus 6% salary inflation costs. Subsequent years assume only annual inflation rate of 6%.

Travel

\$ 41,000

Travel is assumed to reflect both direct and indirect lending services of the division. FY'84 travel reflects the following specific assumptions:

Loan Examiner I to hearings in six field locations	\$ 2,500
Accountant, 6 trips to Juneau .	3,600
Central office to bring field staff for training on new program	5,000
6 field offices @ 5,000 each for increased direct services and program outreach	<u>30,000</u>
	\$41,000

HOAF Assumptions for Fiscal Note  
(Page 3 of 8)

Contractual \$ 12,000

Contractual assumptions were as follows

- New Regulations	\$ 8,500
- Computer programming	3,500
	<u>\$12,000</u>

Commodities \$ 29,000

Commodities assumptions were based on present cost of equipment for desks, chairs, files, WANG stations and data processing equipment.

Equipment \$ 3,000

Equipment is assumed at \$500 per new position plus \$500 for extra supplies to field.

Annual projections carry a 6% inflation calculation.

Total Fiscal Note Request \$226,000

Additional Personal Services data is provided on the attached FY'84 Budget Forms. Please note the justification section on each form for a needs assessment of each position requested.

1.	POSITION TITLE LOAN EXAMINER I			RANGE/STEP 15-A	BARC. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7	LEG.	
3.	CONTINUATION LEVEL	ADDITION	JUSTIFICATION						
4.	TYPE OF EXPENDITURE		AMOUNT						
	1	2	3						
	PERSONAL SERVICES								
5.	Salary 2398 X 12	28,776							
6.	Benefits	1,763							
7.	Supplemental Benefits	4,422							
8.	Fixed Benefits	6,906							
9.	TOTAL PERSONAL SERVICES	01	41,867						
10.	Travel	02	2,500						
11.	Contractual	03	-0-						
12.	Commodities	04	6,500						
13.	Equipment	05	500						
14.	Other		-0-						
15.	TOTAL COST		52,767						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		52,767					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR B&H USE ONLY 4A KEY NUMBER _____									

1. This position is calculated for twelve months to absorb extra underwriting duties expected from renewal of rural interest rates reduced from urban ratchet rate. Other duties will include establishment of eligibility criteria forms for HOAF program, drafting of regulations to administer program, development of rural outreach and training projects for the division and underwriting of all HOAF loans. First year estimated activity is 176 HOAF loans averaging \$85,000 each for a total underwriting responsibility of \$15,000,000.

2. Travel includes public hearing schedule for rural HOAF loan program in all regional office locations.

3. Commodities reflect office equipment, word and data processing equipment for this position.

**13** REQUEST FOR  
NEW POSITION

AGENCY DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

PROGRAM \_\_\_\_\_

BRU HOUSING ASSISTANCE DIVISION

COMPONENT \_\_\_\_\_

FY 84

Page 4 of 8  
Revised Date \_\_\_\_\_

1.	POSITION TITLE CLERK TYPIST III				RANGE/STEP 08-A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 9	RP NUMBER	PCH NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7	LEG.		

3.	CONTINUATION LEVEL	ADDITION	X	
4.	TYPE OF EXPENDITURE		AMOUNT	
		2	3	
	PERSONAL SERVICES			
5.	Salary	1553 x 9	13,977	
6.	Benefits		856	
7.	Supplemental Benefits		2,148	
8.	Fixed Benefits		3,354	
9.	TOTAL PERSONAL SERVICES	01	20,335	
10.	Travel	02	-0-	
11.	Contractual	03	-0-	
12.	Commodities	04	4,500	
13.	Equipment	05	500	
14.	Other			
15.	TOTAL COST		25,335	

JUSTIFICATION

1. This clerical position will support an FY'84 increase in professional staff and assume all clerical duties for certification and recertification of HOAF clients.
2. Commodities are assumed to cover office and data processing equipment for this position.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	25,335
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

FOR B&H USE ONLY  
4A KEY NUMBER \_\_\_\_\_

**13** REQUEST FOR  
NEW POSITION

AGENCY DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

PROGRAM \_\_\_\_\_

BRU HOUSING ASSISTANCE DIVISION

COMPONENT \_\_\_\_\_

Page 5 of 8  
Revised Date \_\_\_\_\_

**FY 84**

1.	POSITION TITLE ACCOUNTANT III				RANGE/STEP 18-A	BARC. UNIT 6	FORM 12 PAGE/LINE	GOV	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7	LEG.		
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>1. This position will oversee all accounting staff of the division (3) and will monitor all revolving loan fund accounts, subsidy accounts, operating loss reserve account and title loss reserve account.</p> <p>2. This position will be responsible for reconciliation with PBA for an estimated \$155 million in loan funds and \$55 million in construction grant funds by the end of FY'84.</p> <p>3. This position will be the final department authority on low income eligibility for loan or grant programs on direct services.</p> <p>4. This position will be the final department authority for reconciliation with all seller/serviceers on indirect services.</p> <p>5. This position will maintain an ongoing portfolio analysis of expenditures and advise management on expenditure patterns per statute for each program.</p> <p>6. This position is based on 6 months only for FY'84 and assumes 6 trips to Juneau @ \$600 each annually.</p> <p>7. Contractual costs are assumed for special computer programming services.</p> <p>8. Commodities reflect office equipment and data processing equipment.</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary	2965 x 6	17,790							
6.	Benefits		1,090							
7.	Supplemental Benefits		2,734							
8.	Fixed Benefits		4,269							
9.	TOTAL PERSONAL SERVICES		01	25,883						
10.	Travel		02	3,600						
11.	Contractual		03	2,000						
12.	Commodities		04	4,500						
13.	Equipment		05	500						
14.	Other									
15.	TOTAL COST			36,483						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		36,483						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY 4A KEY NUMBER _____										

AGENCY DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

PROGRAM \_\_\_\_\_

BRU HOUSING ASSISTANCE DIVISION

COMPONENT \_\_\_\_\_

**FY 84**

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Revised Date \_\_\_\_\_

**13** REQUEST FOR  
NEW POSITION

1.	POSITION TITLE ACCOUNTING CLERK III				RANGE/STEP 10-A	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 9	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7	LEG.		
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2		3						
	PERSONAL SERVICES									
5.	Salary	1748 x 9	15,732							
6.	Benefits		964							
7.	Supplemental Benefits		2,418							
8.	Fixed Benefits		3,776							
9.	TOTAL PERSONAL SERVICES		01	22,890						
10.	Travel		02	-0-						
11.	Contractual		03	-0-						
12.	Commodities		04	6,500						
13.	Equipment		05	500						
14.	Other									
15.	TOTAL COST			31,890						
RECEIPT CODE      FUNDING SOURCE										
16.		Federal Receipts		1002						
17.		G.F. Match		1003						
18.		General Funds		1004	31,890					
19.		I-A Receipts		1005						
20.		Program Receipts		1020						
21.		Other								
FOR B&M USE ONLY 4A KEY NUMBER _____										

1. This position is calculated at 9 months only. It will accomodate increased accounting responsibilities as a result of interest rate reductions in rural Alaska.
2. This position will assist accounting technician staff in posting PITI figures for an estimated 1150 loans prior to assumption of new loan program for low income borrowers in rural Alaska.
3. Accounting unit currently has no clerical support. More correspondence with PBA regarding low income and existing program borrowers is anticipated.
4. Weight of data processing conversions and file maintenance for accounting unit will be borne by accounting unit clerical staff person.
5. Commodities include office equipment, word and data processing equipment for this position.

**13** REQUEST FOR  
NEW POSITION

AGENCY DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS  
PROGRAM \_\_\_\_\_  
BRU HOUSING ASSISTANCE DIVISION  
COMPONENT \_\_\_\_\_

Page 7 of 8  
Revised Date \_\_\_\_\_

**FY 84**

1.	POSITION TITLE DOCUMENTS PROCESSING CLERK III				RANGE/STEP 10-A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT 7	LEG.		
3.	CONTINUATION LEVEL		ADDITION	X	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1			2			3			
	PERSONAL SERVICES									
5.	Salary	1748 x 12	20,976							
6.	Benefits		1,285							
7.	Supplemental Benefits		3,224							
8.	Fixed Benefits		5,034							
9.	TOTAL PERSONAL SERVICES		01	30,519						
10.	Travel		02	-0-						
11.	Contractual		03	1,500						
12.	Commodities		04	6,500						
13.	Equipment		05	500						
14.	Other			-0-						
15.	TOTAL COST			39,019						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	39,019						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY 4A KEY NUMBER _____										

1. This position will be responsible for all loan file transfers between six field offices and the central office and between the central office and all seller/servicers
2. This position receives all files logged in and will enter them into data processing, review them for completeness, distribute to underwriters, accountants or loan closers for action.
3. This position receives all completed files from HAD staff and transmits to seller/servicers all executed documents of file.
4. This position is responsible for maintaining all logs, tracking and filing systems for the division.
5. Contractual services are calculated to assume additional data processing programming for new programs and present programs experiencing interest rate adjustments.
6. Commodities are estimated to include office equipment word and data processing equipment for this position.

**13** REQUEST FOR  
NEW POSITION

AGENCY DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

PROGRAM \_\_\_\_\_

BRU HOUSING ASSISTANCE DIVISION

COMPONENT \_\_\_\_\_

**FY 84**

Page 8 of 8  
Revised Date \_\_\_\_\_

STATE OF ALASKA  
FISCAL NOTE

Revision Date 5/4, 1983

I. REQUEST

No. 2

Bill/Resolution No: HB 302 (Loans)  
 Title: AHFC--semi rural loans  
 Sponsor: Special Committee on Loans  
 Requestor: Special Committee on Loans

II. FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Econ. Develop.  
 BRU, Program of Subprogram(s) Affected: Alaska Housing Finance Corporation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	12.5 M	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	12.5 M	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The change to a maximum subsidized loan from \$90,000 to \$100,000 will require \$12.5M more in subsidy funds.

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Michael S. Lynch  
 Division: Alaska Housing Finance Corporation  
 Approved by Commissioner: [Signature]  
 Department: Revenue

Phone: 276-5599  
 Date: 05/04/83  
 Date: 5/4/83

Distribution:

Original to Legislative Finance  
 Copy to Office of Management and Budget (for Legislature introduced bills)  
 Copy to Department (for Governor introduced bills)  
 Copy to Sponsor  
 Copy to Requestor (if different from Sponsor)

STATE OF ALASKA  
FISCAL NOTE

Revision Date 4/29, 1983

I. REQUEST No. 1 Page 1 of 3II. FISCAL DETAIL  
Bill/Resolution No.: CS for HB 302 (Loans) Agency Affected: Comm. & Reg. Affairs  
Title: State Housing Loans Program Category Affected: development  
Sponsor: House Special Commte./Loans BRU, Program of Subprogram(s) Affected:  
Requestor: Hse. Spec. Cmte./Loans Housing Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES		141	193	205	217	230
200 TRAVEL		41	44	46.1	48.9	51.8
300 CONTRACTUAL		12	13	13.5	14.3	15.2
400 COMMODITIES		29	31	32	33	34
500 EQUIPMENT		3	3.1	3.3	3.5	3.7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		226	284.1	299.9	316.7	334.7
ANNUAL SUBSIDY		650	1,000	1,200	1,350	1,700
CAPITAL		15,650	31,650	37,850	44,200	50,700
SUBSIDY (Cumulative)		650	1,650	2,850	4,200	5,700
REVENUE		350	2,150	4,250	6,650	9,350
REVENUE (Annual)		350	1,800	2,100	2,400	2,700

FUNDING: (Thousands of Dollars)

GENERAL FUND		15,650	31,650	37,850	44,200	50,700
FEDERAL FUNDS						
OTHER (Specify Source)						
Program Receipts		226	284.1	299.9	316.7	334.7

POSITIONS:

FULL-TIME		5	5	5	5	5
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Unused AIDA Certificates of Deposit. SLA 1982, CH 114 CCSSB 322  
(See 9. Assumptions for Fiscal Note)

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: B. Morese-Quinn/R. Price Phone: 272-4585  
Division: Housing Assistance Division Date: 4/15/83  
Approved by Commissioner: Robert H. Kelleher Date: 4/15/83  
Department: Community & Regional Affairs

Distribution:

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

3/8/83

Home Ownership Assistance Fund (HOAF) Assumptions for Fiscal Note

1. AHFC made 381 HOF loans in FY'81 for \$24.7 million with an average loan amount of \$64,829.00. AHFC made 903 HOF loans in FY'82 for \$58.1 million with an average loan amount of \$64,341.00. HAD's average loan amount is \$87,500.00 HAD projects a FY'84 HOAF program of 176 loans at \$85,000.00 each for a total of \$15 million in loans made.
  
2. HAD projects a HOAF Program based on rural Alaskan needs as follows:
  - a. Dwelling Price Maximums

1 or 2 member family	\$100,000
3 member family	105,000
4 member family	110,000
5 or more member family	120,000
  
  - b. Income Maximums

Adult family members	30,000
1st child	5,000
Each additional child	1,500
to program maximum of	39,000
  
  - c. Asset Maximums

3 times income for all borrowers
  
3. Subsidies are calculated for payments of 1 adult and 2 children in rural Alaska to be subsidized from ratchet rate of 10% to HOAF rate of 6%. Average salary is computed at \$2,335 per month with subsidy of \$235.30 per month.
  
4. Capital projections assume accumulated subsidy projections. Annual subsidy rates are noted.
  
5. Revenue projections assume accumulated interest of 6% returning to the General Fund. Annual interest earnings are noted. Principal repayment is assumed to revolve back to the fund and is not calculated as revenue.
  
6. Position requests assume a specialization of duties and can absorb the year round program levels projected with no increased staff.
  
7. Travel is assumed to reflect both direct and indirect lending services of the division. FY'84 travel reflects the following specific assumptions:
 

2,500	Loan Examiner I to hearings in six field locations
3,600	Accountant, 6 trips to Juneau
5,000	Central office to bring field staff for training on new program
30,000	6 field offices @ 5,000 each for increased direct services and program outreach

8. Contractual assumptions were as follows:  
8,500 New regulations - HOAF  
3,500 Computer programming
9. Commodities assumptions were based on present cost of equipment for desks, chairs, files, WANG stations and data processing equipment.
10. Equipment is assumed at \$500 per new position plus \$500 for extra supplies to field.
11. Annual projections carry a 6% inflation calculation.

Notes for Form 13 Calculations

1. All salaries are based on GGU Salary Schedule for A ranges effective 1/1/83 for number of months requested.
2. Benefits were calculated at .0613 of gross salaries.
3. Supplemental benefits were calculated at DCRA FY'84 variable rate of .1537.
4. Fixed benefits were calculated at gross salary x 240.

Notes for Personal Services Category Projections

1. FY'84 impacts for new positions varied between 12 and 5 months. FY'85 projections assume all positions at 12 month plus 6% salary inflation costs. Subsequent years assume only annual inflation rate of 6%.

Notes for Revenue Projections

1. Monthly distribution of capital funds and, therefore, monthly interest calculations due on payments of first year operations cannot be accurately projected until program becomes operational. These figures are division's best estimates.

## Article 5. Regional Native Housing Authorities.

## Section

995. Purpose and intent  
996. Creation of authorities  
997. Residential loans

## Section

998. Supplemental housing development grants

Collateral references. — 40 Am. Jur. 2d, Housing Laws and Urban Redevelopment, §§ 1-14.  
39A C.J.S. Health and Environment, §§ 28-36.  
Suability and liability, for torts, of public housing authority. 61 ALR2d 1246.

**Sec. 18.55.995. Purpose and intent.** The legislature finds that an acute shortage of housing and related facilities exists in the villages of Alaska and that adequate housing cannot be provided by the private sector due to the economic depression which exists in most villages of Alaska. It is the purpose and intent of the legislature to provide a means for certain native associations to form public corporations with the powers and duties comparable to the Alaska State Housing Authority. (§ 1 ch 123 SLA 1971; am § 2 ch 151 SLA 1975)

**Sec. 18.55.996. Creation of authorities.** (a) The following associations are given the authority specified in (b) of this section:

- (1) Arctic Slope Native Association (Barrow and Point Hope)
- (2) Bering Straits Association (Seward Peninsula, Unalakleet, St. Lawrence Island)
- (3) Northwest Alaska Native Association (Kotzebue)
- (4) Association of Village Council Presidents (southwest coast of Alaska including all villages in the Bethel area and all villages on the Lower Yukon River and Lower Kuskokwim River)
- (5) Tanana Chiefs Conference (Koyukuk, the middle and upper Yukon River villages and the upper Kuskokwim and Tanana River villages)
- (6) Cook Inlet Association (Kenai, Tyonek, Eklutna and Iliamna)
- (7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula)
- (8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula which is in the Aleut League)
- (9) North Pacific Rim Native Corp. (Cordova, Tatitlek, Fort Graham, English Bay, Valdez, Seward, Eyak and Chenega)
- (10) Tlingit-Haida Central Council or Alaska Native Brotherhood (Southeastern Alaska including Metlakatla)
- (11) Kodiak Area Native Association (all villages on and around Kodiak Island)

(12) Copper River Native Association (Copper Center, Glennallen, Chitina and Mentasta)

(13) Alaska Federation of Natives, Inc.

(b) There is created with respect to each of the associations named in (a) of this section a public body corporate and politic to function in the operating area of the individual associations to be known as the regional housing authority of the associations possessing all powers, rights and functions now or subsequently specified for the Alaska State Housing Authority, under the Alaska State Housing Authority Act (AS 18.55.010 — 18.55.290) except those specified with respect to the construction and acquisition of public buildings for lease to the state or any subsequently specified authority which is inconsistent with AS 18.55.995. The authority shall have the power to enter into agreements with local government, other political subdivisions of the state, the state or the federal government for the exercise of a function or power relating to construction, operation and maintenance of public facilities or public utilities. Upon execution of such an agreement and for the period of the agreement the authority shall have the same powers and functions relating to the subject matter of the agreement as those which may legally be exercised by the governmental unit with whom the agreement is made including the authority to separately or together with the other unit borrow money and issue notes, bonds or other evidence of indebtedness to finance a project within the scope of the agreement subject to the express limitations, if any, contained in the agreement. All obligations or liabilities of the regional housing authorities shall remain their own and shall not be obligations or liabilities of the state.

(c) A housing authority created by this section may not transact business or exercise powers granted to it until the governing body of the named association has, by proper resolution, declared that there is a need for the authority to function, gives it the authority to function and has named its commissioners as provided under (d) of this section.

(d) The governing body of the association in question shall, after determining that it wishes to have a regional native housing authority, appoint five persons to serve as the board of commissioners of the authority. The term of office of each member is for three years except that, of the commissioners first appointed, one shall serve for a term of one year and two shall serve for a term of two years. Vacancies shall be filled by the governing body of the association in question.

(e) Question arising as to jurisdiction and boundary disputes as a result of the jurisdictional lines set out by (a) of this section shall be resolved by the governing board of the Alaska Federation of Natives.

(f) The authority shall have the power to acquire, construct, operate and maintain group homes, multipurpose community centers, child care centers and other community facilities.

(g) If an instruction or established Housing Authority project

(h) Before housing unit program is awarded contractors 36.25.010 (a)

(i) A housing financial record accountant of the financial records to these records SLA 1975; and 86 SLA 198

Effect of an amendment ad

Sec. 18.5 authorized regional housing policies adopted Housing Finance development shall be secured directors of the trust on a loan approved by Corporation

(b) In this (1) "development repair, remodeling (2) "rural" 4,500 or less Fairbanks.

Sec. 18.5 There is created a supplementary ability of applicants to request for the cost project sites individual residential

(g) If an activity associated with the planning, financing, construction or operation of a project by a regional housing authority established in this section conflicts with an activity of the Alaska State Housing Authority, the governing body of the municipality in which the project is located shall resolve the conflict.

(h) Before a contract for the construction, alteration, or repair of a housing unit constructed under a federal or state funded housing program is awarded, the regional housing authority shall require the contractors to comply with the bond provisions specified in AS 36.25.010 (a) and (b).

(i) A housing authority created under this section shall have its financial records audited annually by an independent certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the housing authority and shall have access to these records at any time. (§ 1 ch 123 SLA 1971; am §§ 3, 6 ch 151 SLA 1975; am § 1 ch 274 SLA 1976; am § 1 ch 12 SLA 1977; § 6 ch 86 SLA 1981)

Effect of amendments. — The 1977 amendment added subsection (g). The 1981 amendment, added subsections (h) and (i).

**Sec. 18.55.997. Residential loans.** (a) In addition to the powers authorized to a regional housing authority under AS 18.55.996, a regional housing authority may, in accordance with procedures and policies adopted and approved by the board of directors of the Alaska Housing Finance Corporation, make loans for the purchase or development of residential housing in rural areas of the state. A loan shall be secured by collateral in an amount acceptable to the board of directors of the Alaska Housing Finance Corporation. The rate of interest on a loan authorized by this section may not exceed an interest rate approved by the board of directors of the Alaska Housing Finance Corporation.

(b) In this section,

(1) "development" means the construction of a new residence or the repair, remodeling, rehabilitation or expansion of an existing home;

(2) "rural" means any community of the state with a population of 4,500 or less that is not connected by road or rail to Anchorage or Fairbanks. (§ 11 ch 167 SLA 1978)

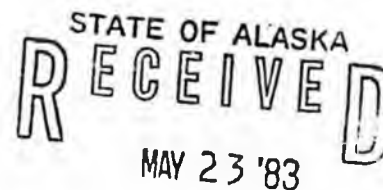
**Sec. 18.55.998. Supplemental housing development grants.** (a) There is created in the Department of Community and Regional Affairs a supplemental housing development grant fund. Subject to the availability of appropriations for the purpose, the department shall make grants to regional housing authorities established under AS 18.55.996 for the cost of on-site sewer and water facilities, road construction to project sites, and extension of electrical distribution facilities to individual residences.

Baranof Island  
Housing Authority

Rm 417

P. O. Box 4360  
MT. Edgecumbe, Alaska 99835  
(907) 747-3207

May 20, 1983



LIEUTENANT GOVERNOR

Veronica L. Howard  
Research Analyst  
Office of the Lieutenant Governor  
Pouch AA  
Juneau, AK 99811

Dear Ms. Howard:

Please find enclosed a copy of our charter, Office of the Solicitor's opinion recognizing our organization, the Attorney General's opinion regarding the availability of the supplemental development grant to the Metlakatla Housing Authority and our organization the Baranof Island Housing Authority.

The Baranof Island Housing Authority formed after Tlingit and Haida Regional Housing Authority was forced to stop operations in Sitka by the Department of Housing and Urban Development for financial considerations. The Baranof Island Housing Authority was organized after the passage of Alaska Statute 18.55 998 recognizing the housing authorities established prior to the passage of that statute. Simply because of the fact that we were not specifically identified we were deemed not eligible for funds which was implemented specifically for the purpose to which we intended it to be used. As you will note, the Attorney General's opinion alludes to the fact that we could ride on a recognized housing authority and use them as a vehicle to receive the supplemental funds. While I believe this avenue is basically hypocritical and smacks of dishonesty I would use it to complete our project of constructing 30 homes in the Sitka Indian Village.

This letter is intended to give you the background on our problem and to request your assistance in this matter in helping us resolve the problem.

Thank you for your consideration, awaiting your kind response.

Sincerely,

*Eric*

Eric Morrison  
Housing Director



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
ANCHORAGE AREA OFFICE  
701 C STREET, BOX 64  
ANCHORAGE, ALASKA 99513

REGION X

APR 20 1983

Eric Morrison, Executive Director  
Baranof Island Housing Authority  
P.O. Box 4360  
Mt. Edgecumbe, AK 99835

STATE OF ALASKA  
**RECEIVED**  
MAY 23 '83  
LIEUTENANT GOVERNOR

IN REPLY REFER TO:

Dear Mr. Morrison:

Enclosed is a copy of an Attorney General's opinion concerning the availability of supplemental state funding for your projects.

We are seeking clarification of this opinion as it relates to your housing authority. You may wish to contact your legislators to ascertain if the enabling statute can be amended or if supplemental appropriations can be obtained directly from the legislature.

If you have any questions, please contact your Multifamily Housing Representative, Chas Leo, at 271-4679.

Sincerely,

Miller Linton  
Deputy Director  
of Development

Enclosure

TO: Honorable Mark Lewis  
Commissioner  
Department of Community &  
Regional Affairs  
ATTN: Barbara Morse-Quinn, Director  
Division of Housing Assistance

FROM: Norman C. Gorsuch  
Attorney General

By: Jonathan B. Rubini  
Assistant Attorney General

DATE: March 29, 1983  
FILE NO: 366-384-83  
TELEPHONE NO: 465-3600  
SUBJECT: Eligibility to re-  
ceive supplemental  
housing development  
grants



You have asked whether the Department of Community and Regional Affairs may provide grants from the supplemental housing development grant fund (AS 18.55.998) to either the Metlakatla Housing Authority or the Baranoff Island Housing Authority.

To promote the development of housing and related facilities in rural Alaska, the legislature authorized 13 specific associations to form regional Native housing authorities. AS 18.55.995 -- 18.55.998. Among the 13 associations authorized to form a regional Native housing authority, the legislature specified that either the Tlingit-Haida Central Council or the Alaska Native Brotherhood could form a regional authority to service Southeastern Alaska. Neither of the housing authorities referred to in your opinion request were established under the authority of AS 18.55.996(a).

While the genesis of a housing authority may not be determinative for all purposes, it is the deciding factor in defining your authority to provide grants from the supplemental housing development fund. AS 18.55.998 provides, in pertinent part:

Subject to the availability of appropriations for the purpose, the department shall make grants to regional housing authorities established under AS 18.55.996 for the cost of on-site sewer and water facilities, road construction to project sites, and extension of electrical distribution facilities to individual residences.

(Emphasis added.) Since neither the Metlakatla Housing Authority nor the Baranoff Island Housing Authority were "established under AS 18.55.996," they are not eligible recipients of a supplemental housing development grant.

Please note, though, that our response to your limited question does not necessarily preclude access to state monies. Conceivably, either authority may enter into an agreement with the section 996(a) authority to obtain state monies under the