

**ALASKA LEGISLATURE COMMITTEE FILES**

**1985-1986**

**86 / 2**

**3469**

**HLAB**

**HB**

**78**

**-**

**HB**

**90**

345

FOOTNOTES (continued):

12. MASSACHUSETTS- The boards do not receive separate appropriations from the Legislature. The Secretariat of the Division of Registration, Office of Consumer Affairs, is responsible for budgeting and allocation of the funds appropriated to the Division for the operation of the boards.
13. MISSOURI- One exception to this pattern is the Board of Hearing Aid Dealers and Fitters which deposits its fees in the general fund. A bill is currently being debated in the Missouri Legislature which would abolish the special funds.
14. NEBRASKA- Fifteen percent of all fees remitted to the state treasury by a board may be credited to the general fund, if appropriated by the legislature. The remaining eighty-five percent are credited to the specific fund account of the board.
15. NORTH DAKOTA- Each board deposits all fees and other monies received in any bank selected by the majority vote of its governing body.
16. OKLAHOMA- In the case of the Board of Optometric Examiners, ninety percent of all monies accruing to the fund are automatically appropriated to the board.
17. OREGON- All fees collected by an occupational licensing board are deposited in a separate account for that board within the general fund. Although the boards maintain control of their funds, they go through the normal budget review and appropriations process and must remain within the established expenditure limitations on their fees.
18. PENNSYLVANIA- All monies collected are paid into the Professional Licensure Augmentation Account, which is a special restricted receipts account within the general fund. The general assembly annually appropriates monies available from the Professional Augmentation Account for the operation of the various boards.
19. RHODE ISLAND- Exceptions to this pattern include the Board of Medical Review and the Board of Hearing Aid Dealers and Fitters which retain special accounts for the fees they collect and are financed by those fees.
20. TEXAS- However, statutes concerning boards such as the Board of Optometry, the Board of Professional Nurse Registration, the Board of Practical Nurse Registration and the Board of Medical Examiners further state that money is to be expended by boards as specified by itemized appropriation in the general appropriations act.
21. VERMONT- One exception to this pattern is the Board of Medical Practice which deposits the fees it collects (excluding examination fees) into a special fund and is financed by those fees. Examination fees collected by all the boards are deposited into a special examination fund.
22. WASHINGTON- There are several exceptions to this general pattern. Fees for architects, engineers, optometrists and psychologists are deposited in special accounts, and operating funds for these boards come from those accounts.

FOOTNOTES (continued):

23. WISCONSIN- Fees collected by the boards are deposited into the general fund, but are credited to the board. Appropriations made to a board will come from the funds it deposited, with each board being eligible for up to ninety percent of the money deposited.
24. WYOMING- A few boards, such as the Board of Chiropractic Examiners and the Board of Examiners in Podiatry, have ten percent of their collected fees deposited in the general fund and the remaining ninety percent deposited in a special fund account.
25. DISTRICT OF COLUMBIA- The occupational and professional licensure boards and commissions administered by the Department of Licenses, Investigations and Inspections do not have separate budget reviews or separate appropriations from the legislative body of the District of Columbia. The administrative costs associated with these boards and commissions are a part of the Department's total budget funding request.

PUBLICATIONS FROM THE NATIONAL CLEARINGHOUSE ON LICENSURE, ENFORCEMENT AND  
REGULATION, AND THE COUNCIL OF STATE GOVERNMENTS

Financing Patterns of Health Licensure Boards. 1983; C-13; \$3.50

Health Licensure Fees. 1983; C-4; \$3.50

Occupational Licensure and Regulation: A Bibliography. 1983; C-12; \$5.00

Sunset: A Schedule of State Sunset Reviews. 1983; RM-715; \$15 (free to state  
officials)

Occupational Licensing and Enforcement: Guidelines for the Investigator. 1982; C-1;  
\$10.00

Licensing Professional Peace Officers: Minnesota's Peace Officer Standards and  
Training Board. 1982; RM713; \$5.00

Health Licensure Boards: Public Membership. 1981; RM698; \$3.00

Occupational Licensing: Centralizing State Licensure Functions. 1980; RM683; \$3.50

Sunset: Expectation and Experience. 1981; RM699; \$15.00

Occupational Licensing: Questions a Legislator Should Ask. 1978; RM635; \$3.50

State Regulatory Policies: Dentistry and the Health Professions. 1979; RM660; \$4.50

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REPORT OF THE MEETING  
WITH THE CHAIRS OF THE LICENSING BOARDS

August 15, 1984  
Juneau, Alaska

Boards and Commissions Office  
Office of the Governor

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## PURPOSE/GOALS

The meeting of the Chairs of the Licensing Boards was convened by Carol Derfner, Special Staff Assistant to the Governor for Boards and Commissions, on August 15, 1984, in the Governor's Conference Room in Juneau.

The unique nature of the meeting was acknowledged, as it was the first time the licensing boards had been requested to meet with the Governor's Office as a group.

The purpose statement, which had been prepared in advance of the meeting, stated:

The primary purpose of this meeting is to review the current status of the public protection function of State government that is provided by the regulation and licensure of certain professions by the State; to identify the problems that affect this function; and to explore solutions to those problems in order that the public may be adequately and well served by the State.

The three goals of the meeting were outlined as follows:

- (1) to review the current status;
- (2) to identify problems that affect the function;  
and
- (3) to explore solutions.

The secondary purposes of the meeting were outlined as:

- (1) resolutions of conflicts that exist among all the people present and among all the various components of state government that must work together in order to ensure that the public is protected and receives services for the occupational licensing function of state government;
- (2) the discovery of commonalities amongst those present; the exchange of valuable information and knowledge; "piecing together" the total

picture of state involvement in licensing; direct communication between persons involved in the licensing function; and the opportunity to work together to serve the public as state officials because that is the first and foremost reason to occupy the positions.

The Chair presented supplementary information to the group as follows:

- \* More and more pressures have been placed on the boards and commissions because of the increased population which require greater effort on the part of those involved. The Governor's Office pledges to work with the chairs at the meeting to come up with solutions that apply so that jobs can be performed more efficiently.
- \* The Governor's Office realizes that if more time and resources are devoted to the problems experienced by the boards, a smoother regulatory function will result.
- \* Nothing which occurred in the day's meeting was considered confidential, nor would binding decisions be made that day. The meeting was to serve as a means of exploring options and resolutions to problems only. No one present at the meeting was empowered to make decisions on budgetary or legislative matters. However, with the documentation and justification which resulted from the meeting, a report would go to those who are empowered to make decisions.
- \* The morning session of the meeting would be recorded to preserve the information presented. The afternoon sessions would not be recorded as they were work sessions.
- \* Ms. Derfner's role in the meeting was to serve as facilitator of the group in terms of sticking to the stated purposes and the time frame. She has been and would remain unbiased on the problems. No discussion of personalities or repetitious ruminating of the same problem would occur.
- \* The group's discussion would result in a report which would be transmitted to Governor Sheffield,

Attorney General Norman Gorsuch, and  
Commissioner Richard Lyon of the Department  
of Commerce and Economic Development.

- \* The controlled environment, the Governor's Office believed, would be conducive to information dissemination by state employees. The afternoon sessions were to be a forum for sharing, designed to find solutions, with the morning strictly one of information presentation.

ISSUES IDENTIFIED  
AS  
PRIORITIES

The following issues were identified and agreed upon by the participants at the Occupational Licensing Board Chairmen's meeting held in Juneau on August 15, 1984. These issues were felt to be of pressing importance and are directed at the Administration and the Legislature for action within the next fiscal year.

1. The lack of travel funds for Occupational Licensing Boards for the remainder of FY85 will present major problems in the service of the public.

RECOMMENDATION: That travel funds be restored to the FY84 level.

2. The Division of Occupational Licensing has experienced a rapid increase in workload without a corresponding staff increase over the past several years.

RECOMMENDATION: That new staff be added especially investigators, licensing examiners, and clerical personnel.

RECOMMENDATION: That the Division of Occupational Licensing automate more routine and administrative tasks.

RECOMMENDATION: That consideration be given to grouping health professional boards and hiring appropriate staff to assist in licensing function.

3. Legal assistance to the Occupational Licensing function is inconsistent and confusing to the Board members. Also, investigations take too long. At least one board is facing loss of legal assistance.

RECOMMENDATION: That the Attorney General look into the legal assistance required by the Board of Guide Licensing & Control and provide appropriate level of legal assistance.

RECOMMENDATION: That the Attorney General look into ways to handle investigations and case resolutions in a more timely manner.

RECOMMENDATION: That a training program for Board members be instituted which includes training on state laws, procedures, and legal aspects of Board decisions.

4. There are outdated and conflicting statutes governing the operations of the Occupational Licensing Boards and their duties.

RECOMMENDATION: That legislation be submitted that brings Title 8 statutes into conformity with licensing practices, resolves conflict in the statutes, and provides some degree of uniformity.

RECOMMENDATION: That legislation be considered that sets licensing fees by regulation adopted by Boards rather than by statute which is so difficult and time-consuming to change.

RECOMMENDATION: That the ambiguities surrounding the legality of votes taken by teleconference be resolved through legislation so as to permit Boards to consider regulatory revisions more consistently.

5. The design of certain examinations and the administrative procedures used in administering exams needs review to ascertain effectiveness.

RECOMMENDATION: That the Division of Occupational Licensing consider bringing in an expert in Occupational testing as a consultant to review existing exams for content, paperflow and procedures, and conformity with national standards.

(1) passing the professional portion of the architect, engineer or land surveyor examination as prescribed by the board and paying the appropriate fee; or

(2) reapplying to the board for issuance of a certificate by comity as prescribed in 12 AAC 36.105 and paying the appropriate fee. (Eff. 5/30/82, Reg. 82)

Authority: AS 08.48.101  
AS 08.48.231(c)

12 AAC 36.170 FEES. Following are the prescribed fees:

(1) application for examination:

- (A) Architect  
ARE or Architectural  
Registration Exam .....\$180
- (B) Engineer
  - (i) EIT or Engineer  
in Training.....\$ 50
  - (ii) PE or Professional  
Engineer.....\$ 50
- (C) Land Surveyor
  - (i) LSIT or Land Surveyor  
in Training.....\$ 50
  - (ii) PLS or Professional  
Land Surveyor .....\$ 50

(2) reexamination fee:

- (A) Architect  
ARE (each division).....\$ 20
- (B) Engineer
  - (i) EIT .....\$ 50
  - (ii) PE.....\$ 50
- (C) Land Surveyor
  - (i) LSIT .....\$ 50
  - (ii) PLS, NCEE Section .....\$ 25

(iii) PLS, AKLS or Alaska  
Land Surveyor Section .....\$ 25

- (3) application by comity, \$50;
- (4) application for corporate authorization, \$100;
- (5) registration fee, \$15 per year for balance of biennial period;
- (6) corporate authorization registration fee, \$50 per year;
- (7) registration renewal, \$15 annually, payable biennially by December 31 of odd-numbered years;
- (8) corporate authorization renewal, \$50 annually, payable biennially by December 31 of odd-numbered years;
- (9) amendment to corporate authorization, \$20;
- (10) delinquent renewal fee for reinstatement of expired registration, \$30;
- (11) postponement of examination, \$20. (Eff. 5/23/74, Reg. 50; am 9/30/78, Reg. 67; am 5/30/82, Reg. 82; am 6/29/84, Reg. 90)  
Authority: AS 08.01.100  
AS 08.48.091  
AS 08.48.101(a)  
AS 08.48.201(b)  
AS 08.48.231(b) and (c)  
AS 08.48.241(i)

12 AAC 36.180. SEAL. (a) The seal authorized for use by professional architects is of the following design:



WASHINGTON (206) 753-6838

Medical Licensure: Full license \$75.00  
(Exam waiver or reciprocity)  
1 year licensure  
Renewal \$60.00 per year  
Renew on birthdate

FLORIDA (904) 487-2252

Medical Licensure: Application by Endorsement \$250.00  
Application by Examination \$350.00  
Registration Fee \$50.00  
(In addition to application)  
Biennial Licensure  
Renewal \$50.00

Both boards will verify information by sending printed fee schedules.

# DRAFT

## MANAGEMENT AUDIT OF THE DIVISION OF OCCUPATIONAL LICENSING

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## INTRODUCTION

### DUTIES AND RESPONSIBILITIES

The Division of Occupational Licensing, in the Department of Commerce and Economic Development, has statutory responsibility for providing:

- Administrative, budgetary, and support services to 18 boards and 98 licensing categories; and
- Investigative services to all licensing fields.

### PURPOSE AND SCOPE

As a part of our review of the State's Boards and Commissions, and at the request of the Governor's Office, we selected the Division of Occupational Licensing and its assigned boards for this review. The purpose of our review was to analyze the services provided by the Division and find ways to improve those services.

Our review included the following procedures:

- Reviewing applicable statutes, regulations, and departmental policies and procedures.
- Interviewing Division, Board, and Department of Law personnel.
- Analyzing information gathered at the Division and from the boards.

## DIVISION SERVICES AND WORKLOAD

The Division provides, or arranges for, a wide variety of services for each board it serves. Among these are administrative services which include secretarial, accounting and budgeting, record keeping, application processing, and scheduling of meetings and examinations.

The Division also has four full-time staff who investigate unlicensed activity, unprofessional conduct, some types of consumer problems, criminal activity, and the license processing activity for occupations licensed by the Division.

In addition, the Division arranges for legal matters such as hearings, legislation, and regulation procedures.

### RESOURCES

The Division supports these services with a staff of 27 people and an annual budget of \$1.6 million (FY 84). Two of these positions are dedicated to individual boards. One is assigned to the Guide Board. The other, the Executive Secretary for the Board of Nursing, is also the office manager for Occupational Licensing's Anchorage office. This position was established in the Nursing Board statute - AS 08.68.111.

The workload of the staff has been generally rising each year since FY 81. The following table shows the increasing workload and the areas where this has occurred.

# DRAFT

TABLE I

**DIVISION WORKLOAD  
FY 81 - FY 84**

	<u>FY 81</u>	<u>FY 82</u>	<u>FY 83</u>	<u>FY 84</u>	<u>FY 84 Increase Over FY 81</u>
<u>1/ HEALTH FIELDS</u>					
Applications Received	1269	1662	1697	1730	39%
Number Who Took Exams	235	253	380	372	57%
Number of Licenses Issued	1108	1457	1396	1517	37%
Current Registrants				9403	
<u>2/ CONSTRUCTION FIELDS</u>					
Applications Received	2606	2472	3736	3452	32%
Number Who Took Exams	392	530	525	626	58%
Number of Licenses Issued	2465	2262	3652	3243	32%
Current Registrants				17,309	
<u>3/ BUSINESS &amp; COMMERCE FIELDS</u>					
Applications Received	1023	1557	1776	2170	112%
Number Who Took Exams	464	455	532	578	13%
Number of Licenses Issued	580	842	689	853	47%
Current Registrants				4,784	

1/ Includes the following 12 fields:

Chiropractors	Nursing Home Admin.
Dental	Optometrists
Dispensing Opticians	Pharmacy
Medical	Physical Therapy
Mortuary Science	Psychology
Nursing	Veterinary

2/ Includes the following four fields:

Architects, Engineers & Land Surveyors  
Electrical Administrators  
Construction Contractors  
Geologists

3/ Includes the following seven fields:

Athletic Commission	Guides
Collection Agencies	Marine Pilots
Concert Promoters	Barbers &
Public Accountancy	Hairdressers

The number of licenses issued doubled from 13,000 in FY 79 to almost 26,500 in FY 84. A similar increase in new licenses from 3,000 in FY 79 to over 5,600 in FY 84, has also taken place. During this same period, staffing only increased by one clerical position, which is assigned almost exclusively to the computer system.

Another factor showing increased workload is the Division's word processing volume which increased 67 percent from 1981 to 1983. During this same period, the entire Department's word processing workload increased by only 32 percent.

## OTHER FACTORS AFFECTING THE WORKLOAD

Other activities have also impacted the workload. For example, the Division:

- Testified on 26 separate bills in the 1984 legislative session.
- Received over 1,100 calls per week. These calls required responses ranging from verbal to follow-up information, including letters, applications, and copies of statutes and regulations.
- Responded to 73 legislative requests for information.

The Division is still only partially automated. For example, address labels are applied to printed forms which are manually folded and inserted into envelopes. This process could be improved by programming the computer to generate a one-piece mailer that would require little, if any, handling by the licensing examiner.

In FY 84 license renewals were mailed out to 17,050 licensees. If this process was automated, there would be more time for examiners to handle other duties.

Another factor that will affect the Division's future workload is the 1982 Controlled Substances Act. Under this Act, all persons using or having access to controlled substances must register with the Board of Pharmacy and pay a \$5.00 fee.

Registering doctors with the Pharmacy Board will be a duplication of effort and add to the Division's workload. Doctors and pharmacists having access to controlled substances are already registered with the Drug Enforcement Administration (DEA) which furnishes the Division with a regular report of those having a DEA registration number. Doctors are licensed by the Medical Board and required to provide the Board with a copy of their DEA registration. Division and Pharmacy Board personnel said the registration would create an enormous workload for Occupational Licensing.

In addition, the \$5.00 registration fee will not cover the additional costs involved in the registration process.

## INVESTIGATIVE SERVICES

The Division investigates, at the request of boards or on its own motion, complaints concerning:

- Unlicensed activity - individual or company not having the necessary Alaskan license(s).
- Unprofessional conduct - improper activity, statutory violations or accidents.
- Consumer problems - professional incompetence, improper care, and work quality.
- Criminal activity - primarily theft, drugs, misrepresentation, and fraud.
- Licensing application/exams - license application/exam requirements of the boards.
- Miscellaneous issues.

The following table indicates the majority of complaint investigations relate to unlicensed activity and unprofessional conduct (68 percent). This table also indicates a substantial increase (29 percent) in complaint investigations between FY 83 and FY 84.

TABLE II

### INVESTIGATIVE ACTIVITY

<u>Type of Complaint</u>	<u>4/Number of Complaints</u>		<u>Percent Increase</u>	
	<u>FY 83</u>	<u>FY 84</u>	<u>FY 83</u>	<u>FY 84</u>
Unlicensed Activity	128	151		18
Unprofessional Conduct	65	64		-2
Consumer Problems	21	39		86
Criminal Activity	13	13		0
Application/Exam	18	40		122
Miscellaneous	15	29		93
	<u>260</u>	<u>336</u>		<u>29</u>

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4/The number of complaint types does not necessarily correspond to the number of cases as a case may involve several complaints.

## OPEN CASES

The Division has a substantial number of open cases. As of July 15, 1984, 175 of 529 cases (33 percent) from FY 83 and FY 84 were unresolved. / Nearly half (45 percent) of these cases have remained open for an average of 552 days.

Open cases are increasing due to the growing number of new cases and the cumulative buildup of older open cases. New caseload activity jumped 32 percent from 228 at the end of FY 83 to 301 by the end of FY 84.

Table III illustrates the increases in open caseload activity and lengthy investigation time.

TABLE III

### OPEN CASELOAD ACTIVITY

<u>Cases In</u> <u>Open Status</u>		<u>Total Open</u> <u>Cases</u>	<u>Average Open Case</u> <u>Investigation Time (Days)</u>	
<u>FY 83</u>	<u>FY 84</u>	<u>FY 83 and FY 84</u>	<u>FY 83</u>	<u>FY 84</u>
<u>1/ 79</u>	<u>1/ 96</u>	<u>1/ 175</u>	<u>1/ 552</u>	<u>2/ 499</u>

As Table III shows, this increased workload in investigations has resulted in a 22 percent increase in the number of open cases in one year, and a total backlog, as of July 15, 1984, of 175 open cases for FY 83 and FY 84.

## INVESTIGATION TIME DEADLINES

The Division has not established time deadlines for open cases. Cases remain open for indefinite periods. Some states do have guidelines. For example, Hawaii and Colorado have established investigation time deadlines. These states are similar to Alaska in their occupational licensing organizational structures. Hawaii concludes investigation within 75 days of a filed complaint. Colorado requires its cases leave investigation status no later than the eighth month after a complaint is filed.

<sup>1</sup>Open as of July 15, 1984.

<sup>2</sup>Includes 365 extra days per case for comparability purposes with FY 83. Actual FY 84 time at time of review was 149 days.

## CLOSED CASE RESOLUTION TIME

The Division closed out 38 percent more cases in FY 84 than in FY 83. Not only were more cases closed, but the average resolution time per closed case decreased. In FY 83 it took an average of 121 days to close out a case compared to 38 days for FY 84. Some decrease in the average investigation time for open cases also took place in FY 84. Table III also indicates the average investigation time in FY 83 was 552 days compared to <sup>1</sup>499 days in FY 84. To what extent the increase in unresolved cases will affect current case resolution improvements remains uncertain.

TABLE IV  
CLOSED CASELOAD ACTIVITY

	<u>FY 83</u>	<u>FY 84</u>	<u>Percent Difference</u>
Cases Closed	148	205	+ 39
Average Resolution Time (Days)	121	38	- 69

## EFFECT ON SERVICES

Some board members have complained that increased workloads interfere with services from the Division. For example, some boards do not receive copies of their board minutes until a week or less before the next meeting (six months later). In almost all cases, board members said they believe that Division staff is doing a good job of trying to keep up, but is overwhelmed by the volume of work.

## CONCLUSIONS

Although the Division has increased its efficiency while handling an increasing workload, better management of case investigations is needed and more machine processing of routine functions should be used.

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<sup>1</sup>/Includes 365 days added to actual 149 days for comparability with FY 83.

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## RECOMMENDATIONS

To ensure that investigative cases are handled in a more systematic and timely way, we recommend that the Director establish a case management system that permits cases to be assigned, classified, reviewed, and completed using a schedule.

To ensure that staff are used to their best efficiency, we recommend that the Director review all functions presently done by the staff to determine which functions can be automated cost effectively. License renewals may be an area to automate first.

## OTHER ISSUES

We also reviewed areas of board interest and their possible impacts on the Division. These were:

- Revenues generated by licensing, and
- Budget constraints.

## COST OF SERVICES VERSUS REVENUES

Using available information and estimates from the Division, we prepared the following tables. These tables show the approximate cost to the State for each of the licensing fields and the revenue generated for FY 83 (Table V), and average yearly revenue for a four-year period compared to FY 83 costs (Table VI).

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TABLE V  
LICENSING COSTS AND REVENUES  
FOR FY 83

<u>Licensing Fields</u>	<u>Estimated Total Direct &amp; Allocated State Costs</u>	<u>FY 83 Revenue</u>
Athletic Commission	\$ 2,303	\$ 640
Archit, Eng. & Land Sur.	313,924	85,195
Barbers & Hairdressers	201,192	122,375
Chiropractors	30,013	5,510
Collection Agencies	8,489	4,920
Concert Promoters	669	6,295
Contractors	135,642	361,641
Dental Board	106,554	24,726
Dispensing Opticians	12,548	2,030
Electrical Admin.	48,577	95,886
Geologists	2,084	-0-
Guides	135,030	45,607
Marine Pilots	24,772	20,420
Medical Board	112,231	103,264
Mortuary Science	7,555	5,645
Nursing	277,625	121,042
Nursing Home Admin.	5,333	3,020
Optometry	10,967	1,410
Pharmacy	49,520	8,362
Physical Therapy	16,535	13,195
Psychology	24,126	4,710
Public Accountancy	83,541	25,442
Veterinary	14,816	5,520
Totals	<u>7/ \$ 1,623,046</u>	<u>\$ 1,066,855</u>

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7/ Costs included the following: Salaries for administrative licensing, investigative, and Department of Law staff; travel, contractual, and commodities. Does not include overtime.

**TABLE VI**  
**LICENSING COSTS AND AVERAGE**  
**YEARLY REVENUE**

<u>Licensing Fields</u>	<u>FY 83 Total Direct and Allocated State Costs</u>	<u>FY 81 - 84 Average Yearly Revenue</u>
Athletic Commission	\$ 2,303	645
Archit, Eng. & Land Sur.	313,924	144,464
Barbers & Hairdressers	201,192	80,512
Chiropractors	30,013	3,681
Collection Agencies	8,489	7,353
Concert Promoters	669	1,574
Contractors	135,642	413,030
Dental Board	106,554	20,129
Dispensing Opticians	12,548	2,935
Electrical Admin.	48,577	42,843
Geologists	2,084	-0-
Guides	135,030	45,313
Marine Pilots	24,772	6,805
Medical Board	112,231	48,923
Mortuary Science	7,555	2,593
Nursing	277,625	74,315
Nursing Home Admin.	5,333	1,790
Optometry	10,967	1,522
Pharmacy	48,520	20,467
Physical Therapy	16,535	7,829
Psychology	24,126	4,815
Public Accountancy	83,541	45,570
Veterinary	14,816	3,903
	<hr/>	<hr/>
Totals	7/ \$ 1,623,046	\$ 981,011
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7/ Costs included the following: Salaries for administrative licensing, investigative, and Department of Law staff; travel, contractual, and commodities. Does not include overtime.

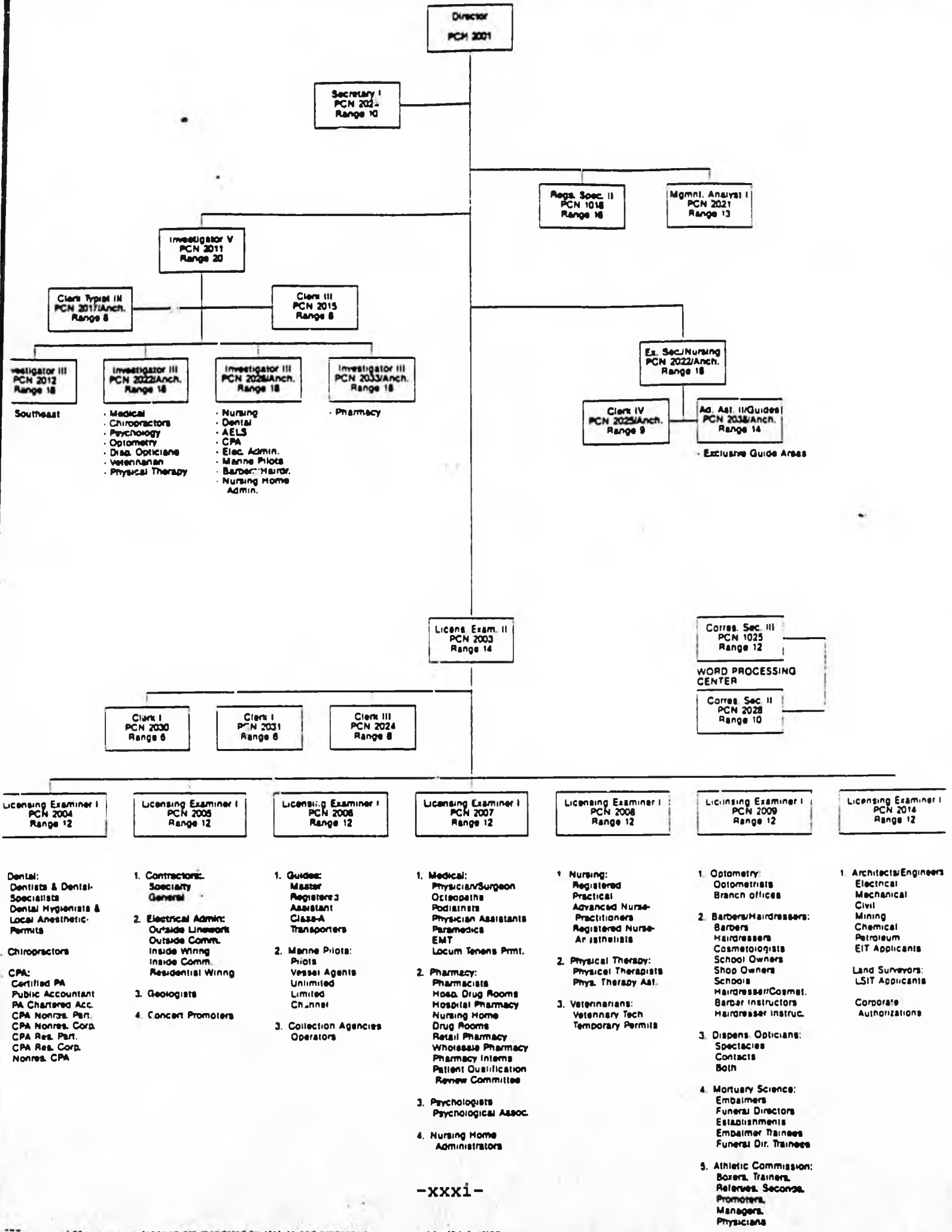
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## BUDGET CONSTRAINTS

Budget reductions have affected the boards. The budget cut of \$65,000 in FY 85 is being absorbed by the travel budgets of the boards..

The Department made these reductions by determining the number of board meetings required by law and by using this as the travel budget for each board. Many boards believe this reduction will inhibit their ability to provide services. For example, board members told us that if one of their yearly meetings is used to administer tests, all other board business will have to be crowded into the remaining meeting or meetings. Boards with only an annual meeting will find it difficult to do business. This could impair their ability to take necessary disciplinary action, work on new regulations, and deal with hearings and other critical matters.

Some board members also believe that reductions in funds to attend national meetings impacts the ability of our State boards to influence national professional tests or standards.



..... the material is state job information and covered by the division.

GOVERNOR

Bill Sheffield

CHIEF OF STAFF

John Shively

Dept. of Commerce and  
Economic Development

Richard A. Lyon  
COMMISSIONER

Vincent O'Reilly

Deputy Commissioner

Terry Elder

Deputy Commissioner

Division  
of  
Occupational Licensing

Harry D. Treager  
DIRECTOR

LICENSING TRADES:

- Concert Promoters
- Collection Agencies/Operators
- Construction Contractors
- Geologists
- Mortuary Science

LICENSING BOARDS

- Architects, Eng. & Land Surveyors
- Athletic Commission
- Barbers & Hairdressers
- Chiropractors
- Disp. Opticians
- Marine Pilots
- Nursing Home Admin.
- Physical Therapy
- Public Accountancy
- Psych. & Psych. Assoc.
- Medical
- Nursing
- Optometry
- Pharmacy
- Dental
- Electrical
- Guides
- Veterinary



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

9/5/89  
Date

H B

7 9



M E M O R A N D U M

TO: All members, House Labor and Commerce Committee

FROM: Committee Staff

DATE: February 4, 1985 Monday

SUBJECT: Overview, HB 79, "Financial Institution Exams"

---

On Monday, February 4, 1985, from 1:15 to 2:45 pm, in Room 102 of the Capitol Building, the House Committee on Labor and Commerce will hold hearings on HB 79: "An Act relating to financial institution examinations"

There is no companion legislation in the Senate, but this bill is identical to HB 116 that passed the House last year by 33-6, and passed in the Senate Labor and Commerce Committee, but died in Senate Finance in the 11th hour of the legislature.

This bill has also been in the legislature in previous sessions, but it did not have the clause in it eliminating required annual exams and replacing it with exams at the commissioner's discretion. This was formerly a major concern of the banks, and now they are more supportive of the bill with the discretionary clause in it, as it allows fewer exams for them. Currently, in addition to state exams, the banks undergo regular review from the federal examiners.

The bill is an attempt to balance the administration's current needs of making financial institution exams pay their own way (the Division has had to lay off some of its examiners) against the fact that by raising those fees too high, it can cause a hardship on the smaller institutions such as finance companies, credit unions, and savings and loans. If a fee is too high, and a smaller institution is charged too high a fee, the cure may end up being worse than the disease. An additional consideration is that some financial institutions, like credit unions, are not profit-making organizations.

In most cases it is the banks who are currently exceeding the current limit of \$7,500 and they can most afford it. Some of these costs go up to \$25,000 +. By upping the fee to \$12,000, some of these costs are retrieved, but the smaller companies don't get beaten on it (see the Department's Fiscal Note analysis chart on page 3). Additional backup from the Dept. of Commerce in their January 31, 1985 letter from Willis Kirkpatrick shows that a bank of \$50,000,000 assets would be assessed an average among the states of \$6,360 for a bank exam; while the new federal charge for banks in this range is \$13,726.

The bill does give discretionary power to determine exams to the commissioner through regulation, and takes it away from the legislature to determine it by statute. It thus allows the department to focus on problem inst. rather than stable inst. Banks are rated from a high 1 to a low of 5 on the CAMEL rating--Capital, Assets, Management, Earnings, Liabilities, so banks rated 1 and 2 would not need to be examined. These stable institutions are reviewed regularly by the federal government; another option here might be to require a 36 or 48 month review rather than an 12 month one.

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 18, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

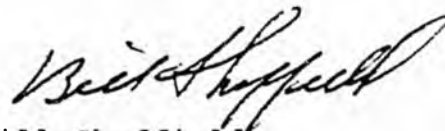
Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which increases the fee that the commissioner of commerce and economic development may assess a financial institution for investigation and examination costs. It raises the existing maximum of \$7,500 to a maximum of \$12,000 per examination. The fee increase is necessary because costs associated with these examinations have risen more than 50 percent since 1978 when the \$7,500 maximum fee was first established.

The bill also eliminates the requirement in current law that state banks be examined by the department annually. Examination of a bank under the bill is left to the discretion of the commissioner. This will allow the department to focus on problem banks and will free banks that are in stable condition from unnecessary paperwork and examination costs.

An additional, technical amendment is included in sec. 1 of the bill, rewriting but not changing the substance of the last sentence of AS 06.01.010(b).

Sincerely,



Bill Sheffield  
Governor

Revision Dates: \_\_\_\_\_

REQUEST  
 Bill/Resolution No.: HB 79  
 Title: An Act relating to  
financial institution examinations  
 Sponsor: \_\_\_\_\_  
 Requestor: Governor  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL  
 Agency Affected: Commerce & Econ. Dev.  
 Program Category Affected: \_\_\_\_\_  
Consumer Protection  
 BRU, Program or Subprogram(s) Affected:  
Banking, Securities and Corporations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	24.6	24.6	24.6	24.6	24.6
---------	-----	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Please see attached fiscal note analysis.

Prepared By: Willis F. Kirkpatrick Phone: 465-2521  
 Division: Banking, Securities and Corporations Date: 12/21/84  
 Approved by Commissioner: Richard A. Lyon Date: 12.5.84  
 Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

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

7/1/84

Almost all (82%) of the financial entities regulated and examined by the Division of Banking, Securities and Corporations pay for most if not all of the cost of their examinations. With the exception of credit unions and one small savings and loan association, the \$7,500 maximum allowable charge rarely covers the cost of an examination of those financial entities that are classified "depository financial institutions," i.e. banks (see Exhibit A).

The increase of the limit from \$7,500 to \$12,000 would not only cover the increased costs of doing examinations since the \$7,500 was set back in 1977, but this increase would also provide a more equitable sharing of the examination costs by the larger financial institutions.

It is urged that the assumption of increased revenues not be classified program receipts. To tie examinations of financial institutions to a program receipt requirement has the effect of assuming that all examinations can be scheduled alike and are predictable as to length of time and expense. In order to be effective in the determination in safety and soundness, the agency must have the latitude to concentrate in those areas of concern. To meet program receipt requirements would choke the very purpose for the examinations.

0971W101284a

Financial Institution	Asset Size (in Millions)	Type of Exam	Cost of Exam	Amount Paid by Instit.	% of Cost Recv.	Propos. Limit 12,000	% Paid Based on 12,000
Bank	582.8	Joint	12,542	7,500	60	12,000	95
Bank	425.5	Joint	13,230	7,500	56	12,000	91
Bank	342.1	Joint	7,812	7,500	96	7,812	100
Bank	236.0		20,554	7,500	36	12,000	58
Bank	178.0		25,848	7,500	29	12,000	46
Bank	102.8	Joint	12,478	7,500	60	12,000	96
Mutual Savings Bank	81.5		5,083	5,083	100	5,083	100
Bank	69.0		11,283	7,500	66	11,283	100
Bank	44.8	Joint	4,311	4,311	100	4,311	100
Savings & Loan	40.0	Visit.	525	525	100	525	100
Savings & Loan	25.2		6,132	6,132	100	6,132	100
Savings & Loan	7.7		1,601	1,601	100	1,601	100
Bank (New)		New					
Credit Union			5,721	5,721	100	5,721	100
Credit Union		Joint	1,603	1,603	100	1,603	100
BHC (1-a)			253	253	100	253	100
BHC (1-b)			182	182	100	182	100
BHC (2)			1,309	1,309	100	1,309	100
BHC (3)			612	612	100	612	100
BHC (4)		New					
BHC (5)		New					
Trust			895	895	100	895	100
Trust		New					
Finance Company			264	264	100	264	100
Finance Company			290	290	100	290	100
Finance Company			392	392	100	392	100
Finance Company		New					
Finance Company		New					
Finance Company		New					
Premium Finance Co.			384	384	100	384	100
Premium Finance Co.			684	684	100	684	100
Premium Finance Co.			407	407	100	407	100
Premium Finance Co.			407	407	100	407	100
Premium Finance Co.			676	676	100	676	100
Premium Finance Co.			392	392	100	392	100
Premium Finance Co.			712	712	100	172	100
Premium Finance Co.			229	229	100	229	100
Premium Finance Co.			241	241	100	241	100
Premium Finance Co.			615	615	100	615	100
Premium Finance Co.			679	679	100	679	100
Premium Finance Co.			598	598	100	598	100
			138,944	87,697	63%	114,292	92%

Joint = Joint examination with appropriate federal insuring agency  
 Visitation = Short examination for a specific area of concern  
 New = Fees received under Investigations - Examinations due next cycle

FROM THE OFFICE OF  
 REP. MIKE NAVARRE  
 FOR YOUR INFORMATION

HB 79 FILE CONTENTS

- 1) Overview - Committee Staff
- 2) Bill Summary -- Legislative Reporting Service
- 2) Governor's Transmittal Letter
- 3) Fiscal Note -- Dept. of Commerce
- 4) Sectional Analysis
- 5) Backup tables supplied by the Dept. of Commerce
  - a) Annual Assessment/Examination Fees by States
  - b) New federal charges just developed for bank exams
  - c) Frequency of examination by various state
  - d) Disposition of funds received by the states

M E M O R A N D U M

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INTRODUCTION OF BILLS (House)(cont'd)

HB 78, (cont'd)

without unduly burdening the legislature with the task. This authority was granted to the department last year by ch. 100 SLA 1984 for fees involved in licensing dental hygienists and dentists.

The second and third sections of the bill authorize the department to set the fees and penalties by regulation to reflect costs, after consulting with the appropriate licensing board. Most of the remaining sections of the bill delete the current statutory fees and make other appropriate changes to statutes in the chapters concerning the various occupations affected.

I request your support for this bill which will greatly increase the efficiency and reduce the net cost of our occupational licensing programs.

Bank  
Examinations  
(fees charged)

HOUSE BILL NO. 79, by the Rules Committee by Request of the Governor. Relates to fees for bank examinations (see accompanying letter). Immediate effective date.

Introduced January 18 and referred to Labor & Commerce, then to Finance.

In his letter accompanying the bill Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which increases the fee that the commissioner of commerce and economic development may assess a financial institution for investigation and examination costs. It raises the existing maximum of \$7,500 to a maximum of \$12,000 per examination. The fee increase is necessary because costs associated with these examinations have risen more than 50 percent since 1978 when the \$7,500 maximum fee was first established.

The bill also eliminates the requirement in current law that state banks be examined by the department annually. Examination of a bank under the bill is left to the discretion of the commissioner. This will allow the department to focus on problem banks and will free banks that are in stable condition from unnecessary paperwork and examination costs.

An additional, technical amendment is included in sec. 1 of the bill, rewriting but not changing the substance of the last sentence of AS 06.01.09(b).

Insurance Fees  
& Licenses  
(increasing)

HOUSE BILL NO. 80, by the Rules Committee by Request of the Governor. Increases current fees collected by the Division of Insurance (see accompanying letter). Immediate effective date.

Introduced January 18 and referred to Labor & Commerce, then Finance.

In his letter accompanying the bill Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill raising current fees collected by the division of insurance, Department of Commerce and Economic Development, under AS 21.

The statutes currently setting fees for the division of insurance do not provide adequate revenue to the state to

SECTIONAL ANALYSIS OF HB 79: "An Act relating to financial institution examinations," by Rules by Request of the Governor; by Committee Staff.

Section 1 The Department of Commerce and Economic Development will begin charging banks fees that better reflect the true cost whenever they do a bank exam. However, there is an upper limit to the amount of cost assessed for this exam, which has been raised in this bill from \$7,500 to \$12,000.

The phrase "must be" has merely been added as a matter of technical clarification by the AG's office to make it clearer that the fees not only have to be paid to the Department, but have to be received in 30 days.

Further, the assessment of fees has to be paid by the financial institution within 30 days of their receipt of the assessment. The language change makes it clearer that the counting of 30 days is a matter of when the institution receives the notice of assessment, not when the assessment was drawn up or mailed.

Section 2 Changes the current statutes so that all bank exams would be at the discretion of the Department, and not annually required.

Section 3 The above changes only apply to bank exams commencing after the effective date of this bill.

Section 4 Immediate effective date

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

**BILL SHEFFIELD, GOVERNOR**

POUCH D  
JUNEAU, ALASKA 99811

Banking & Securities 465-2521  
Corporations Section 465-2530

ANCHORAGE

Corporation Information 563-2163

January 31, 1985

Honorable Mike Navarre, Chairman  
House Labor and Commerce Committee  
Alaska State House  
Pouch V  
Juneau, Alaska 99811

Attention Roger Poppie

Dear Representative Navarre:

RE: House Bill 79  
Fees on Examination

I've enclosed the information you requested on HB 79. Please note that this information relates only to the examination and regulation of commercial banks. There is a large portion of the examiners' time spent on other than banking examinations, i.e., investigations of applications, complaints, interpretation of banking laws, and research on current events in deregulation.

Exhibit A is a breakdown by states of Annual Assessment/Examination Fees of commercial banks. The average assessment for a bank of \$50,000,000 is \$6,360; banks of \$100,000,000 in size is \$11,590; and over \$500,000,000 is \$50,765. These amounts are only ranges and do not take into consideration the additional fees noted in the exhibit.

Exhibit B is a publication just received on the new charges that Comptroller of Currency levies on nationally-chartered commercial banks. Table 1 on page 2 sets out the semiannual assessment. Banks with \$50,000,000 in assets would be charged \$13,726 annually. Those of \$100,000,000 would be charged \$22,676, and \$500,000,000 would have a \$67,976 annual assessment. See page 5, Exhibit B. These assessments are paid whether they are examined or not. Number 1 and 2 rated banks are examined only every 36 months.

Honorable Mike Navarre

-2-

January 31, 1985

Exhibit C is a table on the frequency of examination by various states. Exhibit D shows the disposition of funds received by the states.

I hope this covers the areas of your request. If I can be of any other assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Willis F. Kirkpatrick".

Willis F. Kirkpatrick  
Director

WFK/me1935M  
13185B  
Enclosures

cc: Commissioner's Office, DCED

**ANNUAL COMMERCIAL BANK ASSESSMENT/EXAMINATION FEE,  
BY SIZE OF BANK, SEPTEMBER 30, 1983**

State	Asset size of bank					
	10M	25M	50M	100M	500M	1 B
Alabama	3,240	3,100	8,200	14,400	53,800	98,800
Alaska <sup>10</sup>	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )
Arizona <sup>2</sup>	700	1,750	3,500	7,000	35,000	70,000
Arkansas	2,025	3,563	5,188	7,138	23,188	43,188
California <sup>6</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Colorado <sup>3</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Connecticut <sup>3</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Delaware <sup>5, 10</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Florida	2,000	4,100	7,600	14,600	70,600	140,600
Georgia <sup>4, 10</sup>	4,750	6,700	10,000	15,000	39,000	69,000
Guam	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )
Hawaii	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )
Idaho <sup>7, 10</sup>	4,350	7,200	11,950	17,950	57,950	102,950
Illinois <sup>10</sup>	1,770	3,570	6,320	10,820	38,820	63,820
Indiana	2,120	3,270	4,270	6,270	22,270	62,270
Iowa <sup>10</sup>	500 <sup>15</sup>	1,100 <sup>15</sup>	1,600 <sup>15</sup>	2,500 <sup>15</sup>	3,300 <sup>15</sup>	3,300 <sup>15</sup>
Kansas <sup>6</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Kentucky <sup>15</sup>	500	1,250	2,500	5,000	25,000	50,000
Louisiana <sup>1</sup>	650	1,325	2,450	4,700	22,700	45,200
Maine <sup>5, 10</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Maryland	1,720	2,920	4,920	8,920	40,920	80,920
Massachusetts <sup>10</sup>	710	1,775	3,550	7,100	35,500	71,000
Michigan	1,050 <sup>15</sup>	2,625 <sup>15</sup>	5,250 <sup>15</sup>	10,500 <sup>15</sup>	52,500 <sup>15</sup>	105,000 <sup>15</sup>
Minnesota	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )	( <sup>5</sup> )
Mississippi	1,560	3,810	7,560	15,060	75,060	150,060
Missouri	1,304	3,261	6,522	13,045	65,224	130,448
Montana	1,600	3,400	6,400	12,400	60,400	120,400
Nebraska	500 <sup>15</sup>	1,250 <sup>15</sup>	2,500 <sup>15</sup>	5,000 <sup>15</sup>	25,000 <sup>15</sup>	50,000 <sup>15</sup>
Nevada <sup>1, 10</sup>	2,200	5,200	10,200	20,200	100,200	140,200
New Hampshire	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )	( <sup>14</sup> )
New Jersey	300 <sup>15</sup>	750 <sup>15</sup>	1,500 <sup>15</sup>	3,000 <sup>15</sup>	15,000 <sup>15</sup>	30,000 <sup>15</sup>
New Mexico <sup>1</sup>	950	2,075	3,950	7,700	37,700	75,200
New York <sup>5, 10</sup>	n/a	n/a	n/a	n/a	n/a	n/a
North Carolina <sup>2</sup>	1,273	3,073	6,073	12,073	60,073	120,073
North Dakota	1,250	3,125	6,250	12,500	62,500	125,000
Ohio	1,700	4,250	8,000	15,000	60,000	100,000

Continued from preceding page.

State	Asset size of bank					
	10M	25M	50M	100M	500M	1 B
Oklahoma	1,450	3,250	6,650	13,150	65,150	130,150
Oregon <sup>10</sup>	2,500 <sup>15</sup>	6,250 <sup>15</sup>	12,500 <sup>15</sup>	25,000 <sup>15</sup>	125,000 <sup>15</sup>	250,000 <sup>15</sup>
Pennsylvania <sup>10</sup>	815 <sup>15</sup>	1,490 <sup>15</sup>	2,615 <sup>15</sup>	4,865 <sup>15</sup>	22,865 <sup>15</sup>	45,365 <sup>15</sup>
Puerto Rico	2,000	5,000	10,000	20,000	100,000	200,000
Rhode Island <sup>6, 10</sup>	n/a	n/a	n/a	n/a	n/a	n/a
South Carolina	1,559	3,896	7,793	15,586	77,929	155,858
South Dakota <sup>9</sup>	1,800	3,900	7,400	14,400	70,400	140,400
Tennessee <sup>6</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Texas <sup>6</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Utah <sup>10, 11</sup>	3,300	5,590	7,340	10,840	30,840	45,840
Vermont <sup>3, 5</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Virginia <sup>8, 12</sup>	3,275	5,900	10,275	15,275	51,525	90,275
Washington <sup>10, 13</sup>	3,530 <sup>15</sup>	5,840 <sup>15</sup>	9,840 <sup>15</sup>	17,840 <sup>15</sup>	59,385 <sup>15</sup>	101,900 <sup>15</sup>
West Virginia <sup>6, 10</sup>	n/a	n/a	n/a	n/a	n/a	n/a
Wisconsin	580 <sup>15</sup>	1,450 <sup>15</sup>	2,900 <sup>15</sup>	5,800 <sup>15</sup>	29,000 <sup>15</sup>	58,000 <sup>15</sup>
Wyoming <sup>10</sup>	3,400	5,800	9,000	15,000	63,000	123,000 <sup>15</sup>

<sup>1</sup>Plus \$50 per branch.

<sup>2</sup>Special examinations: \$100/day/examiner.

<sup>3</sup>Assessment based on asset size, to balance banking dept. budget.

<sup>4</sup>Plus \$300 per branch.

<sup>5</sup>Based on asset size, plus hourly fee.

<sup>6</sup>Based on assets; information not available.

<sup>7</sup>Plus \$100 per branch.

<sup>8</sup>Hourly fee on trust exams.

<sup>9</sup>Plus \$200 per branch.

<sup>10</sup>There is an assessment/examination fee for bank holding companies also.

<sup>11</sup>Plus \$150 per branch.

<sup>12</sup>Plus \$250 per branch.

<sup>13</sup>Plus \$75 per branch.

<sup>14</sup>Hourly fee.

<sup>15</sup>Plus hourly fee.

1058 1-11-85

New Matters

90,433

*Increased Semiannual Assessment Schedule for National Banks*

**National Banks—Assessment Fees—Semiannual Schedule—Examination Costs—Increase—OCC Amendment.**—The Comptroller of the Currency increased the rates in its semiannual assessment schedule for national banks to reflect the costs of examination attributable to a particular bank. As in the old schedule, the marginal assessment rate of an individual bank in the new schedule will decrease as its asset size increases. In addition, the Comptroller of the Currency will offset declines in the overall average assessment rate due solely to inflationary growth in bank assets by indexing the schedule annually to changes in the general price level.

Back reference: ¶ 60,542.

[OCC Notice]

**DEPARTMENT OF THE TREASURY**

Comptroller of the Currency

12 CFR Part 8

[Docket No. 84-37]

**Assessment of Fees; National Banks; District of Columbia Banks**

**AGENCY:** Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency ("Office") is increasing the rates in its semiannual assessment schedule for national banks, District of Columbia banks, and federally licensed branches and agencies. Unchanged for eight years, the old schedule failed to produce revenue sufficient to cover operating costs, which were boosted by inflation, an increase in responsibilities, and a modernization of bank examination techniques. The new schedule, like the old one, conforms to this Office's philosophy that the assessments paid by a bank should reflect, to the extent possible under existing statutory provisions, the costs of supervising it. On a per-dollar-of-assets basis, those costs decline as bank size increases. Therefore, in the new schedule, like the old one, the marginal assessment rate of an individual bank decreases as its asset size increases. In addition, the Office will offset declines in the overall average assessment rate due solely to inflationary growth in bank assets by indexing the schedule annually to changes in the general price level. The new schedule replaces the current assessment schedule and its temporary 12-percent surcharge for assessment fees due on January 31, 1985, and following payment dates.

**EFFECTIVE DATE:** January 31, 1985.

**FOR FURTHER INFORMATION CONTACT:** Roger Tufts, Financial Economist, Economic and Policy Analysis Division (202) 447-1924 or Jonathan Rushdoony, Attorney, Legal Advisory Services Division (202) 447-1880, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The Office was created by Congress for the purpose of regulating the national banking sys-

tem. Under the National Bank Act, 12 U.S.C. 1 *et seq.*, the Office is responsible for ensuring the national banks comply with all applicable laws and operate in a safe and sound manner.

The Office's responsibilities are accomplished through the examination of supervised institutions and affiliated entities. Under 12 U.S.C. 482 and 3102, this Office is directed to recover the costs of its operations by assessing fees on all national banks, District of Columbia banks, and federal branches and agencies of foreign banks. On November 14, 1984, the Office accordingly published a notice of proposed rulemaking (Docket No. 84-36) in the *Federal Register*, 49 FR 45102, that would revise the assessment schedule in order to yield sufficient revenue to meet the Office's future costs of operation, as currently projected in its budget.

Section 482 requires that those assessments be made in proportion to a bank's assets or resources and that the rate of assessments be the same for all banks of the same asset size. The current and new assessment schedules fulfill that statutory requirement. *First National Bank of Milaca v. Heimann*, 572 F.2d 1244 (8th Cir. 1978).

Following publication of the notice of proposed rulemaking in the *Federal Register*, the Office sent a Banking Bulletin containing the proposal to the chief executive officer of each national bank. The purpose of that Banking Bulletin, dated November 20, 1984, was to ensure that each national bank received direct and timely notice of the proposed changes and to explain the reasons for them.

As stated in that proposal, the revisions change none of the current schedule's basic characteristics, *i.e.*, the use of asset size to determine the amount assessed and the use of marginal assessment rates that decrease as the asset size of a bank increases. The revision more closely implements the Office's relative cost coverage philosophy and addresses the problems caused by the combination of a declining marginal rate schedule and inflation of the type and extent experienced since 1976.

**Comments**

Comments on the proposal were solicited both by the *Federal Register* notice of proposed rulemaking and by the issuance of the Banking Bulletin to each national bank. The Office requested that comments be received no later

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¶ 86,145

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than December 14, 1984. In response, 19 comments were received. Most came from small national banks (those under \$500 million in assets) which were opposed to the proposal as drafted. Several specific concerns were raised. All but three commenters espoused the belief that the additional costs incurred by the Office to examine banks requiring special supervisory attention should not be paid by clean, well-run banks.

To better align Office supervisory costs and assessments, a large majority of all commenters suggested that the assessment schedule should be based on the direct costs attributed to examining a particular bank not its asset size. This Office is aware of the inequities identified by those commenters. As the statute currently reads, however, the Officer is not authorized to charge a higher assessment to banks that are experiencing difficulties.<sup>1</sup> Revising the assessment schedule to a direct-cost basis would require an amendment to 12 U.S.C. 482, a change explicitly suggested by six commenters. Although a statutory change is not a feasible alternative to the current revision, the Office intends to review its long-term revenue needs and consider requesting Congress for a statutory change as part of that review.

Six commenters questioned the diligence in controlling costs. As explained in the proposal, the Office has sought to offset the effects of inflation and increased responsibility by restructuring and modernizing its operation, employing resources more effectively and providing better service. In fact, the Office has estimated that, without the restructuring and modernization efforts, it would have needed a much larger staff to carry out its responsibilities.

In the same vein, three commenters thought Office expenses should be lower because their

institutions are receiving full-scale, comprehensive examinations less frequently. These comments refer to the Office's revised examination priority schedule that calls for on-site examinations less frequently at smaller, well-run banks and more frequently at large and/or special supervision banks. In conjunction with changes in the examination priority schedule, however, came a commitment to move toward more off-site monitoring of bank performance. This required a large initial investment in systems and computer hardware that will produce cost savings in the years ahead.

After consideration of the issues raised by the commenters, it is clear that implementation of the suggestions of most commenters requires changes in the law. While a change in the law along the lines suggested by the commenters may permit adoption of a revenue system that is perceived to be more equitable, a statutory change would take considerable time and the current financial position of the Office requires prompt action. The Office is, therefore, implementing the assessment schedule as proposed in the Federal Register on November 14, 1984 (See table 1). It will be used in determining the assessment fees to be paid by national banks on January 31, 1985, and July 31, 1985. Thereafter, the schedule will be revised annually in accordance with the indexing procedure described below. The indexing procedure will insulate the assessment schedule from distortions caused by any future inflation. Such distortions would result in deficits that could impair the Office's ability to meet its responsibility of maintaining the safety and soundness of the national banking system.

TABLE 1.—PROPOSAL FOR SEMI-ANNUAL ASSESSMENT SCHEDULE FOR JANUARY AND JUNE 1985

If the bank's total assets (consolidated domestic and foreign subsidiaries) are—		The semi-annual Assessment is—		
Over—	But not over—	This amount—	Plus	Of excess over—
Million	Million			Million
0	\$1.7	0	0.001000	0
\$1.7	15	\$1,700	.000125	\$1.7
15	85	3,363	.000100	15
85	165	10,363	.000065	85
165	835	15,563	.000055	165
835	1,670	52,413	.000045	835
1,670	5,010	89,988	.000040	1,670
5,010	16,695	223,588	.000034	5,010
16,695	33,390	620,878	.000032	16,695
33,390		1,155,118	.000021	33,390

<sup>1</sup> The Office is authorized to conduct and charge separately for each examination after the second one conducted

in a single calendar year. For those examinations, an hourly fee is imposed.

¶ 86,145

U.S. Commerce Clearing House, Inc.

**Special Studies****Executive Order 12291**

The aggregate effect of the rule on the economy is estimated to be \$15 million in 1985. This amount represents the difference in expected assessment revenues between the current and new schedules. The aggregate amount will be spread among all national banks and federal branches and agencies, some 4,900 institutions. Institutions of similar size will face the same impact. Thus, the effect of the revision is unlikely to put competing institutions at a disadvantage with one another or with other competing suppliers of financial services. Finally, the rule is not envisioned as having significant adverse impacts on the ability of U.S.-domiciled national banks to compete with foreign competitors. This is due to the fact that, generally, only the largest institutions in the national banking system compete directly with foreign banks, and the effect of the rule on their earnings is slight.

Accordingly, this Office has concluded that the rule does not meet any of the conditions set forth in Executive Order 12291 for designation as a major rule. Consequently, a regulatory impact statement has not been prepared.

**Regulatory Flexibility Act**

This Office is sensitive to the impact of the rule on small entities; therefore, pursuant to the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612, a preliminary regulatory flexibility analysis was prepared. No information received by the Office altered the conclusions of that analysis. Consequently, the final regulatory flexibility analysis is not appreciably different from the preliminary one. Copies of the final analysis may be obtained by writing to: Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., 3rd Floor, Washington, D.C. 20219. Telephone (202) 447-1800.

To summarize that analysis, this Office has endorsed the principle of relative cost coverage whereby a bank will be assessed in relation to

the costs of examination attributable to that bank. As a group, banks with under \$500 million in assets are currently not assessed an amount sufficient to recover the cost of their examination, regulation, and supervision. Assessments on banks with over \$500 million in assets have, in effect, been providing a cost subsidy for the examination of those smaller banks. In order to reduce this subsidy and to implement further the Office's relative-cost-coverage principle, the new schedule moves smaller-sized banks toward 100 percent relative cost coverage (see Table 2).

TABLE 2. RELATIVE COST COVERAGE

[Current versus revised assessment schedule]

Bank size (millions)	Index* current	Index* revised	Number of banks
\$0 to \$10 . . . . .	.33	.38	348
\$10 to \$50 . . . . .	.41	.43	2,284
\$50 to \$100 . . . . .	.63	.67	1,082
\$100 to \$500 . . . . .	.95	1.01	935
\$500 to \$1,000 . . . . .	1.21	1.23	101
\$1,000 to \$3,000 . . . . .	1.23	1.20	106
\$3,000 to \$10,000 . . . . .	2.11	1.98	54
\$10,000 to \$20,000 . . . . .	1.83	1.66	6
Over \$20,000 . . . . .	3.63	3.44	10

\* This indices represent the 1984 relative cost coverage under alternative assessment schedules. The index is defined as the proportion of total revenue the Office receives from banks in a size category divided by the proportion of examination costs attributable to those banks. An index value of less than one indicates that banks are paying less than their proportional share of Office costs.

The revised schedule is not designed to achieve 100 percent relative cost coverage because of the greater impact that would have on banks with less than \$100 million in assets. In addition, although the impact of the revised schedule on bank earnings is larger for small banks, the reduction in earnings, in absolute terms, is minimal (see Table 3).

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TABLE 3.—ASSESSMENT INCREASES FOR SELECTED BANK SIZES

	Bank size (millions)											
	\$2	\$10	\$50	\$100	\$500	\$1,000	\$5,000	\$10,000	\$20,000	\$100,000	\$100,000	
Semi-annual assessment												
Revised	\$1,706	\$2,736	\$6,863	\$11,336	\$33,868	\$59,838	\$223,186	\$393,348	\$726,638	\$2,553,926	\$2,553,926	\$2,553,926
Current	1,125	2,125	5,025	8,925	28,825	61,425	199,425	369,425	689,425	2,369,425	2,369,425	2,369,425
Change	619	613	608	2,413	5,063	8,413	23,760	23,823	37,213	184,500	184,500	184,500
Increase (percent)	64	29	16	27	16	18	12	6	5	6	6	6
Annualized impact on ROA (basis points)	-3.065	-8.13	-1.88	-2.41	-1.01	-0.64	-0.48	-0.24	-0.19	-0.19	-0.19	-0.19
Annualized Impact on Return on Assets (ROA) = Change in Semi-Annual Assessment/Total Assets; assumes a 50 percent tax rate												

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National Bank's - Assessment Example  
1985

\$50,000,000 in Assets

15 MM	=	3,363	
35 MM x .000100	=	<u>3,500</u>	
semi-annual	=	6,863	x 2 = 13,726
annual	=	\$13,726	

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\$100,000,000 in Assets

85 MM	=	10,363	
15 MM x .000065	=	<u>975</u>	
semi-annual	=	11,338	x 2 = 22,676
annual	=	\$22,676	

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\$500,000,000 in Assets

165 MM	=	15,563	
335 MM x .000055	=	<u>18,425</u>	
semi-annual	=	33,988	x 2 = 67,976
annual	=	\$67,976	

---

REQUIRED FREQUENCY OF BANK EXAMINATIONS,  
SEPTEMBER 30, 1983

11 <sup>2</sup> DIC	Joint <sup>2</sup> w/FRS
78	16
3	5
0	0
11	0
0	0
0	0
1	0
0	0
0	0
8	19
16	0
0	4
0	0
45	27
0	0
0	0

ncy in which each  
both prepare and

State	Every 12 mo.	Every 18 mo.	Other	FDIC and/or FRS exam. acceptable in lieu of State exam. by Statute
Alabama	X			Yes
Alaska	X			Yes
Arizona			Once every 2 years	Yes
Arkansas			Once every 2 years	No
California			Once every 2 years	No
Colorado	X <sup>1</sup>			No
Connecticut			As often as deemed necessary <sup>2</sup>	No
Delaware	X			No
Florida		X		Yes
Georgia	X			Yes
Guam	X			Yes
Hawaii		X		No
Idaho		X <sup>3</sup>		Yes
Illinois	X			No
Indiana			As often as deemed necessary	Yes
Iowa		X		No
Kansas	X			Yes
Kentucky			Once every 2 years	Yes
Louisiana	X			Yes
Maine		X		Yes
Maryland	X			Yes
Massachusetts			Once every 2 years	No
Michigan	X			Yes
Minnesota	X			Yes
Mississippi	X			Yes
Missouri	X			Yes
Montana	X <sup>4</sup>			Yes
Nebraska			No time requirement <sup>5</sup>	Yes
Nevada		X		Yes
New Hampshire		X		No
New Jersey			At discretion of Commissioner <sup>5</sup>	No
New Mexico	X			Yes
New York	X			Yes
North Carolina	X			Yes
North Dakota		X <sup>2</sup>		Yes
Ohio	X			No

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Continued from preceding page.

State	Every 12 mo.	Every 18 mo.	Other	FDIC and/or FRS exam. acceptable in lieu of State exam. by Statute
Oklahoma		X <sup>6</sup>		Yes
Oregon	X			Yes
Pennsylvania	X			Yes
Puerto Rico	X			Yes
Rhode Island	X			Yes
South Carolina		X <sup>2</sup>		Yes
South Dakota			Once every two years	Yes
Tennessee	X			Yes
Texas	X			Yes
Utah			As Commissioner considers necessary <sup>7</sup>	Yes
Vermont			Once every three years <sup>8</sup>	No
Virginia		X		No
Washington	X			Yes
West Virginia		X		Yes
Wisconsin	X			Yes
Wyoming	X			Yes

<sup>1</sup>In practice, banks are examined every 18-20 months.<sup>2</sup>In practice, banks are examined every 12 months.<sup>3</sup>In practice, banks are examined every 12-15 months.<sup>4</sup>In practice, banks are examined every 16½ months.<sup>5</sup>In practice, banks are examined every 2 years.<sup>6</sup>In practice, banks are examined every 6 months.<sup>7</sup>In practice, banks are examined every 18 months.<sup>8</sup>In practice, banks are examined every 15 to 18 months.

**DISPOSITION OF RECEIPTS FROM FEES AND ASSESSMENTS,  
SEPTEMBER 30, 1983**

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In the following states, all revenues are deposited into the State's general fund and the annual budget for the banking department is appropriated by the legislature.

Alaska	Louisiana	New Mexico
Arizona	Maryland	New York <sup>2</sup>
Arkansas <sup>5</sup>	Massachusetts	North Dakota
Colorado	Minnesota	Oklahoma
Georgia	Missouri	Puerto Rico <sup>7</sup>
Guam	Montana	Rhode Island
Hawaii	Nevada	South Carolina
Idaho	New Hampshire	Vermont
Iowa	New Jersey	Wyoming

In the following states, all revenues collected are deposited into a special fund to be used only for the expenses of the banking department, but the annual budget of the department is subject to approval by the legislature:

Alabama	Kentucky	Oregon
California	Maine	Pennsylvania <sup>4</sup>
Connecticut	Michigan	South Dakota
Delaware <sup>1</sup>	Mississippi	Utah
Florida	Nebraska	Virginia
Illinois	North Carolina	West Virginia
Indiana	Ohio	Wisconsin <sup>3</sup>
Kansas		

In the following states, all revenues collected are deposited with and controlled by the banking department:

Tennessee<sup>2</sup>  
Texas<sup>6</sup>  
Washington

<sup>1</sup>Except for bank charters, license fees, and franchise tax collections.

<sup>2</sup>Fiscal operations of banking department are reviewed annually by the legislature.

<sup>3</sup>90% of revenue is deposited into a special fund; 10% goes into general fund.

<sup>4</sup>Subject to approval by the governor's office.

<sup>5</sup>Funds can only be used by banking department, but are deposited in general fund.

<sup>6</sup>Annual budget approved by Finance Commission.

<sup>7</sup>First \$1,100,000 deposited into general fund, remainder in special fund.

BILL = HB116  
ROOT = HB0116  
BILL ROOT: HB0116  
BILL NUMBER: HB116

INTRODUCED: 1/24/83  
REFERRED: LABOR & COMMERCE AND FINANCE  
LEGISLATIVE SPONSOR:  
BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR  
BILL HEADING:  
IN THE HOUSE

HOUSE BILL NO. 116  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - FIRST SESSION  
A BILL

TITLE: FOR AN ACT ENTITLED:  
"AN ACT RELATING TO FINANCIAL INSTITUTION EXAMINATION FEES

AND ASSESSMENTS; AND PROVIDING FOR AN EFFECTIVE DATE."  
TEXT: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* SECTION 1. AS 06.01.010(B) IS AMENDED TO READ:

(B) THE COMMISSIONER SHALL ASSESS EVERY FINANCIAL INSTITUTION, AND EVERY APPLICANT TO ESTABLISH A FINANCIAL INSTITUTION, A FEE FOR THE ACTUAL EXPENSES INCURRED BY THE DEPARTMENT IN CONNECTION WITH ANY EXAMINATION OR INVESTIGATION, WHETHER REGULAR OR SPECIAL. THE FEE SHALL INCLUDE THE PROPORTIONATE PART OF THE SALARIES AND COST OF EMPLOYEE BENEFITS OF THE EXAMINERS WHILE CONDUCTING EXAMINATIONS OR INVESTIGATIONS AND WHILE PREPARING REPORTS OF THEM, AND TRANSPORTATION COSTS AND PER DIEM OF EACH EXAMINER WHILE AWAY FROM HIS DUTY STATION. HOWEVER, THE COST TO THE FINANCIAL INSTITUTION IN CONNECTION WITH AN EXAMINATION MAY NOT EXCEED \$12,000 OR \$7,500 PER EXAMINATION. THE ASSESSMENT SHALL BE MADE BY THE COMMISSIONER AS SOON AS FEASIBLE AFTER THE EXAMINATION OR INVESTIGATION HAS BEEN COMPLETED. ALL ASSESSMENTS SHALL BE PAID TO AND MUST BE RECEIVED BY THE DEPARTMENT BY EACH INSTITUTION WITHIN 30 DAYS AFTER THE FINANCIAL

INSTITUTION RECEIVES OR RECEIPT OF NOTICE OF THE ASSESSMENT.

\* SEC. 2. THE \$12,000 MAXIMUM ASSESSMENT FOR EXAMINATIONS OF FINANCIAL INSTITUTIONS ENACTED IN SEC. 1 OF THIS ACT APPLIES TO EXAMINATIONS OR INVESTIGATIONS COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

\* SEC. 3. THIS ACT TAKES EFFECT IMMEDIATELY IN ACCORDANCE WITH AS 01.10.070(C).

END OF DOCUMENT

BILL = CSHB116(FIN)

ROOT = HB0116

BILL ROOT:  
HB0116

BILL NUMBER:  
CSHB116(FIN)

INTRODUCED:  
1/27/84

REFERRED: RULES

ORIG SPONSOR:  
RULES/GOVERNOR

SPONSOR: BY THE FINANCE COMMITTEE

BILL HEADING:  
IN THE HOUSE  
CS FOR HOUSE BILL NO. 116 (FINANCE)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION  
A BILL

TITLE: FOR AN ACT ENTITLED:  
"AN ACT RELATING TO FINANCIAL INSTITUTION EXAMINATIONS"

CSHB116FIN DOCUMENT= 2 OF 2 PAGE = 2 OF 3  
AND EXAMINATION FEE ASSESSMENTS, AND PROVIDING FOR AN  
EFFECTIVE DATE."

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

\* SECTION 1. AS 06.01.010(B) IS AMENDED TO READ:

(B) THE COMMISSIONER SHALL ASSESS EVERY  
FINANCIAL INSTITUTION, AND EVERY APPLICANT TO ESTABLISH A  
FINANCIAL INSTITUTION, A FEE FOR THE ACTUAL EXPENSES  
INCURRED BY THE DEPARTMENT IN CONNECTION WITH ANY  
EXAMINATION OR INVESTIGATION, WHETHER REGULAR OR SPECIAL.  
THE FEE SHALL INCLUDE THE PROPORTIONATE PART OF THE  
SALARIES AND COST OF EMPLOYEE BENEFITS OF THE EXAMINERS  
WHILE CONDUCTING EXAMINATIONS OR INVESTIGATIONS AND WHILE  
PREPARING REPORTS OF THEM, AND TRANSPORTATION COSTS AND  
PER DIEM OF EACH EXAMINER WHILE AWAY FROM THE EXAMINER'S  
HOME DUTY STATION. HOWEVER, THE COST TO THE FINANCIAL  
INSTITUTION IN CONNECTION WITH AN EXAMINATION MAY NOT  
EXCEED \$12,000 OR \$7,500 PER EXAMINATION. THE ASSESSMENT  
SHALL BE MADE BY THE COMMISSIONER AS SOON AS FEASIBLE AFTER  
THE EXAMINATION OR INVESTIGATION HAS BEEN COMPLETED. ALL  
ASSESSMENTS SHALL BE PAID TO AND MUST BE RECEIVED BY THE

CSHB116FIN DOCUMENT= 2 OF 2 PAGE = 3 OF 3  
DEPARTMENT BY EACH INSTITUTION WITHIN 30 DAYS AFTER THE  
FINANCIAL INSTITUTION RECEIVES RECEIPT OF NOTICE OF THE  
ASSESSMENT

\* SEC. 2. AS 06.05.025(C) IS AMENDED TO READ:

(C) BANKS REGULATED UNDER THIS CHAPTER ARE  
SUBJECT TO AT LEAST ONE EXAMINATION A YEAR. ADDITIONAL  
EXAMINATIONS MAY BE CONDUCTED AT THE DISCRETION OF THE  
COMMISSIONER.

\* SEC. 3. THE \$12,000 MAXIMUM ASSESSMENT FOR  
EXAMINATIONS OF FINANCIAL INSTITUTIONS ENACTED IN SEC. 1 OF  
THIS ACT APPLIES TO EXAMINATIONS OR INVESTIGATIONS  
COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

\* SEC. 4. THIS ACT TAKES EFFECT IMMEDIATELY IN  
ACCORDANCE WITH AS 01.10.070(C).

HB116FIN DOCUMENT= 2 OF 2 PAGE = 1 OF 3

BILL = CSHB116(FIN)

ROOT = HB0116

ALL ROOT:

HB0116

ALL NUMBER:

CSHB116(FIN)

INTRODUCED:

1/27/84

REFERRED: RULES

LEGISLATIVE SPONSOR:

RULES/GOVERNOR

SPONSOR: BY THE FINANCE COMMITTEE

ALL HEADING:

IN THE HOUSE

CS FOR HOUSE BILL NO. 116 (FINANCE)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION  
A BILL

TITLE: FOR AN ACT ENTITLED:

"AN ACT RELATING TO FINANCIAL INSTITUTION EXAMINATIONS

HB116FIN DOCUMENT= 2 OF 2 PAGE = 2 OF 3

AND EXAMINATION FEE ASSESSMENTS; AND PROVIDING FOR AN  
EFFECTIVE DATE."

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

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INCURRED BY THE DEPARTMENT IN CONNECTION WITH ANY  
EXAMINATION OR INVESTIGATION, WHETHER REGULAR OR SPECIAL.

CSHB116FIN DOCUMENT= 2 OF 2 PAGE 2 PART OF THE 3

DEPARTMENT BY EACH INSTITUTIONE WITHIN 30 DAYS AFTER THE  
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THIS ACT APPLIES TO EXAMINATIONS OR INVESTIGATIONS  
COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

\* SEC. 4. THIS ACT TAKES EFFECT IMMEDIATELY IN  
ACCORDANCE WITH AS 01.10.070(C).

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

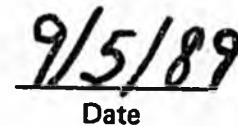


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

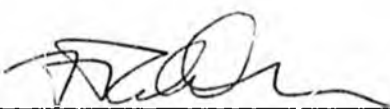




HB 80: "An Act relating to insurance fees and licenses; and providing for an effective date."

The Legislature has asked us to submit a position paper relative to amending HB 80 to a form substantially equivalent to HB 633 of the Thirteenth Legislature. HB 633 proposed setting of insurance fees by regulation rather than by statute.

We have no objection to this proposal and would give it our full support. If the Legislature prefers one method over the other for setting fees, the department will accept their choice. Either method increases fees to a currently realistic amount. Setting of fees by regulation will provide for adequate hearing of affected persons' views, provide periodic fee review, and will not burden the legislative process every few years with a new fee bill.

  
for Loren H. Lounsbury, Commissioner  
Date 2/15/85



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

9/5/89  
Date

H B



3/29

# COMMITTEE REPORT HOUSE

Health, Education and  
Social Services

( 7 )

FURTHER: Finance

1/18/85

Date: \_\_\_\_\_

The Committee on Labor and Commerce has had HB 90

"An Act relating to labor relations between school boards and other public employers and their employees."

under consideration and recommends:

- 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 *Sup 36*
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_

*Mike Dennis*

\_\_\_\_\_

*D/B [unclear]*

\_\_\_\_\_

*[unclear]*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*NO*

*[unclear]*

*Debra Stanley do-not pass*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CHAIRMAN

HB 90 File Contents

- 1) Bill Summary -- Legislative Reporting Service
- 2) Sectional Analysis & Position Statement -- Dept. of Labor
- 3) Overview -- L & C Staff
- 4) Fiscal Note -- Dept. of Education
- 5) Fiscal Note & Fiscal Analysis -- Dept. of Labor
- 6) Fiscal Note -- Dept. of Administration (forthcoming)
- 7) Written Testimony -- Rep. Koponen, sponsor
- 8) Statutory References AS 23.40

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February 25, 1985 additions:

- 9) Briefing paper, HB 90 -- Dept. of Labor

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March 21, 1985 additions:

- 10) Revised Draft Fiscal Note -- Supplied by Dept. of Labor  
at request of L & C Committee.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P.O. BOX 1149  
JUNEAU, ALASKA 99802  
PHONE: (907) 465-2700

March 21, 1985

Roger Poppe  
Professional Assistant  
Labor and Commerce Committee  
House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Roger,

In accordance with your request, following are the costs that would be incurred if House Bill No. 90 could be implemented with a one-half time Wage and Hour Investigator II and one-half time Clerk Typist III instead of the three full-time positions detailed in the Department's February 15, 1985 fiscal note:

Personal Services	\$ 37.7
Travel	12.1
Contractual	71.0
Supplies	.8
Equipment	3.2
Total	\$124.8

I would reaffirm the Department's concern with such a reduced funding proposal. We feel certain that organized labor will "make a run" on nearly every unrepresented school district in the state during the first year or so. The Labor Relations Agency would be required to investigate the representation petitions, determine the appropriate units for collective bargaining purposes, and monitor the representation elections for at least 45 school districts--an impossible task for a part-time investigator.

If we may provide any additional information that would be of assistance, please let me know.

Sincerely,

  
Eileen Plate  
Special Assistant

EP:kmc  
08001

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 90  
 Title: "An Act Relating to labor relations between school boards and . . ."  
 Sponsor: Koponen  
 Requestor: H. Labor and Commerce  
 Date of Request: 2/15/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: Public Protection and . . .  
 BRU, Program or Subprogram(s) Affected: Labor Standards and Safety  
Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	124.7	129.1	74.1	76.7	79.4
200 TRAVEL	0	27.9	29.6	19.5	20.1	21.3
300 CONTRACTUAL	0	39.1	94.5	85.1	90.2	95.6
400 SUPPLIES	0	2.0	2.1	1.4	1.5	1.6
500 EQUIPMENT	0	4.8	0	0	0	0
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>248.5</b>	<b>255.3</b>	<b>180.1</b>	<b>188.5</b>	<b>197.9</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	248.5	255.3	180.1	188.5	197.9
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>248.5</b>	<b>255.3</b>	<b>180.1</b>	<b>188.5</b>	<b>197.9</b>

POSITIONS:

FULL-TIME	0	3	3	1	1	1
PART-TIME	0	0	0	1	1	1
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached.

Prepared By: Robert J. Bacolas, Sr.  
 Division: Labor Standards and Safety  
 Approved by Commissioner: Jim Robison  
 Agency: Labor

Phone: 465-4870  
 Date: 2/15/85  
 Date: 2/15/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

Fiscal Note Analysis

Under this bill, the Department of Labor will act as the Labor Relations agency for all school districts and will be responsible for investigating representation petitions; determining appropriate units for collective bargaining purposes; investigating unfair labor practices; monitoring elections; and holding representation and unfair labor practices hearings.

Two investigators (located in Anchorage) are required to conduct the investigations, to monitor the elections, and to hold informal hearings. In addition, one clerical position is required to provide support to the investigators.

In addition to the costs associated with the two Wage and Hour Investigators and one clerical position, the fiscal note also includes costs to contract for a hearing officer on 26 occasions (\$24,000) and court reporting services including transcripts (\$12,700), plus printing (\$5,700) and legal costs (\$13,500). A total of \$6,800 has been included in travel for the hearing officer's transportation and per diem--ten trips of two days each (\$500 + \$180 x 10).

Line item costs for FY 86 are as follows:

Personal Services	\$124,700
Travel	27,900
Contractual Services	89,100
Commodities	2,000
Equipment	4,800
TOTAL	<u>\$248,500</u>

Of these costs, only the equipment costs of \$4,800 are one-time items.

For FY 87 through FY 90, an inflation rate of 3.5 percent has been used for personal services costs, and 6 percent for the other line items.

It is anticipated that the labor relations activity will stabilize after two years. Accordingly, beginning in FY 88, the costs reflect a three-month reduction in the clerk typist position and a deletion of one investigator position.

Other assumptions:

- 1) Effective date of July 1, 1985.
- 2) Contracts of 26 school districts will come up for renegotiations each year.
- 3) Fifty percent of the school districts (equates to approximately 26) will file unfair labor practice charges requiring hearing before the labor relations board.

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 2B	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1	2	3								
	PERSONAL SERVICES										
5.	Salary	20,136									
6.	Benefits	3,355									
7.	Supplemental Benefits	1,234									
8.	Fixed Benefits	2,732									
9.	TOTAL PERSONAL SERVICES	01	27,457								
10.	Travel	02	0								
11.	Contractual	03	13,016								
12.	Commodities	04	1,000								
13.	Equipment	05	1,600								
14.	Other										
15.	TOTAL COST		43,073								
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		43,073							
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									

This position will provide clerical support (typing, answering telephone, mail handling, etc.) for two wage and hour investigators.

Contractual costs include rent of \$3,600, indirect of \$2,416, and equipment rental and other average expenses of \$7,000.

Normal commodities of \$1,000 and a one-time equipment expense of \$1,600 are also included.

FOR BSM USE ONLY

4A KEY NUMBER

AGENCY Department of Labor

PROGRAM Public Protection

BRU Labor Standards and Safety

COMPONENT Wage and Hour Administration

13 REQUEST FOR  
NEW POSITION

FY 36

Page 1 of 3

Revised Date

1.	POSITION TITLE Wage and Hour Investigator II				RANGE/STEP 18A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DIS/SP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		37,356							
6.	Benefits		6,224							
7.	Supplemental Benefits		2,290							
8.	Fixed Benefits		2,732							
9.	TOTAL PERSONAL SERVICES	01	48,602							
10.	Travel	02	10,550							
11.	Contractual	03	10,083							
12.	Commodities	04	500							
13.	Equipment	05	1,600							
14.	Other									
15.	TOTAL COST		71,335							
	RECEIPT CODE	FUNDING SOURCE								
15.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	71,335						
19.		I-A Receipts	1005							
20.		Program Receipts	1026							
21.		Other								
FOR BSM USE ONLY										
4A KEY NUMBER _____										

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relation laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.

Travel funds allow for 12 (four-day) trips, costing an average of \$539 for transportation and \$340 for per diem.

Contractual services costs include rent of \$3,600, indirect of \$4,483, and other average costs of \$2,000.

Normal commodities of \$500 and a one-time equipment expense of \$1,600 are also included.

13 REQUEST FOR  
NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards and Safety

FY 86

Page 2 of 3

1.	POSITION TITLE Wage and Hour Investigator II				RANGE/STEP 18A	BARG. UNIT GGII	FORM 12 PAGE/LINE	COV.	APPROV.	DISCIP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anch	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1			2		3				
	PERSONAL SERVICES									
5.	Salary		37,356							
6.	Benefits		6,224							
7.	Supplemental Benefits		2,290							
8.	Fixed Benefits		2,732							
9.	TOTAL PERSONAL SERVICES	01	48,602							
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13.	Equipment	05	1,600							
14.	Other									
15.	TOTAL COST		71,335							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		71,335						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR BSM USE ONLY 4A KEY NUMBER _____										

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13 REQUEST FOR  
NEW POSITION

AGENCY Department of Labor  
PROGRAM Worker Protection  
BRU Labor Standards and Safety

Y 86

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February 25, 1985 additions:

- 9) Briefing paper, HB 90 -- Dept. of Labor

BRIEFING PAPER  
HOUSE BILL No.90

Under this bill, the Department of Labor would act as the labor relations agency for 53 separate school districts involving approximately 4,400 non-certified employees. The Department would be responsible for investigating representation petitions, determining appropriate units for collective bargaining purposes, conducting elections, investigating unfair labor practices, conducting preliminary hearings and formal hearings under the Administrative Procedure Act, mediating labor disputes, strike action, resolving grievances, acting as a mediation and conciliation service subsequent to impasse during collective bargaining negotiations, and acting as an arbitration tribunal for the formal resolution of grievances pursuant to a collective bargaining agreement being entered into between school districts and labor organizations.

There are a number of employee groups and labor organizations that have indicated an interest in organizing this sizable group of public employees. Except for the four larger school districts in the state (Juneau, Anchorage, Kenai, and Fairbanks) which are loosely organized, virtually all other school districts are unorganized and unaffiliated. It would be necessary for the labor relations agency to determine community of interest groups, to hold representational elections, and to respond to unfair labor practice charges and related disputes.

Other states which have enacted PERA laws to cover this class of employees have advised the Department that during the first few years the laws were in effect, management or employee representatives of 50 percent of the covered school districts filed unfair labor practice charges which resulted in hearings before the labor relations agency. The hearings typically last from one to five days. Assuming that our experience would be comparable to that of other states, we would expect that approximately 26 of the school districts would generate unfair labor practice charges requiring hearings before the labor relations agency. Under PERA, such hearings are required to be heard by an attorney hearing officer using the Administrative Procedure Act guidelines.

In addition to unfair labor practice proceedings, we expect approximately 50 percent of the 53 school districts to be involved in employee organizing during the first year the new law is in effect. In each case, the Department would be responsible for determining the appropriate unit for collective bargaining, based upon such factors as community of interest, wages, hours, and other working conditions of the employees involved, and the history of collective bargaining and the desires of the employees.

Our experience with political subdivisions shows that the average representation/certification proceeding spans a period of two months. The proceeding begins with the filing of a petition by a labor organization with the agency which demonstrates a showing of a community of interest within the employee group to be represented.

The Department must then examine employer records to determine the accuracy of the information listed in the petition and whether or not a showing of a community of interest actually represents a minimum of 30 percent of the work force required for an election to be conducted. Once the community of interest has been verified, the petition is then posted for a period of 15 days to allow sufficient time for the employer or other interested persons to file objections to the conduct of an election or for intervention by other labor organizations. The 15-day posting period is also used to respond to inquiries generated by the petition and to prepare ballots, mailers, and other documents required by statute.

After the 15-day posting period, there is then a period of about two to three weeks when the agency will schedule hearings to resolve objections or challenges to the conduct of an election, to clarify the community of interest, and to make investigations into the right of an intervener to appear on the ballot. Once these issues have been resolved, the election can proceed. Two persons are required to conduct an election at the polling place to ensure that the persons voting are so entitled, that there is no tampering with the secret ballot process, and that electioneering is not conducted within the restricted limits of the polling place. After polling is completed, the ballots must be counted and notification given to all parties, who may challenge the conduct of the election, challenge any ballot, call for recount, or challenge the right to vote of any member of the community of interest. Once the election challenges have been resolved, a bargaining unit is then certified or representation is denied, based upon the vote of the majority. After certification, the agency acts as mediator if the parties reach an impasse during collective bargaining negotiations or acts as an arbitration tribunal to resolve formal grievances under the executed collective bargaining agreement.

Based on past experience, the Department anticipates that coverage of non-certified school employees will require substantial time and resources. Even though many of the employees covered by this legislation are in communities accessible by road, the majority of the school districts are located in the rural areas of Alaska and are accessible only by air travel, ferry, or charter aircraft. Typically, it would require two days of travel to conduct pre-election hearings, and two days of travel to conduct post-election hearings and certification. Moreover, if unfair labor practice charges are generated during the organizational activities or as a result of pre-election campaign interference, this would increase costs significantly. Hearings on unfair labor practice charges require an attorney hearing officer and are conducted under the formal rules of the Administrative Procedure Act. Such hearings are required whenever mediation or conciliation fails to resolve the unfair labor practice complaints or objections to the conduct of an election.

To illustrate the costs associated with representation/certification proceedings, the Department acting as a labor relations agency was recently involved in a lengthy and complex case involving 253 employees in the City of Fairbanks. This situation came about when the City of Fairbanks opted back into PERA in September of 1983. The size and composition of the unit would be equivalent to one medium-sized school district. The Department expended over 1,200 manhours to resolve the issues and certify the bargaining units. The personal services cost of these manhours which include clerical support,

investigators, hearing officers, and board member activities was \$34,000; travel and per diem was \$3,600; transcription cost was \$2,900; mailing, postage, and phone costs were \$300; the total cost of this activity was over \$41,000.

Other examples of the magnitude and complexity of labor relations activity related to school districts and PERA include the following:

- A. The State of Florida by legislative act recently transferred Labor Relations activity for school districts to their public employees relations board. The board's estimated cost for the initial hearings for each school district to clarify communities of interest, appropriateness of bargaining units, and intervention was approximately \$1,500 per day including transcription of the record but exclusive of travel and per diem costs. Hearings for small school districts usually required only one day. The larger districts, however, took several days. The Florida board estimates the cost of an onsite election for their school districts at \$5.00 per employee. Their largest district has 800 workers and cost \$4,000 for the election proceedings alone.
- B. The State of Oregon Public Employee Relations Board has an annual budget of \$1.25 million. They carry an annual case load of 300 matters including elections, unfair labor practices, petitions, and de-certifications. Sixty (60) cases deal with representation, which is about 1/5 of their case load. They allot \$250,000 each year to this type of activity. This figure is slightly larger than what the Department expects with 53 school districts in Alaska.

In summary, the Department believes that our first-year costs are comparable to those of other states. Moreover, in consideration of the higher cost of doing business in Alaska, particularly travel costs, we do not believe that the fiscal note associated with this legislation is extraordinary.

Without adequate funding, the Department would be unable to comply with the statutory mandate of this legislation and could well find itself explaining to a Superior Court judge why it is unable to hold hearings, conduct elections, and otherwise carry out its duties. The end result could be similar to the litigation that occurred a few years ago when the Workers' Compensation Division was unable to get the decisions out on time.

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- 8) Statutory References AS 23.40

Bill No. House Bill No. 90

Date February 15, 1985

Title "An Act relating to labor relations between school boards and other public employers and their employees."

Contact: Eileen Plate - 465-2700  
Bob Bacolas - 465-4870

This legislation makes it mandatory for all school boards and municipalities to permit their noncertificated employees to enter into collective bargaining and mandates coverage by the Public Employment Relations Act (PERA).

Under this bill, the Department of Labor would become the labor relations agency for 53 separate school districts (including REAA's) involving approximately 4,400 noncertificated employees. The Department would be responsible for investigating representation petitions; determining appropriate units for the purpose of collective bargaining; conducting elections; investigating unfair labor practices; conducting preliminary hearings and formal hearings under the Administrative Procedures Act; mediating labor disputes; monitoring strike actions; resolving grievances; and mediating and arbitrating disputed issues subsequent to impasse during collective bargaining negotiations.

- Section 1: Amends AS 23.40.100(b) to make it mandatory that "no representation" be a choice on all election ballots for elections conducted by the labor relations agency under PERA.
- Section 2: Amends AS 23.40.200(c) to permit noncertificated employees of a school board to engage in a strike.
- Section 3: Adds a new section to AS 23.40 to prohibit a school board or municipality from rejecting having the provisions of the PERA apply to its relations with its noncertificated school employees.
- Section 4: Amends AS 23.40.250(6) to define public employees to include noncertificated employees of school boards and to exclude certificated employees.
- Section 5: Amends AS 23.40.250(7) to define a public employer to include school boards.
- Section 6: Amends AS 23.40.250 by adding a new paragraph to define a school board as including a regional education attendance area.
- Section 7: Provides for existing collective bargaining units, agreements, and recognized bargaining representatives to remain status quo.

There are 53 school boards within the State of Alaska (including REAA's). Therefore, the Department of Labor as the labor relations agency could be monitoring elections for the 53 separate school boards and holding hearings to settle grievances or unfair labor practice charges involving approximately 4,400 noncertificated employees.

POSITION PAPER/Department of Labor

Four school districts are presently organized or have a collective bargaining agreement with a union or an association. These are Fairbanks, Kenai, Juneau, and Anchorage.

The Department supports the concept of extending collective bargaining to this group of public employees. However, this Administration feels that responsibility for administering the labor relations activities inherent in this bill should be placed at the local level. This could be effected by amendments to Title 14 similar to provisions in AS 14.20.550 and AS 14.20.590.

The Department's fiscal note is attached.

APPROVED:



Jim Robison, Commissioner  
Department of Labor

January 25, 1985

TESTIMONY IN SUPPORT OF HOUSE BILL 90

In 1972 the Alaska State Legislature established the Public Employment Relations Act. The Legislators recognized the benefits of joint decision making, the need for established guidelines and the necessity for a rational method to resolve disputes.

The Declaration of Policy states: The Legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government.

This statute determined the rights of public employees and employers. Then it singled out the classified employees of school districts, for reasons unknown to us, and denied those established rights.

The bill before you, H.B. 90, seeks to amend the Public Employment Relations Act and rectify this injustice.

The inequity created by the lack of legislation has had far reaching effects. There are many specific incidents where the classified employees of the Fairbanks North Star Borough School District have suffered from this disparity. At this time I would like to relate just a few of those incidents to you in an effort to illustrate the pressing need for this legislation.