

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4805 HLAB HB 112 - HB 145



- o Practice forbearance with mortgagors when sorting out transfer-related problems (delinquencies, the assessment of late charges).

Training

Mortgage companies should provide training to all employees, so that they do their work well and are able to provide informed service to mortgagors.

XC XC  
**ALASKA MORTGAGE BANKERS ASSOCIATION**

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99509

received 1/21/87

January 8, 1987

Representative Randy Phillips  
P. O. Box V  
Juneau, AK 99811

Dear Representative Phillips:

Thank you for taking the time to meet with representatives of Alaska Mortgage Bankers Association regarding your concerns on transfer of mortgage loan servicing.

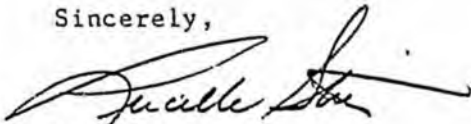
We have reviewed the letters you received from constituents. It would be impossible to respond to the individual comments without having all the information available. As you know, there is a difference in perspective.

Although there are exceptional instances, it is our belief that lenders overall handle mortgage loan servicing properly and efficiently.

Nationwide, there were probably more servicing problems in 1986 than would normally be encountered, due to the large number of refinances because of the rapid drop in interest rates. Although the system was not perfect, it did work and many people benefited from reduced payments which would not have been possible without free movement within the secondary market.

As an Association and individually, we are always willing to work with consumers to assist them in solving problems.

Sincerely,



Lucille Stietz  
President

Sept. 15, 1986

Randy Phillip  
Box 142  
Eagle River, AK 99577

Dear Rep. Phillips:

I read with interest the article in Sunday's Anchorage Daily News regarding the transferring of mortgages from one banking institution to another and of your interest in introducing legislation to involve the borrowers in this decision.

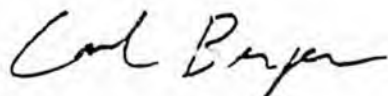
Last April 1986 I learned that the mortgage on my home in Anchorage had been sold by Rainier Bank to Union Federal Savings & Loan in Fountain Valley, California, which is outside of Los Angeles. I was given their address and told to direct my loan payment there. Unfortunately for me, Rainier didn't know that Union received their payments at another mail drop in Los Angeles and sent out the payment card for the following month from there. My cards were first directed to "Bethel, Arkansas (AR)" and later to "Bethel, Arizona (AZ)", all with an incorrect Zip Code, so I never received them. I did receive notices of late payment charges, which were finally cleared up after several telephone calls to California.

I shall always remember Rainier Bank for letting this happen to my account with them, with no prior notice to me.

I feel that legislation should be passed which allows for fair treatment of borrowers, and places the responsibility on the financial body to inform us in advance and to determine the proper procedure to follow. As far as I know, Union has no agent in Alaska and I miss the ability to visit the bank to have a face-to-face encounter with a loan officer. I think the lender should provide at the very least toll-free telephone service to their Alaska accounts. Also, I feel that other financial institutions should be given first opportunity to receive transferred accounts who have offices in Alaska before they are allowed to be sold to another out-of-state bank.

I suspect you will receive quite a number of letters like this one, and I urge you to follow through with your plans to curtail this practice so that the borrower receives fair treatment.

Very truly,



Carl Berger  
P.O. Box 2021  
Bethel, AK 99550

P.O. Box 91875  
Anchorage, AK 99509  
7 October 1986

Representative Randy Phillips  
P.O. Box 142  
Eagle River, AK 99577

Re: Out of state mortgage companies

Dear Representative Phillips,

When I talked to you on the phone last week about the problems I have been experiencing with the mortgage company who bought the servicing rights to my mortgage, I was very pleased that you are considering introducing legislation to protect Alaskan home buyers from mortgage companies.

As I promised, I am writing to you some of the experiences I have been having with respect to service from mortgage companies. The company who bought the servicing to my contract, Manufacturer's Hanover Mortgage Corporation (MHMC) is a very large company, who handles hundreds of thousands of accounts in order to make the little money they make from any one account add up. My contract is a Preferred Account Mortgage (PAM), also sometimes known as a secured funds account. As I explained to you, this type account is unique in that funds are placed into a savings account at closing, and each month, a portion of these funds are taken out by the mortgage company to pay part of the monthly payment. This makes property more affordable for consumers who have more than the minimum amount necessary for a down payment.

My contract specifically states that interest is to be paid on the funds in the account at an interest rate to be agreed upon by the borrower and the financial institution. Since MHMC took over the servicing of the contract, they have paid about \$52.00 over a period of 24 months. At no time have I been informed of the interest rate that they are paying. For comparison, during the first 3 months of the contract when it was serviced by a local firm, I earned \$102 in interest. I now know that MHMC is no longer paying interest on the account, and has not paid any interest on the account since the first month. This is despite the fact that they wrote to me in a letter after they stopped paying interest that they were indeed paying interest in accordance with the conditions of my contract.

Additionally, they have succumbed to the wishes of the mortgage insurance company to increase my yearly premium by a factor of almost 2.0. It turns out that the mortgage insurance company made a mistake when they quoted the rate for the insurance before I closed the mortgage. The rate I and the mortgage company are contractually obligated to is the only one I have agreed to paying, but MHMC has already taken additional funds from my escrow account and did then increase my monthly payment to make up for the difference.

I could go on for several pages about other mistakes they have made, but I would rather get to the point of preventing such occurrences for other Alaskans.

Representative Randy Phillips  
7 October 1986

One item of significance in the situation that I believe is of utmost importance to include in legislation is that the buyer must receive from the mortgage servicing agent each year, preferably with his statement of interest paid, is an accounting of his payments for the year. In my case, it took about 19 months of pleading with MHMC to get this account information. I now suspect it was because they knew I would find out all the other mistakes they had made of which I was not previously aware. I'm sure that large mortgage companies will tell you that it is unnecessary, and that the buyer can have the information any time he asks, but my case is one in point that a law is needed to force the requirement. Punishment for not providing the information on time should not be severe for the first occurrence, but increasingly severe for additional occurrences. Of more importance, however, is legislation to provide a legal time limit in which the mortgage company must correct their mistakes after having it brought to their attention. Six months to a year would not be unreasonable. Mortgage companies will scream about this requirement, but I hope that you will not back down to them.. A reputable mortgage company would be glad to get the account straightened out in much less time than that; only a mortgage company who does not care about the people who pay them will be reluctant to work to correct their mistakes. They will also be sore that they now will have to do something they have not had to do before. Punishment for even the first instance of not straightening out an account in the allotted time should be severe - possibly \$500 to \$1000, and paid to the State of Alaska Consumer Protection Agency.

One additional item I believe is necessary: a mortgage company should be required to inform the buyer in advance when a payment is to be made out of the escrow account for any item not specifically spelled out in the contract as an item to be paid from the escrow account. In my case, funds were taken from escrow for an assessment that was supposed to be paid by the builder. Even if the builder did not pay, the title insurance was to pay for it, but I did not know about all this until after funds were taken from the escrow account. It took much time and patience to get the money back from the Municipality.

I would be happy to work with you on the legislation on this, because I have certainly learned a lot from this experience about how little a home buyer can do to get action on the part of an outside mortgage company.

My day phone number is 277-5605, and the evening phone is 258-2184. Thank you for your interest in this matter, and I look forward to hearing from you soon.

Sincerely,

*Michael Smith*

Michael Smith

9-18-86

State Rep. Randy Phillips  
1024 W 6th  
Anchorage, AK 99501

Re. "Sold Out" Anchorage Daily News  
article by Jim Erickson published  
9-14-86, pp. H1, H4, H5.

Dear Sir:

I support your intentions as stated  
in the article. I would like to discuss  
two aspects of loan servicing.

(1) Loan servicing is a large industry  
employing many people and consuming  
a substantial quantity of goods and  
services. Considering that the bulk  
of the loans are funded by AHFC,  
outside servicing is not in accord  
with 'residency here' goals.

(2) Reserve accounts are an integral part  
of loan servicing. There are one or two  
Credit Unions paying interest on reserves,  
but only on those loans serviced in-  
house. Banks do not pay interest on  
reserves, they have use of the money at  
no cost. Reserve requirements for AHFC  
loans, like FUMA, are based on property  
value and are equivalent to 10 months  
tax payments and 14 months of hazard  
insurance premiums. Let's use Jim  
Erickson's figures to determine how  
much is at stake.

(2) cont.

Erickson states that AHFC has 4.3 billion in loans. Since the majority of AHFC loans have a loan to value ratio of 95%, i.e. 5% down, we may infer that the value of the property mortgaged is \$ 4.526 billion.

$$\begin{aligned}
 \$ 4.3 \text{ billion} &= .95 \text{ property value} \\
 \$ 4.3 \text{ billion} \div .95 &= \text{property value} \\
 \$ 4.526 &= \text{property value}
 \end{aligned}$$

- At this point let's make three assumptions:
- (a) that the average tax rate is 6 mills, and,
  - (b) that property hazard insurance premiums run \$ 25.00 per month for the average \$ 100,000 home - or .00025 % value.
  - (c) Alaskan homeowners can earn 6% on their savings.

The total monthly tax bill on property valued at \$ 4,526,000,000 at a rate of 6 mil. is \$ 271,560,000.

$$\begin{aligned}
 \text{Reserves} &= 10 \text{ months taxes} \\
 &= 10 \times \$ 271,560,000 = \underline{\$ 2,715,600,000}
 \end{aligned}$$

The total monthly insurance premium is \$ 4,526,000,000 X .00025 = \$ 1,131,500

$$\begin{aligned}
 \text{Reserves} &= 14 \text{ months premiums} \\
 &= 14 \times \$ 1,131,500 = \underline{\$ 15,841,000}
 \end{aligned}$$

$$\begin{aligned}
 \text{Total Reserves are} & \$ 2,715,600,000 \\
 & + \underline{15,841,000} \\
 & \$ 2,731,441,000
 \end{aligned}$$

Opportunity cost to the Alaskan homeowner.

The loss of interest income to the borrower on these reserves is \$163,886,460 per year if the borrower can earn a simple interest rate of 6%.

$$\$2,731,441,000 \times .06 = \$163,886,460$$

at an interest rate of 6% compounded monthly over the 16 year life of an AHFC loan the opportunity cost is \$7,129,061,010

$$F_n = \$2,731,441,000 \left(1 + \frac{.06}{12}\right)^{12 \times 16}$$

$$F_n = \$2,731,441,000 (2.61) = \$7,129,061,010$$

In effect, what the lenders have achieved by not paying interest on reserves is to increase their yield on the loan. The real rate of interest received on all loan payments, including closing fees and interest earned on reserves, is far greater than the advertised annual percentage rate (APR). Lenders must disclose an APR as a requirement of federal truth in lending statutes, however, reserves are not taken into account, are not used in the computation of the APR.

Mr. Phillips, I wish you best of luck in the next session.

Sincerely, Grand Dierker

2421 Cleo Av. Anchorage, AK

August 6, 1986

Randy Phillips:

This a plea for assistance to try to eliminate a problem I have recently encountered.

Lately I have been trying to refinance two properties. To facilitate refinancing, it was necessary to get a "Statement of payoff" from the mortgage company holding the present loan. The original loan had been sold to a mortgage company in Maryland. So far it has been nearly ten weeks since the request for payoff was submitted, both written and verbal. It seems after repeated communications with the mortgage company that someone 4000 miles away does not deserve any attention whatsoever. Needless to say, it has been extremely frustrating trying to deal with these people.

I have contacted the State Banking & Securities Commission and found there are no laws, regulations or anything to control the selling of mortgages. According to the person I spoke with, there have been numerous complaints about Outside companies "stonewalling" Alaska residents trying to get information necessary to close on a sale or refinance of a property. It was also pointed out that mortgage companies are not considered banks and therefore are basically unregulated.

It is my request that legislation be initiated to place some controls on the selling of mortgages. If they are to be sold, the buyer of the papers should be required

maintain an office in the State of Alaska, thereby  
guaranteeing access by the residents of Alaska. This control  
should be legislated to include both banks and mortgage companies.

Thank you for any assistance you may give to  
alleviate this problem in the future for Alaska citizens.  
Nobody should have to go through the frustrating experience  
of dealing with these companies by long distance.

Thank You,

Respectfully,

*Hal Wiley*

Hal Wiley

P.O. Box 843

Esler River, AK

99577

694-3196 (H);

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: \_\_\_\_\_

Bill Version : \_\_\_\_\_  
Publish Date : \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: HB112 - An Act Relating to the  
Servicing of Mortgage Loans of AHFC  
Sponsor: Rep. Randy Phillips  
Requestor: Revenue

Agency Affected: Revenue  
BRU: Alaska Housing Finance  
Corporation  
Components : \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

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)

Prepared by: Dr. Ronald D. Lehr *Rh*  
Division: ALASKA HOUSING FINANCE CORPORATION

Phone: 276-5599  
Date: March 20, 1987

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Distribution (by preparer) :  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

Attachment to Bill Analysis for HB 112

Under Section b(2)(B) changes in the loan escrow are governed by the Deed of Trust. Loan escrows are also regulated under federal laws.

Section C is to open ended as proposed. There is no limit on the kind of or number of requests a servicer will be required to respond to.

Again, under Section D, Loan Escrows are governed by federal laws.

Section E refers to penalties that can be assessed. It is our understanding that AHFC would not be expected to enforce these penalties, since AHFC is not set up to be an enforcement agency. It may be useful to delineate how the penalties are to be enforced.

H

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# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/11/87

FURTHER REFERRALS: Finance

DATE: 2/24/87

The Labor & Commerce Committee has considered HB 116

"An Act extending the termination date of the Board of Electrical Examiners; and providing for an effective date."

**RECOMMENDS:**

- replace with HB 116  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

Dave Douley

[Signature]

[Signature]

[Signature]

[Signature] (CONCERN ON 6100 FAIL RATE)

Walt Furnace

[Signature]

[Signature]

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dave Douley  
Chairman's signature

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue  
Ketchikan, Alaska 99901  
(907) 225-5552

February 11, 1987

While in Juneau  
P. O. Box V  
Juneau, Alaska 99811  
(907) 465-4919

MEMORANDUM

TO: Honorable Dave Donley

FROM: Representative John Sund

RE: HB 116 "An Act extending the termination date of the Board of Electrical Examiners; and providing for an effective date."

.....  
I would appreciate it if you would schedule HB116 at your earliest convenience.

The Board of Electrical Examiners was established to protect the safety of people and property in the State from the danger of improperly installed electrical wiring and equipment. The Board must also adopt procedures to assure the public that persons responsible for making electrical installations in this state are qualified and in sufficient numbers.

A Legislative Audit of September 25, 1985 found that "the licensing and regulation of electrical administrators can be adequately performed in the absence of the Board."

A seven member Ad Hoc Committee, made up of union and non-union electrical contractors, instructors and union representatives, formed during the summer of 1986 to address the Legislative Audit. They reviewed the audit report and found that the licensing function of the Electrical Administrators should continue to be regulated by the Board.

HB116 will extend the existing board until June 30, 1990.

AD HCC COMMITTEE PERTAINING TO THE BOARD OF ELECTRICAL EXAMINERS

POSITION PAPER

For "An act extending the termination date of the Board of Electrical Examiners; and providing for an effective date."

This position paper is a product of an Ad Hoc Committee which was formed during the summer of 1986, to address the "sunsetting" review of the Board of Electrical Examiners under AS 08.40.005. The Committee is comprised of the following members representing their respective organizations:

- Dixie Hudish - Government Relations Representative,  
Chair IBEW Local No. 1547
- Don Lederhos - Raven Electric (non-union  
electrical contractor)
- Walt Gardner - Chairman for the Board of Electrical  
Examiners
- John Hopkins - NECA/IBEW Electrical  
Apprenticeship School
- Don Cather - Chief Mechanical Inspector, Department of  
Labor
- Dick Wyland - Chairman, Alaska Chapter of the  
International Association of  
Electrical Inspectors
- Stan Hafferman - Communications Representative, IBEW Local  
No. 1547

The Department of Commerce and Economic Development was contacted (former Commissioner Lounsbury, See Attached Letter), and has been kept abreast of the activities of the Committee as well as the National Electrical Contractors' Association, (NECA) and the Department of Labor, (DOL) (former Commissioner Robison, See Attached Letter). Minutes of all meetings were recorded.

Below is a summary of the purpose of the Electrical Examiners' Board, its organization, and functions of responsibility.

## I. PURPOSE OF THIS COMMITTEE

Primary purpose of this Committee is to make recommendations concerning the "continuing or sunseting" of the Board of Electrical Examiners during the Legislative session.

## II. PURPOSE OF THE BOARD OF ELECTRICAL EXAMINERS

Section AS 08.40.005, for the purpose of establishing the Board -- "to protect the safety of people and property in the State from the danger of improperly installed electrical wiring and equipment, to provide a procedure to assure the public: 1) that persons responsible for making electrical installations in this State are qualified; and, 2) a sufficient number of persons are so qualified."

## III. ORGANIZATION OF THE BOARD

Members: Two licensed Electrical Administrators; one public member.

Appointed by: The Governor and confirmed by the Legislature

Terms: Three (3) year terms -- staggered;  
limited to two terms

Staff: One part-time investigator (as assigned for reported infractions) and one part-time Licensing Examiner.

Board Meetings: One regular annual meeting.

## IV. FUNCTIONS OF RESPONSIBILITY OF THE BOARD

1. Qualifies an applicant in order to take an exam for an Electrical Administrator's license.
2. Adopts regulations establishing categories of Electrical Administrators, establishing qualifications for those categories, and the content of examination for applicants for each category.
3. Establishes the continued competency of an applicant for license renewal and reinstatement, and the suspension and revocation of licenses.
  - (a) Continuing education for renewal of an Electrical Administrator's license is required when the National Electrical Code or the National Electrical Safety Code is revised.

(b) For license renewal, applicant must attend at least an eight (8) hour Board approved course.

4. Adopts regulations relating to the examination and licensing of Electrical Examiners (monitors and administers the examination). A licensing exam shall be conducted at least twice during each year at appropriate places in the State.
5. Investigation by the Board. The Board is responsible in responding to complaints by the public for unsafe installation violations. The Board may make, or have made, a physical inspection or investigation into the work of a licensee, which it considers necessary. May issue subpoenas and process, compelling the attendance and production of any papers for purpose of investigation and examination.

\*\*\*\*\*

#### AD HOC'S COMMITTEE'S FINDINGS

The Ad Hoc Committee examined the Legislative Audit of September 25, 1985, and concluded the following:

##### Legislative Audit Recommendation No. 1:

The Legislative Audit points out that "the licensing and regulation of electrical administrators can be adequately performed in the absence of the Board."

The Committee opposes this finding. The Committee felt strong in supporting a non-partisan Board which will provide the procedures in insuring the public that persons responsible for making the electrical installations in the State are qualified and competent.

The Committee further finds the importance to provide the public with a non-partisan Board of Electrical Examiners which will hold fair and impartial hearings to revoke, suspend, or deny licenses as stipulated under the present statute.

The Committee finds that the licensing function of the Electrical Administrators should continue to be regulated.

In order to protect the public it is found that contractor compliance with the electrical code is essential.

It is vital to the public's safety to have one person accountable, the licensed Electrical Administrator, for all electrical work performed by his employer, and/or his employees, or by himself to be in compliance with installation laws, current

wiring and safety codes. The State has a responsibility to the public to insure that persons responsible for making electrical installations in this State be qualified.

Poor electrical wiring, by irresponsible and incompetent electrical installers will cause irreparable harm to the public. Life safety hazards will result from inadequate electrical installation, financial loss will result from damaged property caused by fire.

Legislative Audit Recommendation No. 2:

The Committee agreed that "the Board should require evidence of personal supervision to insure that jobs have been inspected". The Board has recently implemented an affidavit to be notarized which will:

- A. Insure evidence of jobs being personally inspected by Electrical Administrators.
- B. Help with the problem of absentee administrators by requiring them to personally inspect the work.
- C. Be required when, and if, the authority having jurisdiction deems it necessary.

NOTE: Electrical Administrators can only be licensed to a single contractor.

Legislative Audit Recommendation No. 3:

"The Board should clarify regulations relating to the scope of examinations in order to be consistent with other regulations pertaining to scope of licenses."

The Board has made changes revising examinations for the various licensed categories in order to be consistent with other regulations and in response to public input.

Regulations have been revised to reflect:

- A. That a person holding a current license in outside line work will not be granted a license in outside communication without taking a separate exam.
- B. That a person holding a current valid license in inside wiring will not be granted a license in inside communication without a separate exam.

- C. That the examination is separate for each category that an applicant is seeking to be licensed in. (This allows the applicant to be tested only on the subject matter of the licensed category.)

Legislative Audit Recommendation No. 4:

"The Board should comply with regulations over application for initial licensure to insure that applicants are adequately qualified."

The Committee's findings are that the Board is in compliance with current regulations with one technical exception, "Letters of recommendation for licensure as an Electrical Administrator from three persons licensed in any state in the electrical industry".

This item can not be enforced for the Communication Electrical Administrator's license because of a technical problem under 12 AAC 32.250(5). Only licensed persons in the industry may support an applicant's experience and qualifications for licensure as a Communication Electrical Administrator. Since Communication workers are not subject to certificate of fitness license, they therefore; cannot support an applicant's qualification as a Communication Electrical Administrator according to regulations.

It was further noted, that the regulations pertaining to applicable experience has been expanded to include one year of experience of the six years immediately proceeding the date of application as an electrical inspector, or as an instructor, which would count towards qualifications for an Electrical Administrator's license in the inside wiring and outside line work category (see 12 AAC 32.090). NOTE: There were concerns with some Committee members that felt this area needed additional review by the Board.

Legislative Audit Recommendation No. 5:

"The Board should improve communications with the Department of Labor (DOL) over violations by Electrical Administrators."

This Committee recognizes a major problem with communication between DOL and the Electrical Board, and feels that the primary reasons are the separation of the Department of Labor and Department of Commerce in regards to licensing, enforcement and communication between departments and the Electrical Board.

Example: All reports of investigation from the DOL, Mechanical Inspection Division, are to be sent to the Chief Investigator with the Division of Occupational Licensing. It was noted that

the above division is not aware of violations the Division of Occupational Licensing is investigating and vice versa.

There appears to be no tracking of investigations from one department to the other (DCL and DCC). It is further noted that investigations that are forwarded to the Department of Law for prosecution receive "little" or no attention due to the priorities set by the Department of Law. The Board recognizes that there needs to be some structural changes which would eliminate these communication problems.

The Alaska Professional Design Council in cooperation with the Alaska Central Chapter of ICBO (International Congress of Building Officials) is addressing these problems and published a report and recommendations on the need for building reform within in the State of Alaska dated December 11, 1986.

Legislative Audit Recommendation No. 6:

"The Board should establish regulations which provide for licensure by endorsement and/or reciprocity."

Committee findings indicate that the Board has repeatedly tried to obtain tests that were given to other licensures by other states. Various problems exist concerning reciprocity.

1. No uniformed tests are given in the various states.
2. The various states will not release their tests because of their confidentiality.
3. Lack of consistency in qualifications to take exams. NOTE: Some states allow anyone to take the exam without requiring qualifications.

SUMMARY

The Ad Hoc Committee has met in ten separate meetings with the final finding that the Board of Electrical Examiners should continue in existence.

# International Brotherhood

# of Electrical Workers

TELEPHONE  
(907) 272-6571

DISPATCH  
(307) 276-1547

2702 DENALI STREET  
ANCHORAGE, ALASKA 99503-2779

J. J. "JACK" HULL  
BUSINESS MANAGER • FINANCIAL SECRETARY

ERIC WORTHINGTON  
PRESIDENT



Local 1547



August 5, 1986

Loren H. Lounsbury, Commissioner  
Department of Commerce &  
Economic Development  
State of Alaska  
P.O. Box D  
Juneau, Alaska 99811

Dear Commissioner Lounsbury:

This letter is in regards to the Electrical Examiners Board. As you know, the Legislature did not pass legislation to continue the Board and it is our understanding that the Board is presently in a one year "wind down" unless new legislation is passed.

The IBEW has formed a committee, with Dixie Hudish, Government Relations Representative of the IBEW, as Chair, to address the "continuation or sunseting" of the Electrical Examiners Board.

It is our intention to have members serving on the committee that will represent not only the Electrical Examiners Board, the National Electrical Contractors Association (NECA), the Electrical Inspectors Association, and the IBEW, but also the Department of Labor, Division of Labor Standards & Safety and the Department of Commerce & Economic Development, Division of Occupational Licensing, so that a mutual understanding or position will develop among us.

I would like to ask if a member of your department, and in particular the Division of Occupational Licensing, could be appointed by you to participate on the committee. The committee meetings would be held approximately twice a month in Anchorage.

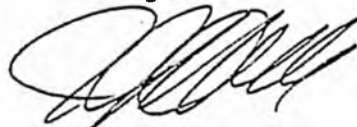
I would appreciate your consideration in having your department participate.

Commissioner Loren H. Lounsbury  
August 5, 1986  
Page TWO

The next scheduled meeting will be held on Wednesday, August 20, 1986, at 5:30 p.m. at the IBEW/NECA Apprenticeship School, 5144 East 22nd Avenue.

Hoping to hear from you.

Sincerely,



James J. "Jack" Hull,  
Business Manager  
IBEW Local Union #1547

JJH.DLH.fs

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P. O. BOX D  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2534

DIVISION OF OCCUPATIONAL LICENSING

August 15, 1986

RECEIVED AUG 19 1986

Mr. J. J. "Jack" Hull  
Business Manager, IBEW  
2702 Denali Street  
Anchorage, AK 99503-2779

Dear Mr. Hull:

Commissioner Lounsbury has forwarded your letter to me for response.

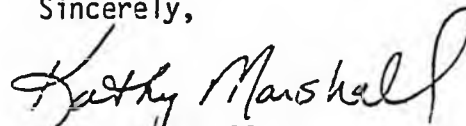
The Division of Occupational Licensing is very interested in being represented on the committee reviewing sunset legislation for the State Board of Electrical Examiners. However, due to budget constraints, it will not be possible to travel to Anchorage twice monthly for meetings, nor do we have a representative for the division in that location.

We would appreciate being kept informed through lists of agenda items, minutes of meetings, and being included by teleconferencing whenever possible.

We will be happy to lend you assistance concerning proposals, statutes, regulations, and the like. I will forward a copy of this letter to Donna Kotyk, licensing supervisor for the State Board of Electrical Examiners, who will be your contact person in Juneau.

Thank you for your interest.

Sincerely,

  
Kathy Marshall  
Director

KM/sa2138s  
81486a

cc: Loren Lounsbury, Commissioner  
Donna Kotyk, Licensing Supervisor  
Wanda Fleming, Licensing Examiner

# International Brotherhood

# of Electrical Workers

TELEPHONE  
(907) 272-6571

DISPATCH  
(907) 276-1547

2702 DENALI STREET  
ANCHORAGE, ALASKA 99503-2779

J. J. "JACK" HULL  
BUSINESS MANAGER • FINANCIAL SECRETARY

ERIC WORTHINGTON  
PRESIDENT



Local 1547



August 1, 1986

James Robison, Commissioner  
Department of Labor  
State of Alaska  
P.O. Box 1149  
Juneau, Alaska 99801

Dear Commissioner Robison,

This letter is in regards to the Electrical Examiners Board. As you know, the Legislature did not pass legislation to continue the Board and it is our understanding that the Board is presently in a one year "wind down" unless new legislation is passed.

The IBEW has formed a committee, with Dixie Hudish, Government Relations Representative of the IBEW, as Chair, to address the "continuation or sunseting" of the Electrical Examiners Board.

It is our intention to have members serving on the committee that will represent not only the Electrical Examiners Board, the National Electrical Contractors Association (NECA), the Electrical Inspectors Association, and the IBEW, but also the Department of Labor, Division of Labor Standards & Safety and the Department of Commerce & Economic Development, Division of Occupational Licensing, so that a mutual understanding or position will develop among us.

I would like to ask if Don Cather or a member of the Division of Labor Standards & Safety could participate on the committee. Dixie Hudish did speak to Don Wilson in regards to this subject.

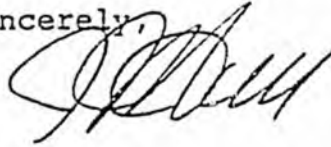
The committee meetings would be held approximately twice a month in Anchorage.

Commissioner Jim Robison  
August 1, 1986  
Page TWO

I would appreciate your consideration in having your department participate. The next scheduled meeting will be held on Wednesday, August 20, 1986, at 5:30 p.m. at the IBEW/NECA Apprenticeship School, 5144 East 22nd Avenue.

Hoping to hear from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Hull", written in dark ink.

James J. "Jack" Hull,  
Business Manager  
IBEW Local Union #1547

JJH.fs

# MEMORANDUM

TO:  Board of Electrical Examiners  
and  
Director, Division of Occupational  
Licensing  
Pouch D  
Juneau, Alaska 99811

DATE: June 27, 1979

TELEPHONE NO:

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: *AGG-510-79*  
Applicability of AS 08.40  
to State Employees Performing  
Electrical Work

By: Amy J. Stephson *AS*  
Assistant Attorney General  
Anchorage - AGO

A question has arisen as to whether the state, specifically the Department of Transportation and Public Facilities, is required to have its employees licensed as electrical administrators before they can do electrical work such as installing traffic lights and the like. It is our conclusion that state employees need not be licensed under AS 08.40 in order to perform electrical work of this or any nature.

AS 08.40.090(a) provides:

No person may act as an electrical administrator in the state without a license issued by the board.

Although this statement of the law is broad, we find it inapplicable to state employees for the following reasons. First, AS 08.40.090 provides that no "person" may act as an electrical administrator unless licensed. As defined elsewhere in the statutes, the term "person" does not ordinarily include the state. Thus, AS 01.10.060 provides:

In the laws of the state, unless the context otherwise requires, . . . .  
(7) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

As can be seen, the above definition of "person" does not include the state and therefore AS 08.40.090(a) is not by its term applicable to the state and its employees.

Second, AS 08.40.200(2) defines "electrical administrator" as follows:

'Electrical administrator' means any person engaged in the business of,

or purporting to be in the business of, installing or repairing, or contracting to install or repair, electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for transmitting, using or consuming electrical energy. (emphasis supplied)

As can be seen from the above definition, an electrical administrator under the statute is one who is "engaged in the business of" performing electrical work of the types described. The presence of the phrase "in the business of" indicates that the statute is directed toward those who perform electrical work for monetary reasons and clearly the state is not in the business of performing such work in this sense. Therefore state employees are not acting as electrical administrators as that term is defined in the statute.

Despite the above, we recognize that AS 08.40 could be interpreted to apply to state employees. Thus, the fact that AS 08.40.190 does not list state employees or electrical work performed by such employees among the exclusions from coverage under AS 08.40 could be viewed as indicating that such employees or work are covered under this statute. This is particularly true in view of the fact that some of the other statutes in Title 8 specifically exempt state employees from coverage. See, e.g., AS 08.36.350(3) (dentists in the employ of the Department of Health and Social Services); AS 08.48.331(4) (officer or employee of the state practicing architectural engineering or land surveying). However, to the extent that the statute is made somewhat ambiguous by the failure of AS 08.40.190 to exclude the state from coverage, we conclude that the statute nonetheless must be interpreted to exclude the state. This is because there is a well established rule of statutory construction which holds that statutory language should not be interpreted to apply to the state or agencies of the state unless it is clear from the express or necessarily implied terms of the statute that the legislature intended it to apply to the state. NLRB v. Roywood Corp, 429 F.2d 964, 970 (5th Cir. 1970); Hoyt v. Board of Civil Service Comm'rs, 132 P.2d 804, (Cal. 1942); Local Union 283 IBEW v. Robison, 423 P.2d 999 (Idaho 1967); Port of Seattle v. International Longshore & W.V., 324 P.2d 1099 (Wash. 1958); 3 Sutherland Statutory Construction, §62.01 (4th Ed. 1974 Sands); 82 CJS Statutes §317. The basis for this rule is that to construe statutes so as to make them applicable to the state in the absence of a

June 27, 1979

legislative intent to do so, may impair and interfere with the sovereign governmental powers of the state. Applying this rule to AS 08.40, it is clear that the legislature has not affirmatively sought to include the state within the coverage of this statute and moreover, that it is more likely that the legislature did not contemplate such coverage. Hence any question as to the applicability of AS 08.40 to the state must be resolved so as to exclude the state from coverage.

In summary, for the foregoing reasons it is our conclusion that AS 08.40 does not apply to state employees performing electrical work and that therefore such employees need not be licensed pursuant to its provisions.

cc: Robert Barton  
Investigator  
Division of Occupational Licensing

# MEMORANDUM

State of Alaska

TO: Robert J. Bacolas, Director  
Division of Labor Standards  
& Safety  
Department of Labor

DATE: December 20, 1983

FILE NO: 166-249-84

TELEPHONE NO: 276-3550

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Applicability of  
AS 08.40 to Municipality Engaging In  
Electrical Work Not  
Involving "Wiring  
for Generation and  
Distribution of  
Electric Current"

By: *Paul S. Stahl*  
Paul S. Stahl  
Assistant Attorney General

You have requested an opinion as to whether a municipality is required to secure the services of an electrical administrator when the municipality engages in electrical work not involving "wiring for generation and distribution of electric current." Certain kinds of electrical work must be performed by an electrical administrator licensed under AS 08.40.090. Exclusions from the requirement of having an electrical administrator perform this work are listed in AS 08.40.190. We conclude that none of the listed exclusions apply to a municipality when the work it performs does not involve wiring for generation and distribution of electric current, therefore, a municipality is required in that situation to secure the services of an electrical administrator.

The requirement for a licensed electrical administrator is provided in AS 08.40.090(a):

A person may not act as an electrical administrator in the state without a license issued by the board.

An electrical administrator is defined in AS 08.40.200(2):

(2) "electrical administrator" means any person engaged in the business of, or purporting to be engaged in the business of, installing or repairing, or contracting to install or repair, electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for transmitting, using or consuming electrical energy.

DEC 23 1983

MEMORANDUM  
ANONYMOUS

Exclusions from the requirement are provided in AS 08.40.190(a):

This chapter does not apply to any utility or municipality engaged in

(1) electrical construction and maintenance of electrical wiring for the generation and distribution of electrical current where the wiring is an integral part of a system owned and operated by that utility or municipal light and power department;

(2) the installation, operation, maintenance, or repair of telephone, telegraph, signal or communication systems when the work is performed by the employees of that utility.

It is an elementary rule of statutory construction that the words of a statute should be applied according to their plain meaning. 2A Sutherland Statutory Construction § 46.01 (4th Ed. 1972). AS 08.40.190 does not exclude a "municipality" generally but rather a "municipality engaged in" a particular type of construction and maintenance. The language of the statute excludes a municipality only if it engages in the particular activity described in AS 08.40.190(a)(1). <sup>1/</sup>

This view is reinforced by the decision of the Alaska Supreme Court in Allison v. State of Alaska, 583 P.2d 813 (Alaska 1978), that exemptions to the coverage of AS 08.40 should be narrowly construed. In that case, the Department of Labor, Wage and Hour Division, issued a cease and desist order because Allison was installing electrical wiring without an electrical contractor's license. <sup>2/</sup> Allison claimed his activities fell under the residential property exclusion, now contained in AS 08.40.190(b). The superior court found the exclusion did not apply as Allison or his family did not reside in the individual residential unit in which he was working. Our Supreme Court upheld this decision, stating:

---

<sup>1/</sup> Even if a municipality were to engage in work involving wiring for generation and distribution of electric current, in order to be excluded from the requirements of AS 08.40, the wiring would in addition have to be "an integral part of a system owned and operated" by that municipality.

<sup>2/</sup> A 1977 amendment substituted "administrator" for "contractor." Chap. 53, § 6, SLA 1977.

Having concluded that AS 08.40 is a chapter concerned with safety, we believe that the exemptions therein should be narrowly construed to effect this purpose.

Id. at 817. Consistent with the Supreme Court's interpretation of AS 08.40, in order to give effect to the safety concerns of the legislature, the AS 08.40.190(a) exclusion for municipalities under certain circumstances should be narrowly construed.

Further support for this view is found in AS 08.40.005, which the legislature added in 1977. It provides:

The purpose of this chapter is to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment, by providing a procedure to assure

(1) the public that persons responsible for making installations in this state are qualified; and

(2) a sufficient number of persons are so qualified.

Excluding the municipality when it does not meet the legislative requirements for exclusion would be contrary to the express legislative purpose of protecting the safety of people and property, by requiring that qualified persons install electrical wiring and equipment. Safety legislation should be construed to effectuate the legislative purpose. Magma Copper Co. v. Secretary of Labor, 645 F.2d 694 (9th Cir. 1981), cert denied 454 U.S. 940.

A previous informal opinion addressed a similar issue, whether the state was exempt from the electrical administrator requirement of AS 08.40. Informal Opinion, Attorney General (June 27, 1979). It concludes that state employees are exempt from the provisions of AS 08.40. One basis for this conclusion was that a state is not a "person" for purposes of the requirement. An argument could be made that municipalities are similarly exempt as a municipality is also not a person for purposes of the statute. There is, however, a difference between the status of the state and that of a municipality. The state and state agencies are nowhere addressed in AS 08.40. Municipalities, on the other hand, are specifically excluded under certain specific situations. It is only reasonable to conclude the requirements are applicable when those specific situations do not

Robert J. Bacolas, Director  
Division of Labor Standards & Safety  
166-249-84

December 20, 1983  
Page 4

exist. 3/

Accordingly, we conclude that a municipality is required to secure the services of an electrical administrator when the municipality engages in electrical work not involving "wiring for generation and distribution of electric current."

PSS:jg

cc: Donald R. Wilson  
Don Cather

---

3/ This conclusion requires that a municipality be a "person" under AS 08.40. That conclusion, however, does not require that our previous opinion, which found a state not to be a "person", be reconsidered. A municipality can be a "person" while a state is not for purposes of the same statute. The U.S. Supreme Court held that a state is not a "person" for purposes of the Civil Rights Act, 42 U.S.C. § 1983. Quern v. Jordan, 440 U.S. 362 (1979). See also State of Alaska v. Green, 633 P.2d 1381 (Alaska 1981), holding the State of Alaska not to be a "person" for the purpose of § 1983 suits brought in state courts. On the other hand, the U.S. Supreme Court found that a municipality is a "person" for purposes of the same statute. Monnell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978).

SEN. KELLY  
LABOR COM!

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF ELECTRICAL EXAMINERS

September 25, 1985

Audit Control Number

08-1221-86-R

Commissioner, Department of  
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of  
Commerce and Economic Development

Greg Baker  
Terry Elder

Members of the  
Board of Electrical Examiners

Chairman  
Member  
Member

Terence Duszynski  
Walter Gardner  
Stephen Boyd

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811-3300

**THE LEGISLATURE**  
BUDGET AND AUDIT COMMITTEE

September 25, 1985

Members of the Legislative Budget  
and Audit Committee:

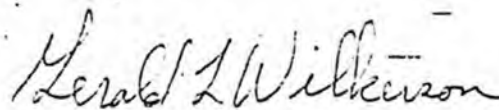
In accordance with the provisions of Titles 24 and 44 of the  
Alaska Statutes (sunset legislation), the attached report is  
submitted for your review.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
BOARD OF ELECTRICAL EXAMINERS

September 25, 1985

Audit Control Number

08-1221-86-R



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

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## PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities and accomplishments of the Board of Electrical Examiners to determine if the Board has been operating in an efficient and effective manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board of Electrical Examiners should be reestablished. The law currently specifies that this Board will terminate on June 30, 1986, but will continue until June 30, 1987, for the purpose of concluding its affairs.

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and performed the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licensees.
3. Interviews with the licensing examiners.
4. Complaints filed with the Division of Occupational Licensing, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General's Opinions applicable to professional boards.

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## ORGANIZATION AND FUNCTION

The Board of Electrical Examiners was established by the 1960 Session Laws of Alaska, Chapter 158. The three Board members, two of whom are electrical administrators licensed under this act and one a public member, are appointed by the Board with confirmation by the Legislature. Board members serve staggered terms of three years.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing (OL). OL provides the Board with licensing and some investigative support. However, the enforcement of the electrical administrators statutes is primarily the responsibility of the Department of Labor (DOL).

A licensed electrical administrator assumes responsibility for all electrical work performed by his employer or by himself. Electrical administrator statutes do not apply to any utility or municipality engaged in most electrical construction, installation, and maintenance as well as any person engaged in the following:

1. The manufacture or repair of electrical apparatus or equipment.
2. Electrical work, the cost of which does not exceed \$5,000, involving residences or small commercial establishments in communities
  - (A) which have a population of under 500, or
  - (B) which are over 50 miles by air or water transportation from the business place of an electrical administrator licensed under this chapter.
3. Electrical installation on residential property which is owned by the installer or a member of the installer's immediate family and not intended for sale at the time of making the installation.
4. The operation, maintenance, or repair of a television or radio broadcasting system and the installation of a radio broadcasting system under 500 watts input power except for A.C. power supply and wiring.
5. The installation, maintenance, and repair of elevators so long as the work is performed by an agent or employee of the elevator industry and is confined to the elevator control system, which system does not include the power supply, wiring, and motor connection.

6. The operation, maintenance, and repair of telephone, telegraph, and intercommunication facilities.
7. The installation, maintenance, and repair of fire alarm, intrusion alarm or other low voltage signaling systems of 48 volts to ground or less.
8. The maintenance or repair of diesel electric engines installed on heavy construction equipment, either in a shop or on a job site.

## REPORT CONCLUSION

### Policy Issues

This report contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so the potential impact of policy changes can be evaluated.

### Report Conclusion

In our opinion, the continuation of the Board is not necessary to protect the public's health, safety, and welfare (see Audit Recommendation No. 1).

In the event that the Board is reestablished by the Legislature, the following changes are needed in order for the Board to more effectively serve the public.

The Board needs to adopt procedures to require evidence that jobs have been personally inspected by electrical administrators (see Audit Recommendation No. 2).

The Board needs to design examinations to include only those questions within the subject matter of the category being tested to be in compliance with regulation (see Recommendation No. 3).

The Board needs to ensure that applicants are qualified by requiring all evidence be submitted before approving applicants for examination (see Audit Recommendation No. 4).

The Board needs to improve communications with the Department of Labor so that all violations are reported in order for the Board to take necessary action (see Recommendation No. 5).

The Board needs to establish regulations which provide for reciprocity for out-of-state electrical administrators (see Recommendation No. 6).

(Intentionally left blank)

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Board of Electrical Examiners should be allowed to terminate on June 30, 1986. However, the licensing and regulation of electrical administrators should be retained.

The Board of Electrical Examiners licenses electrical administrators under Alaska Statute 08.40. An electrical administrator contracts for the installation and/or repair of electrical wiring, and is responsible for all work done under his license. The primary purpose for the licensing of electrical administrators is to enhance public protection by enforcing contractor compliance with the electrical code. Adequate public protection can effectively be provided without retaining the Board of Electrical Examiners.

1. The Board does not effectively monitor the practice and conduct of its licensees. As discussed in Recommendation No. 2, the Board has not implemented any system to document that electrical administrators are personally performing required inspections, as required by statute.

Additionally, the Board has adopted screening and testing procedures (see Recommendation Nos. 3-4) that has resulted in high failure rates on the licensing examination (see Appendix C). This examination structure serves to unduly limit the number of licensed electrical administrators.

### Enforcement Function

The Department of Labor (DOL), is responsible for the enforcement of electrical code requirements. DOL concedes that there are problems with how electrical administrators are currently operating, but argue that the administrator's function is needed for efficient, cost-effective enforcement of electrical safety codes.

Although DOL provides public protection by issuing certificates of fitness to journeyman electricians who have demonstrated their knowledge of electrical code requirements, they still believe that electrical administrators are necessary. DOL reports that it is often difficult to identify what electrician is responsible for code violations noted during an inspection of a job site, especially where there are numerous electricians working. State inspectors have extensive geographical areas of responsibility and must rely on the professional integrity of an electrical administrator to provide assurance that noted safety deficiencies are corrected.

It is often prohibitively expensive and time-consuming to pursue either electricians or contractors through litigation, even in those instances when responsibility for the violation can be determined. By having an electrical administrator certify that a job is in compliance with code, DOL is able to place responsibility on one identified individual.

At present, as discussed in Recommendation No. 2 of this report, there is no documented assurance that electrical administrators are fulfilling this responsibility. DOL officials told us that they know that oftentimes electrical administrators do not personally inspect or supervise the jobs that they certify. Despite this shortcoming, these officials maintain that enforcement is enhanced because even though an administrator may not personally supervise a job, he is nonetheless held responsible and accordingly, disciplinary action can be taken against his license in the event that safety deficiencies are found. The process for taking disciplinary action against a licensee is felt to be more effective in assuring the enforcement of electrical safety standards.

When viewed as an integral part of effective enforcement of safety codes, the function of electrical administrators appears to be more in line with that of the journeyman electrician program administered by DOL. In conjunction with our recommendation above, the Legislature may wish to consider not only maintaining the function of electrical administrators, but also transfer the licensing and regulation responsibilities to the Department of Labor. Such a transfer would consolidate electrical regulation within one department, and should improve the efficiency, effectiveness, and coordination of enforcing the State's electrical safety code.

In the event that the Board is reestablished, we recommend the following changes be made in its operation (see Recommendations Nos. 2-6).

#### Recommendation No. 2

The Board should require evidence of personal supervision to ensure that jobs have been inspected by electrical administrators.

Alaska Statute 08.40.195, requires that administrators must personally inspect jobs after installation and repair. Currently, there is no provision that evidence of such personal supervision be prepared and maintained for jobs contracted by administrators.

Through our discussions with the Chairman of the Board, Division of Occupational Licensing (OL), and the Department of Labor (DOL) personnel, we noted that problems exist whereby electrical jobs are being performed without any supervision by an electrical administrator throughout the job. We were informed that in certain cases, electrical administrators who have contracted for electrical jobs in Alaska, resided out-of-state and never visited the job site.

A roster of electrical administrators compiled by OL in February 1985, listed 98 of 526, or roughly 20% of administrators with out-of-state addresses. We noted administrator licensee addresses from as far away as Connecticut and Florida.

DOL personnel indicated that violations of the electrical code are generally more frequent for those jobs which are not adequately supervised by administrators. Serious violations attributable to faulty installation or electrical work is hazardous and unsafe to the public.

The Board has addressed the problem of administrators absent from job sites by proposing an affidavit or certificate of personal supervision as evidence that the installation or repair work was personally inspected. We recommend that the Board continue its efforts in adopting the proposed affidavit and that the Board take additional measures to require adequate on-site supervision for all electrical installations or repairs contracted by electrical administrators. ?

### Recommendation No. 3

The Board should clarify regulations relating to the scope of examinations in order to be consistent with other regulations pertaining to the scope of licenses.

As provided in AS 08.40.045, the Board has established five categories of electrical administrators which are defined as follows: outside line work, outside communications, inside wiring, inside communications, and residential wiring. The Board has adopted regulations under this statute that specify the content of examinations for each of the categories. The Board has adopted other regulations that establish the scope of responsibilities for each license category. Based on our reading of the regulations, and the complaints of individuals sitting for outside communications or inside wiring examinations, there appears to be an inconsistency between the requirements of the various regulations.

We found that a common complaint about electrical examinations involved the Board's use of questions that covered

subject areas that were unrelated to the examination's subject category. For example, there were questions involving outside communications included in the outside line work examination. Complainants also cited the use of inside communications questions on the inside wiring examination.

The Board designed examinations in the outside line work and inside wiring categories to include communications questions because of regulations regarding the scope of the license in each of the categories. Under these regulations, a person holding a current valid license in either of the two categories may be granted a license in outside communications or inside communications, respectively, without examination. Given these regulations, the Board feels that adequate justification exists to include communications questions in the examinations.

However, regulations over the content of the examinations for both the outside line work and inside wiring categories do not specify that communications subject matter will be included. Further, the application form for each of the categories does not specify the examination content.

According to DOL and OL personnel, communications work varies significantly from outside line work and inside wiring. A person can perform work in any one of the categories without ever becoming knowledgeable in the other. Based on this assessment, we believe that each category should stand alone and applicants be tested only on the subject matter of the category for which he is sitting.

The inclusion of communications questions on the outside line work and inside wiring examinations is unduly restrictive and inconsistent with current regulations pertaining to the scope of examinations. We recommend that the Board design examinations to include questions within the subject matter of the category being tested, and revise their regulations in order to clarify the requirements for each license category.

#### Recommendation No. 4

The Board should comply with regulations over application for initial licensure to ensure that applicants are adequately qualified.

Current regulations over application for initial licensure require the following documents be submitted by applicants:

1. A check or money order in the amount of the appropriate fee.
2. Transcripts from an accredited school or trade school attended by applicant.

3. A certified copy of the applicant's degree awarded by an accredited school or certificate from trade school.
4. Evidence of experience applicable to the category for examination.
5. Letters of recommendation for licensure as an electrical administrator from three persons licensed in any state in the electrical industry.

The Board is not requiring that all of the above documents be submitted before approving applicants to take examinations. In our review of OL files we found that transcripts, when applicable, and certified copies of the applicant's degree or certificate from a trade school were not included with applications in most cases. Although three letters of recommendation were included in the files we reviewed, almost all of the letters were not evidenced that the persons signing were licensed.

The Board has adopted valid requirements under the regulations mentioned above which provide adequate evidence that applicants meet necessary skills and knowledge to be licensed as an electrical administrator. We recommend that the Board approve only those applicants who submit the required documentation in compliance with regulations, to ensure that proper qualifications are met by applicants for licensure.

#### Recommendation No. 5

The Board should improve communications with the Department of Labor (DOL) over violations by electrical administrators.

Alaska Statutes provide DOL with the primary responsibility to enforce electrical administrators statutes. DOL employs State inspectors in major urban areas of the state to enforce the electrical code for places of employment and public structures. Numerous violations of code were cited by DOL inspectors during FY 84.

We found through our discussions with DOL personnel, that violations are not reported to the Board on a regular basis. The only time when violations are reported by DOL to the Board are in cases where an administrator has a continuing number of violations.

We recommend that the Board improve ~~communications with DOL~~ to obtain information as to the nature and extent of violations of code by administrators on a regular basis. Improved communications with DOL will help the Board to fulfill its purpose of assuring the public that persons responsible for making electrical installations in the state are qualified.

Recommendation No. 6

The Board should establish regulations which provide for licensure by endorsement and/or reciprocity.

Provisions for licensure by endorsement and reciprocity are specified under AS 08.40.120(b) which states that the Board shall waive examination requirements if applicants meet certain qualifications and have passed an equivalent examination in another state.

The Board has not established regulations which address licensing by endorsement or reciprocity. We recommend that the Board establish regulations to comply with statutory provisions.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of the Board's activities relate to the public need factors defined in the "sunset" law. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

- I. The extent of which the board, commission, or program has operated in the public interest.
  - A. The Board has examined and licensed applicants, and proposed changes in regulations that are necessary to enforce State statutes and improve the quality of electrical safety. To conduct these functions the Board has held an average of four board meetings and four examination sessions a year for the past two calendar years. However, the licensing and examining of electrical administrators can be adequately performed in the absence of the Board (see Recommendation No. 1).
  - B. Specifically, the Board has enhanced the quality of electrical safety by adopting regulations concerning the maintenance of competency of electrical administrators through continuing education.
  - C. The Board has developed new electrical code examinations which were administered for the first time in March 1985.
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  - A. Inspections are conducted by the Department of Labor. Consequently, the Board needs to contact the Department of Labor to determine the number of violations and the amount of unlicensed activity (see Audit Recommendation No. 5).

III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.

A. The Board has recommended statutory changes concerning a provision which exempt installations of electrical systems of 48 volts to ground or less, to not exempt these installations.

IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

A. The Board has advertised proposed regulation changes in major newspapers in Anchorage, Fairbanks, and Juneau. The Board has not actively solicited comments on its operations and services it has provided. *Subj. to same reg. as every other sd.*

V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

A. To encourage public participation, the Board advertises its meetings, examinations, and proposed regulations in the Fairbanks, Anchorage, and Juneau newspapers as required by law.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board, or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

A. In the last three years, several complaints were filed with the Board and Ombudsman office concerning grading and testing procedures of examinations. The Board processed and resolved these complaints in an efficient and timely manner. Also, the Board has developed new examinations to alleviate the complaints.

*Copy w/ Stan records to be legis supported*

*Disagree*

*AS 8.40.100 amended with this - exempts utility employees*

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

- A. The Board issued 65 licenses and renewed 267 licenses during fiscal year 1985.
- B. The average failure rate for examinations administered during fiscal year 1985 was 37%.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

- A. The Human Rights Commission and the Equal Employment Opportunity Office have received no complaints related to the Board's activities.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

- A. Please refer to the previous section, Findings and Recommendations.

*Compare  
to other  
States  
Wood.*

*1986  
statutes*

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APPENDIXES

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APPENDIX A

BOARD OF ELECTRICAL EXAMINERS  
REVENUES COMPARED WITH EXPENDITURES  
For the Fiscal Year Ended June 30, 1985  
(UNAUDITED)  
(Note 1)

Average Revenue (Note 2 and Schedule 1)	\$64,211
Expenditures (Note 3)	<u>7,312</u>
Excess of Revenues over Expenditures	<u>\$56,899</u>

Schedule 1  
Types of Revenues

<u>Revenue</u>	<u>Amount</u>	<u>Collection Time</u>
Initial License Fee (Note 2)	\$200	With application
License Renewal Fee (Note 2)	200	Biennially
Late Renewal Fee (Additional)	10	If over 60 days after renewal date
Reinstatement Fee (For Lapsed License)	25	With reinstatement notice (fee is for each year license was lapsed)

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with Occupational Licensing personnel. The records were not audited by us and accordingly we do not express an opinion on the Board's Statement of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is composed of license renewal fees. The renewal date is June 30 of the odd numbered years which causes revenues to vary substantially from year-to-year. Therefore, we took an average of revenues collected in fiscal years 1984 and 1985 in order to obtain a representative amount of collected revenue.

Note 3

Expenditures consist of direct costs resulting from Board activities, which includes travel, per diem, and miscellaneous contractual expenditures incurred by the Board members and the Board's licensing examiner. This amount does not include indirect administrative expenditures of the Division of Occupational Licensing or expenditures for efforts of other departments assisting the Board.

APPENDIX B

BOARD OF ELECTRICAL EXAMINERS  
ADMINISTRATIVE STATISTICS

Number of Examinations Given in Fiscal Years 1983 - 1985

<u>Fiscal Year</u>	<u>Passes</u>	<u>Fails</u>	<u>Total</u>	<u>% Pass Rate</u>
1983	78	190	268	29%
1984	60	226	286	21%
1985	114	150	264	43%

Number of Licensees 491

Board Meetings in Fiscal Years 1983 - 1985

1983	4
1984	6
1985	3

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**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D  
JUNEAU, ALASKA 99311  
PHONE: (907) 465-2534

January 13, 1986

RECEIVED

JAN 14 1986

LEGISLATIVE  
AUDIT

Mr. Gerald L. Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box W  
Juneau, AK 99811

Dear Mr. Wilkerson:

Thank you for the opportunity to comment on your preliminary audit report for the Board of Electrical Examiners.

Recommendation No. 1

We concur with this recommendation except that the licensing function of the electrical administrators should continue to be regulated.

As mentioned in our earlier discussions, the function of the electrical administrator is important and should be retained, with or without a licensing board. The electrical administrator license was established to assure identification of at least one person in each firm performing electrical installations to be fully responsible for compliance with installation laws and current wiring and safety codes. This license responsibility is not present in any form in other Alaska law.

Under current law, all journeymen certificate of fitness card holders must be supervised by an electrical administrator.

The majority of electrical administrators in Alaska are competent and reliable. However, if the electrical administrator level license is discontinued, the public will no longer have this measure of protection from potentially unscrupulous, irresponsible, or incompetent electrical installers. Poor electrical wiring which results in financial loss or delay to the owner can currently be recovered up to the limits of bonding under AS 08.18.071. On July 1, 1985, bonding limits were increased to \$5,000.00 for specialty contractors and \$10,000.00 for general contractors. In this regard, some electrical contractors are specialty contractors, some are general contractors. This bonding protection is minimal when various factors are considered. For example, Juneau contractors estimate that a two bedroom residence of 1,100-1,500 square feet will cost an estimated \$3,500.00 to \$6,000.00, depending on the plans and type of heat. Estimates for a commercial facility, such as a restaurant or other business, will cost double the amount of the earlier stated residence work. Inadequate wiring can and does cause property and physical injury by fire. Financial losses to the owners occur as well when

January 13, 1986

wiring is improperly installed and has to be redone before it can be approved by the electrical inspector. Improper wiring is always life threatening. The only remaining safeguard without the electrical administrator present would be the city or state electrical inspectors, who are located only in the major population centers. State electrical inspectors can travel statewide, but, due to their limited number and budget restrictions, areas outside the main population centers would not have close scrutiny. Thus, in many areas, the essential element of prime responsibility for proper electrical supervision for electrical installation would be nearly nonexistent without the electrical administrator.

Recourse against the holder of the certificate of fitness appears limited since no statutory requirement assigning prime responsibility is evident. Except for one instance, we are unaware of any action commenced against a holder of a certificate of fitness. In the one instance, the certificate of fitness was revoked based upon the revocation of the electrical administrator license by this department.

In the event the board, itself, is not continued, the alternatives would be to continue licensure by the Division of Occupational Licensing, or establish the same level of responsibility or function elsewhere, or discontinue licensing completely. Discontinuing licensing completely does not appear to be a satisfactory alternative.

If licensing is continued without a board, this licensing function should remain with the Division of Occupational Licensing. The division already maintains all records of electrical administrators and has recently, with the board, completed the rewrite of the entire examination process. A transfer of duties to another agency would require additional funding since a new full position would be required to handle the work within the new agency. Currently, the licensing function and administrative duties of the board are being handled by a licensing examiner who is also responsible for other licensing occupations. Therefore, the position could not be transferred to another agency if licensing was so transferred. Up to half of the licensing examiner's time is dedicated to licensing electrical administrators. A majority of this time is occupied with preparation for an examination by maintaining the computerized exam bank to produce the examination, arranging for an examination and scheduling of exam candidates to be tested in the appropriate categories. The responsibilities also include travelling to administer the exam and maintain control over those locations where proctors are being utilized. Loss of continuity, which would occur if a transfer takes place, would create significant problems for licensees and the public.

The enforcement is handled by fully qualified investigators with considerable training and experience in civil and criminal investigations. Coupling this investigative effort with the electrical inspector efforts is efficient and effective. Currently, the investigative staff in the Division of Occupational Licensing (OL) maintains close liaison with the board and with the Department of Labor (DOL) inspectors. Among other things, inspector reports of code violations and supervision problems are being reported to the OL investigations unit more frequently. Plans affecting improvement of this relationship that were initiated some time ago are gradually becoming a reality.

January 13, 1986

The board has recently proposed regulations to require electrical administrators to certify on a form developed by the board that they personally supervised all work completed by the firm to which they are assigned. This will improve the ability to enforce the statutory requirements for personal supervision to reduce or eliminate the current problems created by the absent licensee and similar problems.

Recommendation No. 2

As mentioned in comments under Recommendation No. 1, this board, on November 18, 1985, initiated a regulation which adds section 12 AAC 32.900(c) to require, upon demand, that electrical administrators certify in writing as to the completion and personal supervision of electrical work.

Recommendation Nos. 3, 4, and 5

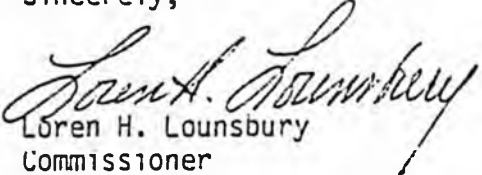
We concur with these recommendations and intend to assist the board in carrying out these suggestions.

Recommendation No. 6

We concur with this recommendation; however, implementation of your recommendation does not appear to be possible at this time. In 1980, the board obtained the authority noted under AS 08.40.120(b) to waive examination for reciprocity. In order to implement the statute, it was first necessary to determine which states would be interested in establishing reciprocal agreements. During inquiry with other states it was discovered that, for security reasons, states would not or could not share or discuss their examinations with other states. It was also discovered that each state would not reciprocate with any other state. Various efforts have been made including an attempt in 1984 to involve Alaska in composing a new national examination in the hope of encouraging reciprocity. Until an agreement can be reached with some state for reciprocity, the board does not have the advantage of establishing reciprocity by regulation. In 1984, the board obtained a special \$85,000.00 appropriation to develop a new exam. It was the board's intent to have a national testing service develop the examination to fit into a national examination plan in a manner to result in the desired reciprocity. Those efforts were not successful. As a result, the board was forced to develop a new examination on its own to use in Alaska. The problem of reciprocity or lack of it is not expected to resolve itself in the near future since no national or other standard examination is available or being developed elsewhere.

Thank you again for the opportunity to comment on your findings.

Sincerely,

  
Loren H. Lounsbury  
Commissioner

LHL/JS/sa1509s  
011385c



FEB 23 1987

**WALTER R. GARDNER  
& ASSOCIATES  
ELECTRICAL CONSULTANT**

7731 ISLAND DRIVE  
ANCHORAGE, ALASKA 99504  
(907) 333-0771

February 20, 1987

PLAN REVIEW  
CODE COMPLIANCE  
JOBSITE INSPECTION  
JOBSITE REPORTING  
CONTRACT COMPLIANCE

PROJECT ESTIMATING  
COST ANALYSIS  
PROJECT MANAGEMENT  
CHANGE ORDER REVIEW  
CLAIMS

Representative Dave Donley, Chairman  
House Labor & Commerce Committee  
P. O. Box V  
Juneau, Alaska 99811

Reference: House Bill # 116

"An act extending the termination date of the Board of Electrical Examiners;  
and providing an effective date."

Subject: Our telephone conversation of February 19, 1987.

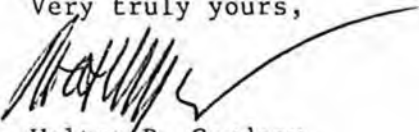
Dear Chairman Donley,

Pursuant to the above subject telephone conversation, and my earlier conversation with your Ms. Ginger Baim, transmitted herewith is the "position paper", developed by the Board of Electrical Examiners, for your use.

The next regularly scheduled meeting of the Board will be March 3, 4 & 5, in Juneau, should you need any further information.

We would appreciate your support for the Bill.

Very truly yours,

  
Walter R. Gardner  
Chairman  
Board of Electrical Examiners

cc: Steve Boyd, Board Member  
Mike Andrews, Board Member

## POSITION PAPER

### BOARD OF ELECTRICAL EXAMINERS

Prepared by: Walter R. Gardner, Chairman  
February 5, 1987

For: "An act extending the termination date of the Board of Electrical Examiners; and providing an effective date."

Below is a summary of the purpose of the Board of Electrical Examiners, its organization, and functions of responsibility.

#### I. PURPOSE OF THE BOARD OF ELECTRICAL EXAMINERS

Section AS 08.40.005, for the purpose of establishing the Board-- "to protect the safety and property in the State from dangers of improperly installed electrical wiring and equipment, to provide a procedure to assure the public:; 1) that persons responsible for making electrical installations in the State are qualified; and, 2) a sufficient number of persons are so qualified."

#### II. ORGANIZATION OF THE BOARD

Members: Two licensed Administrators; one public member.

Appointed by: The Governor, and confirmed by the Legislature.

Terms: Three (3) year terms-staggered; limited to two (2) terms.

Staff: One part-time Investigator (as assigned for reported infractions) and one part-time License Examiner.

Board meetings: One regular annual meeting.

#### III. FUNCTIONS OF RESPONSIBILITY OF THE BOARD

1. Qualifies an applicant in order to take the examination, for an Electrical Administrator's license.
2. Adopts regulations establishing categories of Electrical Administrators, establishing qualifications for those categories, and content of examination, in each category.
3. Establishes the continued competency of an applicant for license renewal and reinstatement, and the suspension and revocation of licenses.
  - (a) Continuing education for the renewal of an Electrical Administrator's is required when the National Electrical Code or the National Electrical Safety Code is revised.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

## POSITION PAPER

### BOARD OF ELECTRICAL EXAMINERS

Prepared by: Walter R. Gardner, Chairman  
February 5, 1987

For: "An act extending the termination date of the Board of Electrical Examiners; and providing an effective date."

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2. Adopts regulations establishing categories of Electrical Administrators, establishing qualifications for those categories, and content of examination, in each category.
3. Establishes the continued competency of an applicant for license renewal and reinstatement, and the suspension and revocation of licenses.
  - (a) Continuing education for the renewal of an Electrical Administrator's is required when the National Electrical Code or the National Electrical Safety Code is revised.

(b) For license renewal, applicant must attend at least eight (8) hour Board approved course.

4. Adopts regulations relating to the examination and licensing of the Electrical Administrators (monitors and administers the examination). A licensing examination shall be conducted at least twice a year at appropriate places in the State.
5. Investigations by the Board. The Board is responsible in responding to complaints by the public for unsafe installation violations. The Board may make, or have made, a physical inspection or investigation into the work of a licensee, which it considers necessary. May issue subpoenas and process, compelling the attendance and production of any papers for the purpose of investigation and examination.

\*\*\*\*\*

#### IV. ANALYSIS OF PUBLIC NEED.

##### I-The extent of which the board, commission or program has operated in the public interest.

A- The Board has examined 170 applicants during FY 86, (July 1, 1985-June 30, 1986) resulting in the issuing of 28 new licenses, in all categories. The number of applications, not processed because of incomplete information, is not recorded. In August, 1985- 82 applicants took the test. 12 passed, 70 failed. In January, 1986- 88 took the test. 20 passed, 68 failed. (Note: The difference between the pass/license issued is some of the categories were added to existing license numbers.)

The Board has examined 125 applicants thus far, during FY 87. In August, 1986- 69 applicants took the test. 38 passed, 31 failed. In January, 1987-56 applicants took the test. 11 passed, 45 failed.

The Board, although not specifically mandated by regulations, does, in fact, monitor the examination's.

A Board member, is normally in attendance during the testing period, to assist the Licensing examiner and to preserve the security of the Administrators examination. The Board member(s) review the test being given, to insure that a fair, reasonable and comprehensible questions are contained in the examination material, to test the applicant's knowledge of safe working procedures, safe installations, applicable Code's and standard practice procedures.

B- Continuing Education, established by 12 AAC 32.310, is a prerequisite for the renewal of any license, in any category. The development of new materials, instructions in their application,

and use, keeps the license holder abreast of new methods for an electrically safe environment.

- C- The development, and implementation, of the new test for all categories has made the applicants more aware of the knowledge required for an administrator's license.

V. LEGISLATIVE AUDIT/PERFORMANCE REPORT DATED September 25, 1985.

Legislative Audit Recommendation No. 1:

The Board of Electrical Examiners should be allowed to terminate on June 30, 1987. However, the licensing and regulation of the electrical administrators should be retained.

The Board opposed this finding.

The non-partisan Board has been actively engaged in performance of the mandated charges.

Enforcement Function

A minimum of thirteen (13) complaints have been received from the public sector and forwarded to the Investigators for processing, concerning unlicensed activities.

The Commissioner of Labor, under AS 08.40.175 (and DOL enforcement personnel), are required by this Section to enforce/investigate these complaints and issue Cease & Desist Orders, as applicable.

Under Section AS 08.40.070, should a complaint be received from DOL, it would be within the Board authority to review and recommend action to the Department of Law, under AS 08.40.180.

Mr. Steve Boyd, Board member in Ketchikan, was appointed as liason between the Board and DOL, within the past year.

RECOMMENDATION NO. 2

The Board should require evidence of personal supervision to ensure that jobs have been inspected by the electrical administrators.

The Board has reviewed, a form (presently in use) by the DOL electrical inspectors, (a copy is attached), for adequacy. It is acceptable, pending review by Department of Law. These forms are utilized by the "Authority Having Jurisdiction" when they consider it advisable/necessary.

The Board has not been notified of any use of this form, to date.

RECOMMENDATION NO. 3

The Board should clarify regulations to the scope of examinations in order to be consistent with other regulations pertaining to the scope of the licenses.

POSITION PAPER  
BOARD OF ELECTRICAL EXAMINERS  
Page -4-

Pursuant to a number of complaints, from potential license holders, to remove the Inside Communications questions from the Inside Wiring examinations and the Outside Communications questions from the Outside Line Work examinations, the Board took the necessary steps to remove these questions from the disputed areas. This resulted in the applicant to be tested in ONLY the category listed in the application. Heretofore, the Outside Line Work license recognized the similar construction and safety requirements of Outside Communications resulting in the issuance of both licenses, when the Outside Line Work test, including Outside Communication questions, was completed with a passing grade.

A similar situation was with the Inside Wiring examination and the Inside Communication examination. Both licenses were issued if the applicant passed the Inside Wiring examination, with Inside Communication questions included, with a passing grade.

In making the above changes, the Board recognizes an additional problem, that needs to be addressed:

12 AAC 32.250(a)(5) requires "a notarized certificate in support of the applicant's experience and qualifications for licensure as an electrical administrator from each of three persons licensed in the electrical industry in any state."

The State of Alaska, Department of Labor does not license, nor require a Certificate of Fitness, for any communication workers as well as a considerable number of "Outside" states. Therefore, until regulations are changed, the Board could have a problem. This will be addressed in the next regularly scheduled meeting.

RECOMMENDATION NO. 5

The Board should improve communications with the Department of Labor (DOL) over violations by electrical administrators.

In an attempt to improve communications between the Board and DOL, the Board Chairman appointed Mr. Steve Boyd as liason between the two entities, with the departments effected, properly notified.

Limited, if any, communications has transpired from the DOL.

Should the proposed "Building Code Bureau" legislation and enactment be immediately forthcoming, the communications between the enforcement group(s) and the Boards will be increased by 1000%

The Alaska Professional Design Council, in cooperation with the Alaska Central chapter of International Congress of Building Officials (ICBO) is addressing these, and other problems and has published a report and recommendations on the need for State restructuring of enforcement, as well as building Code reforms within the State of Alaska, dated December 11, 1986.

RECOMMENDATION NO.6

The Board should establish regulations which provide licensure by endorsement and/or reciprocity.

The Board, along with Licensing personel, have attempted to comply with this regulation by contacting numerous State agencies, Inspector programs, and other regulatory agencies to determine if there is any other testing program that would serve the needs of the Alaskan public, as well as the present program, without success. Reasons are numerous; the major ones are:

- 1-No uniform testing procedures, in numerous States.
- 2-Tests will not be released to other than on a "need to know" basis, in thier own State organization, to preserve confidentiality.  
(This, also, is in Alaska.)
- 3-Lack of uniformity in qualifications, experience and certifications.  
(Note: Washington, as an example, allows ANYONE to "set" for the examination, with out pre-qualification requirements. The last information available, was a pass rate of 1 in 249.)

SUMMARY

THE BOARD FINDS THAT; TO PRESERVE THE PRESENT ELECTRICAL SAFETY OF THE ALASKAN PUBLIC, MAKE THE TECHNICAL UP-GRADING OF THE ADMINISTRATOR'S KNOWLEDGE A LICENSE REQUIREMENT, BASED ON ALASKAN CCNDITIONS, THE BOARD OF ELECTRICAL EXAMINERS SHOULD NOT BE ALLOWED TO "SUNSET"

Concurrence:

151 Date 2/18/87  
Steve Boyd, Member, Board of Electrical Examiners

151 Date 2/18/87  
Michael Andrews, Member, Board of Electrical Examiners

[Signature] Date 2/18/87  
Walter R. Gardner, Chairman, Board of Electrical Examiners

THIS FORM MUST BE NOTORIZED

STATE OF ALASKA

DEPARTMENT OF LABOR/MECHANICAL INSPECTION

P.O. BOX 874367

WASILLA, ALASKA 99687

(907) 376-8696

CERTIFICATE OF PERSONAL SUPERVISION

(AS 08.40.195)

\_\_\_\_\_  
Under penalty of perjury, I hereby certify that I am the holder of a  
valid Electrical Administrator's License No. \_\_\_\_\_

for \_\_\_\_\_ in the category of  
(name of contractor)

\_\_\_\_\_, and that I have personally  
(name of licensed categories)

supervised and inspected the electrical installation or repair work

performed at \_\_\_\_\_.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(printed or typed name)

\_\_\_\_\_  
(mailing address)

\_\_\_\_\_  
(city, state and zip code)

Bill No. House Bill 116

Date February 23, 1987

Title "An Act extending the termination date of the Board of Electrical Examiners."

Contact: Tom Stuart  
465-4870

Eileen Plate  
465-2700

House Bill 116 extends the termination date of the Board of Electrical Examiners to June 30, 1990. The Board is presently operating under the one-year termination period provided under AS 08.03.020, and it will be dissolved on June 30, 1987 if legislation is not passed to extend the termination date.

Under AS 08.40.005, the purpose of the Board of Electrical Examiners is "to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment by providing a procedure to assure:

- 1) the public that persons responsible for making electrical installations in this state are qualified; and
- 2) a sufficient number of persons are so qualified".

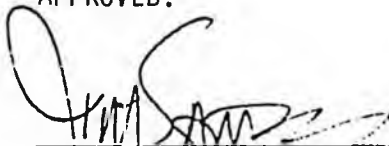
The Board carries out its responsibilities by examining and licensing electrical administrators, and by suspending and revoking the licenses of persons who fail to perform competently. Electrical administrators are held accountable by the Board for electrical work performed under their individual licenses.

Continuation of the Board of Electrical Examiners will assist in protecting the public from life safety hazards and from financial losses that result from improper or faulty electrical installations.

The Department of Labor supports House Bill 116.

It will not have a fiscal impact on the Department.

APPROVED:



Jim Sampson, Commissioner  
Department of Labor

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: H.B. 116

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

REQUEST: \_\_\_\_\_

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

Agency Affected: Labor

Title: "An Act extending the termination date of the Board of Electrical Examiners..."

BRU: Labor Standards and Safety

Sponsor: Sund, et. al.

Components: Mechanical Inspection

Requestor: House Labor and Commerce

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: <sup>AS</sup> Tom Stuart, Director *Stuart*

Phone: 465-4870

Division: Labor Standards and Safety

Date: 2/23/87

Approved by Commissioner: <sup>AS</sup> Jim Sampson *Jim Sampson*

Date: 2/23/87

Agency: Labor

Distribution (by preparer):

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

HB 116: An Act extending the termination date of the Board of Electrical Examiners; and providing for an effective date.

HB 116 extends the termination date for the Board of Electrical Examiners from June 30, 1986 to June 30, 1990. The board is currently in its final year of existence for the purposes of concluding its affairs in accordance with AS 08.03.020(a). Unless the termination date is extended, the board will cease to exist on June 30, 1987.

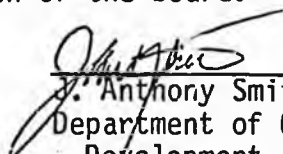
The September 1985 performance audit of the Board of Electrical Examiners identified areas of concern regarding the responsibilities and conduct of the board and, thus, recommended sunset. Since the audit, the board has devoted its efforts to complying with the audit recommendations and to satisfying those identified areas of concern. In compliance with the audit report, the board has developed regulations to require evidence that electrical jobs have been personally inspected by electrical administrators. They have also revised their procedures for approving applicants by designating a check list to ensure applications are complete prior to review.

Another area of major concern identified in the audit was the examination. In the past, examinations combined categories such as outside linework with outside communication questions and inside wiring with inside communications questions. The average failure rate for the examination was 73%. Since the audit, the examination was revised by the board to separate these categories of questions. However, the average failure rate for the examination is still 61%. The department is concerned that the high failure rate may be attributed to the quality of the examination and would recommend the board conduct an analysis of the exam.

Another recommendation contained in the audit was for the board to improve communications with the Department of Labor so that violations are reported in order for the board to take necessary action.

Daily coordination and communication now occur between the investigations unit of the Division of Occupational Licensing, and inspectors of the Department of Labor. However, there is no formal mechanism for reporting violations. The department intends to implement a quarterly report of enforcement activity to be exchanged with the Department of Labor and will request that the same be done by Labor.

In summary, the department maintains its support for continuation of the licensing of electrical administrators and recognizes the fact that the Board of Electrical Examiners performs many functions which the Division of Occupational Licensing currently is unable to provide. For example, the board has the expertise needed to evaluate the work experience of applicants, conduct exam reviews, and provide an appeals process for individuals who fail the examination. For these reasons, the department does not oppose the continuation of the board.

  
J. Anthony Smith, Commissioner  
Department of Commerce & Economic  
Development

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: HB 116  
Publish Date: 2/11/87

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
Title: An Act extending the termination date of the Board of Electrical Examiners; and providing for an effective date. BRU: Occupational Licensing  
Sponsor: Reps. Sund, Boyer, Davis, Koponen Components: All  
Requestor: \_\_\_\_\_ & Ellis \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURE ;	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Funding for continuation of the Board of Electrical Examiners is budgeted for in the department's FY 88 operating budget request and is anticipated to be covered primarily through program receipts.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144  
Division: Occupational Licensing Date: 2/23/87

Approved by Commissioner: J. Anthony Smith Date: \_\_\_\_\_  
Agency: Commerce and Economic Development

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

HB

143

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/20/87

FURTHER REFERRALS: Judiciary-  
Finance

DATE: 3/10/87

The Labor & Commerce Committee has considered HB 143

"An Act relating to the assessment of civil penalties under the Alaska Securities Act; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB143 (LTC)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

David Douley

John Ellis

Clyde Dain

Bob Bouch

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

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**SIGNING OTHER RECOMMENDATIONS:**

W. F. Furnace for Rec

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

David Douley  
Chairman's signature

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 143 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Securities Act; and  
7 providing for an effective date."

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

9 \* Section 1. AS 45.55.140(a)(5) is amended to read:

10 (5) a security [AN INVESTMENT CONTRACT] issued in connec-  
11 tion with an employee's stock purchase, savings, pension, profit-  
12 sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS  
13 NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH  
14 RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS  
15 THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE  
16 CLOSED ON MAY 9, 1959];

17 \* Sec. 2. AS 45.55.200 is repealed and reenacted to read:

18 Sec. 45.55.200. ORDERS, INJUNCTIONS, AND CIVIL PENALTIES. (a)  
19 If it appears to the administrator that a person has engaged or is  
20 about to engage in an act or practice in violation of a provision of  
21 this chapter or regulation or order under this chapter, the adminis-  
22 trator may

23 (1) in the public interest or for the protection of inves-  
24 tors, issue an order

25 (A) directing the person to cease and desist from  
26 continuing the act or practice;

27 (B) directing the person, for a period not to exceed  
28 three years, to file the annual reports, proxies, consents or  
29 authorizations, proxy statements, or other materials relating to

1 proxy solicitations required under AS 45.55.139 with the adminis-  
2 trator for examination and review 10 working days before a dis-  
3 tribution to shareholders; and

4 (C) voiding the proxies obtained by a person required  
5 to file under AS 45.55.139, including their future exercise or  
6 actions resulting from their past exercise, if the proxies were  
7 solicited by means of an untrue or misleading statement pro-  
8 hibited under AS 45.55.160; or

9 (2) bring an action in the superior court to enjoin the  
10 acts or practices and to enforce compliance with this chapter or  
11 regulation or order under this chapter, and upon a proper showing, the  
12 appropriate remedy must be granted and a receiver or conservator may  
13 be appointed for the defendant or the defendant's assets; the court  
14 may not require the administrator to post a bond.

15 (b) The administrator may issue an order against an applicant,  
16 registered person, or other person who knowingly or intentionally vio-  
17 lates this chapter or a regulation or order of the administrator under  
18 this chapter, imposing a civil penalty of not more than \$2,500 for a  
19 single violation, or not more than \$25,000 for multiple violations, in  
20 a single proceeding or a series of related proceedings.

21 (c) For violations not covered by (b) of this section, the  
22 administrator may issue an order against an applicant, registered per-  
23 son, or other person who violates this chapter or a regulation or  
24 order of the administrator under this chapter, imposing a civil  
25 penalty of not more than \$500 for a single violation, or not more than  
26 \$5,000 for multiple violations, in a single proceeding or a series of  
27 related proceedings.

28 (d) Before issuing an order under (a)(1), (b), or (c) of this  
29 section, the administrator shall give reasonable notice of and an

1 opportunity for a hearing. However, the administrator may issue a  
2 temporary order under (a)(1) of this section pending the hearing,  
3 which remains in effect until 10 days after the hearing is held and  
4 which becomes final if the person to whom notice is addressed does not  
5 request a hearing within 15 days after the receipt of notice.

6 \* Sec. 3. AS 45.55.210(a) is amended to read:

7 (a) In addition to the civil penalties assessed under AS 45.55.-  
8 200, a [A] person who wilfully violates a provision of this chapter  
9 except AS 45.55.160, or who wilfully violates a regulation or order  
10 under this chapter, or who wilfully violates AS 45.55.160 knowing the  
11 statement made to be false or misleading in a material respect or the  
12 omission to be misleading by any material respect, upon conviction, is  
13 punishable by a fine of not more than \$5,000, or by imprisonment for  
14 not less than one year nor more than five years, or both. Upon con-  
15 viction of an individual for a felony under this chapter, imprisonment  
16 for not less than one year is mandatory. However, an individual may  
17 not be imprisoned for the violation of a regulation or order if the  
18 individual proves that the individual had no knowledge of the regu-  
19 lation or order. An indictment or information may not be returned  
20 under this chapter more than five years after the alleged violation.

21 \* Sec. 4. AS 45.55.260(c) is amended to read:

22 (c) For the purpose of this section, an offer to sell or to buy  
23 is made in this state, whether or not either party is then present in  
24 this state, when the offer

25 (1) originates from this state; [OR]

26 (2) is directed by the offeror to this state and received at  
27 the place to which it is directed, or at a post office in this state  
28 in the case of a mailed offer;

29 (3) is for an interest or participation in an oil, gas, or

1 mining right, title, or lease on land in the state, including sub-  
2 merged land, regardless of where the offer is made;

3 (4) is for an interest or participation in payments out of  
4 production under an oil, gas, or mining right, title or lease on land  
5 in the state, including submerged land, regardless of where the offer  
6 is made; or

7 (5) is for an interest or participation in real property  
8 located in the state; or in a domestic corporation or a domestic  
9 limited partnership; jurisdiction under this paragraph may be ex-  
10 ercised only when the exercise is not inconsistent with the consti-  
11 tution of this state or of the United States.

12 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).  
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A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HB 143

Page 1, line 6:

Delete: "assessment of civil penalties under the"

Page 1, following line 9, insert a new bill section to read:

"\* Section 1. AS 45.55.140(a)(5) is amended to read:

(5) a security [AN INVESTMENT CONTRACT] issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE CLOSED ON MAY 9, 1959];"

Page 1, line 10:

Delete "\* Section 1."

Insert "\* Sec. 2."

Renumber the following bill section accordingly.

Page 3, following line 11, insert a new bill section to read:

"\* Sec. 4. AS 45.55.260(c) is amended to read:

(c) For the purpose of this section, an offer to sell or to buy

is made in this state, whether or not either party is then present in this state, when the offer

(1) originates from this state; [OR]

(2) is directed by the offeror to this state and received at the place to which it is directed, or at a post office in this state in the case of a mailed offer;

(3) is for an interest or participation in an oil, gas, or mining right, title, or lease on land in the state, including submerged land, regardless of where the offer is made;

(4) is for an interest or participation in payments out of production under an oil, gas, or mining right, title, or lease on land in the state, including submerged land, regardless of where the offer is made; or

(5) is for an interest or participation in real property located in the state, or in a domestic corporation or a domestic limited partnership; jurisdiction under this paragraph may be exercised only when the exercise is not inconsistent with the constitution of this state or of the United States."

Renumber the following bill section accordingly.

STEVE COWPER  
GOVERNOR

71B143



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 18, 1987

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to amend the penalty provisions of the Alaska Securities Act.

The bill provides that the administrator of securities, generally known as the director of the division of banking, securities and corporations, Department of Commerce and Economic Development, may assess civil fines of up to \$5,000 against a person who violates the Alaska Securities Act, and up to \$25,000 if the violations are done knowingly or intentionally. These provisions of the bill are based on sec. 602(b)(4) of the Revised Uniform Securities Act, promulgated in 1985 by the National Conference of Commissioners on Uniform State Laws.

Although current Alaska law permits criminal prosecution of individuals who wilfully violate the Act (AS 45.55.210), by authorizing the department to assess civil penalties the state will be able to avoid the substantial time and expense of criminal investigation and prosecution in many cases. On a number of occasions, individuals have wilfully violated the Act and then ignored orders issued by the administrator to stop the practice, because these individuals recognized that the administrator has no authority to enforce his or her own orders. Passage of this bill would correct this problem.

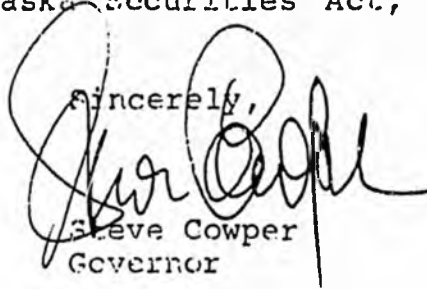
It should be noted that the assessment of civil fines is not without precedent in Alaska. For example, AS 21.09.260 and AS 21.36.320 provide that the director of the division of insurance may assess civil fines of up to \$25,000 for violations of the Alaska Insurance Code. Similarly, I am proposing legislation to provide that the commissioner of the Department of Revenue may assess a civil fine against a person who attempts to obtain permanent fund dividends by means of fraud.

Hon. Ben Grussendorf

Page 2

This bill represents a valuable tool for the Department of Commerce and Economic Development to prevent wilful violations of the Alaska Securities Act, and I urge your support of it.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper  
Governor

STATE OF ALASKA 1986 LEGISLATIVE SESSION.  
FISCAL NOTE

Bill Version: HB 143  
Publish Date: HOUSE 2/20/87

REQUEST

Bill/Resolution No.: \_\_\_\_\_  
Title: An Act assessing civil penalties  
under the Alaska Securities Act.  
Sponsor: Rules Committee  
Requestor: Governor  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.  
BRU: Banking, Securities & Corporations  
Components: Consumer Protection

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Edward C. Watkins  
Division: Banking, Securities & Corporations

Phone: 465-2521  
Date: November 20, 1986

Approved by Commissioner: \_\_\_\_\_  
Agency: Commerce & Economic Development

Date: 11/19/86

Distribution (by Agency preparing fiscal note):

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

HB

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