

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6387 SENATE LABOR & COMMERCE

**Recommendation No. 1A**

Alaska Statute 42.05 should be amended to cease certification and regulation of companies furnishing collection and disposal service of garbage, refuse, trash, or other waste material.

The Commission supports this recommendation as it did the identical recommendation made in the 1979 and 1985 Sunset Audits. The auditor's statement that the public health and sanitation aspects of this service are monitored by local governments and the Department of Environmental Conservation addresses the Commission's previous reservation on deregulation.

**Recommendation No. 1B**

Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

The Commission concurs with this recommendation based on the character of radio common carrier (RCC) services and the current regulatory status of RCCs operating in the state. However, as noted in the Commission's response to the same recommendation in the 1985 Sunset Audit, future developments in the telecommunications industry may require reimposition of RCC regulation at some later time.

The Commission also believes that its authority to partially or fully deregulate a particular utility industry in response to current circumstances is a desirable and appropriate supplement to the legislative action advocated by the auditor. Accordingly, the Commission requests legislative guidance on the validity of its decision to economically deregulate the RCC industry in the event this recommendation is not implemented by statute.

Recommendation No. 1C

Alaska Statute 42.05 should be amended to cease certification of cable television.

The Commission concurs with this recommendation with some qualifications, as it did with the same recommendation in the 1985 Sunset Audit. The recommendation appropriately eliminates the anomaly in the current regulatory scheme for cable television (CATV) service whereby CATV providers hold monopoly certificates but are economically deregulated. However, the Commission would encourage the Legislature to use its legal and research staffs to examine the implications of the following on full CATV deregulation: (1) the Cable Communications Policy Act of 1984, (2) the Federal Communications Commission's recent initiatives to eliminate the existing ban on cross-ownership of CATV and telephone companies, (3) the availability and status of local government oversight, (4) shared use of rights-of-way, (5) community access and institutional network use of CATV systems, and (6) disposition of certificates held by existing CATV providers. In any event, as noted in response to the 1985 Sunset Audit recommendation, CATV certification is not a large element of the Commission's workload.

Recommendation No. 1D

Alaska Statute 42.05 should be amended to exempt smaller utilities from economic regulation.

The Commission opposes this recommendation because it disagrees with the auditor's unsupported presumption that the cost of economic regulation presently exceeds its benefits for smaller utilities. Rather, the Commission concludes from its experience

that regulation of small utilities is at the core of its public protection function, especially given the geographic and demographic characteristics of Alaska. The Commission also believes that the burden and cost of regulation on smaller utilities can and should be reduced administratively, and it is currently addressing this issue.

As the auditor points out, it is extremely difficult to quantify the cost of regulation, both to the regulated and to the regulator. At the same time, it is relatively easy to inflate or deflate cost figures to support a given predisposition for or against regulation. Regardless of amount, costs are relatively meaningless unless they are compared to benefits.

The Commission agrees with the auditor that the primary benefits of regulation are a financially stable utility which provides reliable, safe service to all customers at reasonable, non-discriminatory rates. With the exception of 22 water companies, the utilities affected by this recommendation are providing service in rural Alaska and are predominantly electric utilities. It has been the Commission's experience that the need for regulation and the potential benefits provided by regulation are frequently greater for smaller utilities than for larger utilities for many reasons, including, the logistical challenge of operating in remote locations; inexperienced personnel; unsafe facilities as a result of non-compliance with the National Electric Safety Code; lack of familiarity with utility management, maintenance, and accounting procedures; discriminatory actions by utility management; failure to request rate increases when needed; and procurement of wrong equipment. In addition, it can be argued that the consumers in rural Alaska are even more captive than those in the urban areas, and, therefore, are particularly dependent on a high level of protection.

Although the reduction in workload would be approximately commensurate with the loss of Commission staff over the past three years if this recommendation were enacted, and from that standpoint may be appealing, the Commission does not believe that the public interest would be served by wholesale deregulation of utilities serving perhaps the most (or one of the more) vulnerable segment(s) of the ratepaying public.

The Commission believes that the concern about the cost of regulation that has been voiced by the auditor as well as others, for the most part, is directed at the expense (both in time and dollars) associated with regulatory requirements when a utility desires or needs to change its rates. The Commission has recognized for some time that the regulatory scheme that exists and has been applied to both large and small utilities should be examined. To that end, on February 3, 1989, the Commission has issued a Notice of Inquiry. The purpose of the Inquiry is to receive information which would assist the Commission in proposing regulations to simplify rate and other regulatory proceedings for smaller utilities. A copy of this order is attached. (See Appendix A.)

In summary, the Commission believes that the issue of the cost of regulation as it relates to the smaller-sized utilities can be substantially mitigated through administrative procedures rather than legislation which would eliminate the important public protection function today provided by economic regulation.

However, if the Legislature believes public policy is better served by deregulating smaller utilities, the Commission would propose, as it did in response to the 1985 Sunset Audit, the following amendment to AS 42.05.711 to expand the deregulation election process found in AS 42.05.712 which would replace the provisions of AS 42.05.711(e), (f), (g), and (i):

All utilities which have gross revenues of \$500,000 or less may elect to be exempt from the provisions of AS 42.05, other than AS 42.05.221-42.05.281, under the procedures described in AS 42.05.712.

This approach conforms with the Commission's position that regulation for utilities that heretofore have been regulated should be continued unless the people most affected, the consumers, vote to become deregulated.

The Commission also concurs with the auditor's suggestion that consideration be given to reducing the number of customers required to petition for regulation under AS 42.05.711.

**Recommendation No. 1E**

Alaska Statute 42.05 should be amended to cease mandatory economic regulation of certain utilities owned by political subdivisions.

The Commission supports the philosophy underlying this recommendation. However, the Commission does not believe that elimination of AS 42.05.711(b)(2) is necessary to achieve the auditor's objective and has proposed an alternative legislative approach and language.

It is reasonable that if regulation is elected at one time by a governing body as currently provided under AS 42.05.711(b)(1), then a future governing body should have similar authority to vote to revoke that election. If such revocation is exercised, it is presumed that the public protection function provided by the Commission will be assumed by the governing body of the

political subdivision, thus giving affected consumers a forum and recourse for concerns and complaints.

The Commission recognizes that this recommendation presently affects only the Municipality of Anchorage. It is pertinent to consideration of this recommendation that, at the present time, there are a number of outstanding issues before, and outstanding requirements by, the Commission for the Anchorage Water and Wastewater Utility (sewer), the Anchorage Telephone Utility, and the Anchorage Municipal Light and Power Department.<sup>1</sup> It is reasonable to assume that the Anchorage Assembly would take into consideration the status and results of proceedings before the Commission at such time as it considers any decision to end economic regulation by the Commission.

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<sup>1</sup>Docket U-87-47 is an investigation into the general management practices of Anchorage's sewer utility. In Dockets U-88-18 and U-87-61 the Anchorage Telephone Utility is before the Commission requesting a 54.83% rate increase and responding to an investigation into the general and financial management practices of the utility. Commission decisions are currently pending in these sewer and telephone cases. At the present time, the Municipal Light and Power Department is required to provide an equity management plan and obtain Commission approval before further debt refunding is issued because of its poor financial condition.

Rather than eliminating AS 42.05.711(b)(2), as the auditor appears to suggest, AS 42.05.711(b) should be expanded to provide for deregulation of a municipal entity if its governing body so elects, once competition no longer exists between it and other utilities, and to allow the governing body of a political subdivision to revoke a previous election. The Commission believes it is desirable to continue a protective mechanism for regulated utilities in the event a future situation arises involving competition with a municipal utility. Proposed language is attached. (See Appendix B.)

Recommendation No. 2

Alaska Statute 42.05 and 42.06 should be amended to more fully allocate the costs of regulation.

The Commission concurs in part, and opposes in part, this recommendation. The Commission agrees with the auditor's suggestion that, in light of the current economic climate as well as a recent court decision, discussion should be focused on the appropriate method to fund this agency. Clearly, the time is ripe to evaluate funding options; however, the Commission disagrees with the method of funding advocated by the auditor. Regardless of the outcome of the broader funding discussion, the Commission concurs that AS 42.05.651(a) should be amended to allow interim allocations during a proceeding and to exclude the Commission from bearing any costs of a hearing or investigation.

The Commission opposes the auditor's "full and direct allocation of the Commission's costs" approach to funding for several reasons. First, the Commission believes that this is the most costly and cumbersome funding option from an administrative perspective. In order to allocate all costs, it would be necessary to develop an extensive cost accounting system to track direct costs and to allocate indirect costs to each utility or pipeline carrier. It would also be necessary to establish an accounting staff and procedures to bill, audit, and collect cost allocations on a regular basis. The costs to design and to provide the personnel and other resources required to implement a system to recover the Commission's budget would be substantial. The Commission also anticipates that its energies would be diluted from substantive regulatory responsibilities to accounting and auditing of cost allocations.

Second, the "full allocation" approach does not accurately and equitably allocate indirect costs. A number of Commission activities do not fall within categories that are readily allocable to specific cases in the manner suggested in the audit. These include: administrative duties such as preparation of the annual budget or responses to administration, legislative, or other agency (both state and federal) requests; generic cases; requests from consumer and utility groups to participate in educational efforts; training; regulations proceedings; court appeals; Commissioner time; all non-regulatory briefings and meetings. In addition, there are a number of Commission activities where the cost-benefit of maintaining individual time records for cost allocation purposes may not be justified. Under the auditor's recommendation, all indirect costs would apparently be assigned to utilities and pipeline carriers on the same basis as the direct cost assignments they have received. The effect of this approach is to shift the cost of statewide regulation to those entities who happen to have proceedings during the year and to ignore the public protection benefits associated with the

availability of regulation for all certificated and regulated entities. The alternative to this imprecise, inequitable allocation of indirect costs is to continue to provide a significant portion of the Commission's ongoing budget from the General Fund, which conflicts with the objective of the "full allocation" scheme.

Third, the "full allocation" approach is contrary to the auditor's underlying economic thesis that utility consumers are motivated by (or should be motivated by) the cost of regulation when choosing the appropriate amount of regulation. In particular, the allocation of indirect costs suggested by the auditor bears no real relationship to the direct costs which are allocated, thus inflating the cost of regulation and sending an incorrect economic signal. It will also be much more difficult for utilities and pipeline carriers to budget for, and incorporate in rates, the cost of regulation than it would be under other alternative funding approaches.

Lastly, a "full allocation" program does not address the legal concern of incurring costs, through the program receipts process, in one fiscal year and recovering them through the allocation process until subsequent fiscal years. In addition, this recommendation appears to conflict with recent administration and legislative discussions on the resolution of the Commission's financial exposure for program receipts payments as a result of a 1988 Supreme Court decision.

The Commission believes that the focus of the funding discussion should be on the other options: Continuation of general funding

and the "user fee" concept of funding.<sup>2</sup> To paraphrase what the Commission stated on page 85 of its FY1988 Annual Report to the Legislature, the issue is:

Who should pay for regulation: taxpayers (general fund) or ratepayers (user fees)? There are advantages and disadvantages to each approach. However, a preference for the former is largely based on a policy premise that regulation is a responsibility of government and a right to which all citizens are entitled, while the latter may best be supported on a policy premise that the cost-causer should be the cost-payer. In the end, the policy that is adopted may depend on balancing those objectives as well as the budget itself.

The Commission is prepared to respond to specific questions about each of these funding options and will work with all interested persons in determining the optimum funding methodology to enable the Commission to carry out its public protection function.

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<sup>2</sup>Under a user fee approach, certificated and regulated utilities and pipelines are directly assessed fees usually based on gross revenues, which approximate the Commission's budget approved by the Legislature.

Recommendation No. 3

APUC should develop a topical reference system for commission orders and court decisions.

The Commission supports this recommendation, which was previously made in the 1979, 1984, and 1985 Sunset Audits. The Commission also reiterates that funding is essential to the implementation of this recommendation.

The almost-realized funding in the Commission's FY89 budget would have provided a part-time person to reference current decisions. However, the historical decisions made during the past 18 years, with particular emphasis on the last 12 years, are an integral and equal, if not more important, component of a reference system which would serve all who are directly and indirectly affected by Alaska utility regulation. The Commission believes the historical reference system could be developed through a one-time capital appropriation and that the current reference system could be maintained with a part-time person.

Recommendation No. 4

Alaska Statute 42.05.030 should be amended to stagger the appointments of the two consumer members of the commission.

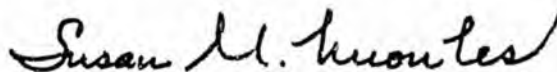
The Commission supports this recommendation.

## Appendix

The Commission also finds that the Appendix at page 23 of the preliminary audit report which summarizes Commission appropriations and expenditures for FY1988 and FY1989 is somewhat misleading because of the current sources and uses of funding from the General Fund and program receipts. Accordingly, attached to this response as Appendix C is a copy of page 23 with suggested footnotes to explain the variations in amounts presented.

While it disagrees with some of the specific findings and recommendations in the preliminary audit report, the Commission supports the auditor's underlying objective of matching the duties and the resources of the agency (and the state) and looks forward to working with the Legislature in its consideration of the audit report. Please feel free to contact me if you have any questions about this response.

Sincerely,



Susan M. Knowles  
Chairman

Attachments

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Susan M. Knowles, Chairman
Carolyn S. Guess
Louis E. Agi
Kathleen L. Whiteaker
Peter Sokolov

In the Matter of the Consideration of Simplification of Small Utility Regulation ) R-89-1
) ORDER NO. 1

ORDER ISSUING NOTICE OF INQUIRY FOR SIMPLIFICATION OF SMALL UTILITY REGULATION

BY THE COMMISSION:

Introduction

A longstanding objective of the Commission and a subject of frequent legislative interest is simplification of regulation of small utilities. As a result, the Commission identified this as one of its program priorities for the current fiscal year. At its Public Meeting on November 22, 1988, the Commission adopted a work plan for addressing this objective, the first step of which is issuance of this notice of inquiry (NOI).

Background

A substantial number of the public utilities operating in Alaska are businesses providing service in small, geographically dispersed areas of the state; almost all of these operate outside the major urban areas of the state. Of the 94 utilities

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1 which are economically regulated,<sup>1</sup> the following chart indicates,  
 2 by gross revenues and type of service, utilities that could be  
 3 proposed within a definition of a small utility. (Financial and  
 4 customer information for all economically regulated utilities is  
 5 provided on Appendix 1, an extract from the Commission's FY 1988  
 6 Annual Report.)

7 UTILITY	8 GROSS REVENUES				
	9 <u>Less than<sup>2</sup></u> <u>\$1,000,000</u>	10 <u>Less than</u> <u>\$ 500,000</u>	11 <u>Less than</u> <u>\$ 250,000</u>	12 <u>Less than</u> <u>\$ 100,000</u>	13 <u>Less than</u> <u>\$ 50,000</u>
14 Electric	18	10	4	1	0
15 Gas	1	--	--	--	--
16 Refuse	5	1	--	--	--
17 Sewer	3	2	2	2	2
18 Telephone	2	--	--	--	--
19 Water	<u>22</u>	<u>22</u>	<u>22</u>	<u>15</u>	<u>14</u>
20 TOTAL	51	35	28	18	16

21 For utilities subject to economic regulation, the reg-  
 22 ulatory scheme that exists applies uniformly to both large and  
 23 small utilities with relatively few exceptions. (For example,

24 <sup>1</sup>Per 3 AAC 48.820(43), "'economic regulation' means that the  
 25 commission's jurisdiction extends to matters concerning rates and  
 26 charges for public utility or pipeline carrier services, quality  
 of service provided by the utility or pipeline carrier to its  
 customers or shippers, management practices of the utility or  
 pipeline carrier, and customer or shipper complaints concerning  
 the services furnished by a utility or pipeline carrier."

<sup>2</sup>CS for SB369 (L&C), which was introduced in the last ses-  
 sion of the Legislature, proposed a simplified scheme of rate  
 regulation for utilities with annual gross revenues of \$1,000,000  
 or less.

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1 certain recordkeeping requirements are less complex for smaller  
2 sized utilities.) Since the Commission's statute is modeled  
3 after a "Lower 48" average-size utility, a number of real or  
4 potential problems exist with the present regulation of small  
5 utilities.<sup>3</sup>

6 First, by its nature, regulation is a complex, techni-  
7 cal process. The basic ground rules for utility regulation in  
8 Alaska are set forth in statute and regulations which exceed 150  
9 pages in length and are written in the terminology (both legal  
10 and technical) which is peculiar to these documents as well as to  
11 utility regulation. State regulation is also influenced by, and  
12 at times dictated by, national trends and developments. An ex-  
13 tensive bibliography of regulatory texts, periodicals, and court  
14 and commission cases have been applied to and interpreted in  
15 hundreds of Commission decisions. Additionally, there is no in-  
16 dex of Commission decisions,<sup>4</sup> further complicating the process  
17 for small, less experienced and sophisticated utilities. Thus,  
18 small utilities face a formidable challenge in acquiring a work-  
19 ing understanding of the rules, vocabulary, and formulas of the  
20 process sufficient to operate as regulated businesses.

21 \_\_\_\_\_  
22 <sup>3</sup>The substantial assistance provided in regulatory matters  
23 by Commission Staff (Staff) to smaller utilities attests to the  
24 very real circumstances that face both these utilities and the  
25 Commission under the traditional regulatory scheme.

26 <sup>4</sup>Beginning in 1979, with support of Legislative Audit recom-  
mendations, the Commission has unsuccessfully sought funding for  
development of an index of its decisions.

1                   Second, small utilities, because of their geographic  
2 locations and higher costs of operation, find personnel special-  
3 ized in regulatory matters unavailable or extremely costly. Many  
4 of the smaller utilities are basically one-person operations or  
5 have few employees. As a result, they must be "jacks of all  
6 trades" specializing in maintaining adequate service above all  
7 else. Their skills are focused in the area of operations, which  
8 are especially critical and challenging in rural Alaska, not in  
9 the particular aspects of engineering, accounting, and record-  
10 keeping which are typically required in the regulatory process.  
11 As a result, small utilities may find the complexities of the  
12 regulatory process disinviting, if not overwhelming; may not  
13 maintain records in accordance with regulatory requirements; and  
14 may find it difficult, without some guidance and assistance, to  
15 provide the information necessary to meet the same standards of  
16 proof for rate and other tariff revisions which are required of  
17 larger utilities. This, coupled with a natural reluctance to  
18 raise rates to their neighbors, can jeopardize the long-term  
19 operation and existence of a utility. Furthermore, individuals  
20 who are struggling to maintain viable utility operations in a  
21 harsh environment or are otherwise independent-minded Alaskan  
22 entrepreneurs may have little time or use for the complexities  
23 and requirements of regulation. Regulation is more likely to be  
24 ignored and less likely to fulfill its stated public purposes  
25 under these circumstances.

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1 Third, the costs of compliance with standardized infor-  
2 mation and recordkeeping requirements may be high relative to  
3 other costs and revenues for small utilities. Absent in-house  
4 expertise, the small utility is often put in a position where it  
5 must contract for outside assistance to fulfill its regulatory  
6 needs. The costs incurred for attorneys, accountants, and en-  
7 gineers, as well as for hearings before the Commission, can have  
8 a direct and material effect on the rates paid by consumers.  
9 While regulatory costs may be a relatively small portion of over-  
10 all costs for larger utilities, they may actually be a signifi-  
11 cant contributor to the rate increases required by smaller utili-  
12 ties. As a result, small utilities may not be able to afford the  
13 unavoidable costs of exercising their rights and fulfilling their  
14 responsibilities under regulation. This problem is multiplied  
15 for those small utilities operating in remote locations.

16 Fourth, small utilities may have financial characteris-  
17 tics which differ from those traditionally identified with  
18 economically regulated utilities. In particular, some of these  
19 utilities have a small investment in rate base (plant investment)  
20 relative to revenues and expenses in contrast to utilities which  
21 require large investments of fixed assets in relation to revenues  
22 generated. There are a number of reasons for this difference,  
23 including, the utility may not be capital intensive by nature  
24 (e.g., refuse utilities); the utility has received government  
25 grants to finance its plant (e.g., water or electric utilities);  
26 the utility was initiated with and financed by a real estate

1 development (e.g., water utilities); or the utility owner has  
2 contributed substantial "sweat equity" in one or more years of  
3 the utility's operation which is not reflected in booked capital  
4 investment (e.g., all small utilities). Minor fluctuations in  
5 revenues and expenses have significant consequences for the  
6 financial condition of small utilities with higher ratios of  
7 revenues to assets. Predictable fixed charges are a low portion  
8 of these utilities' expenses, and they may not have the cash flow  
9 cushion provided by depreciation expense and return on investment  
10 (as compared to operating expenses) which is available to more  
11 capital intensive industries. The lead time and requirements of  
12 regulation may be particularly critical to these small utilities.

13 Fifth, one of the consequences of the decrease in Com-  
14 mission resources without a corresponding decrease in statutory  
15 responsibilities and workload is that it is increasingly dif-  
16 ficult for the Commission to provide the necessary level of as-  
17 sistance to small utilities. For example, there have been a num-  
18 ber of instances in the past where Staff has essentially prepared  
19 and processed a small utility's rate case, in particular, where  
20 the financial health of the business depended on rate relief.  
21 For some, it is the Staff's analysis which provides the utility  
22 with the input to determine the level of rate adjustment it needs  
23 to meet its operating costs. The Staff routinely provides  
24 guidance and assistance on other regulatory matters as well.  
25 While the need for and interest in providing this type of support  
26 still exists, it is not possible to continue the past level of

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1 service with existing resources. Therefore, other mechanisms  
2 must be developed to simplify the regulatory process for small  
3 utilities and to reduce their reliance on individualized support.

4 The above discussion of small utility regulation should  
5 not be read to imply that consumers of small utilities require  
6 less protection than those of large utilities. In fact, ex-  
7 perience may suggest that the need is greater. Similarly, the  
8 above problems with regulation of small utilities in no manner  
9 diminish the Commission's statutory obligation to assure that  
10 consumers of economically regulated small utilities are protected  
11 with respect to the cost, terms, and conditions of service they  
12 receive and the reliability and safety of facilities that are  
13 providing those services. The statute is relatively indifferent  
14 to utility size in prescribing the general duties and respon-  
15 sibilities of both the regulators and regulated but allows the  
16 Commission through the promulgation of regulations to implement  
17 the law in its specifics.

#### 18 Discussion

19 It is the policy of the Commission to minimize the bur-  
20 dens and costs of regulation for utilities to the greatest extent  
21 possible. However, balance is required in order to both assure  
22 the protection of customers of a monopoly providing an essential  
23 service and to assure the continued financial and operational  
24 viability of these utilities. The goal of this proceeding is to

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1 implement this policy for small utilities by examining the cur-  
2 rent approach to regulation and by developing simplified pro-  
3 cedures for that regulation which minimize administrative and  
4 regulatory burdens and costs for utilities and regulators. It is  
5 the Commission's intent to solicit input from all interested per-  
6 sons on this subject by issuing this NOI and to use that input  
7 for drafting regulations. The regulations would, in turn, be  
8 noticed for comment and suggested changes prior to being  
9 promulgated.

10           While there are many facets of small utility regulation  
11 which are worthy of reassessment and refinement, the Commission  
12 believes that its initial focus should be on the ratemaking pro-  
13 cess. For the reasons discussed earlier in this Order, ratemak-  
14 ing is perhaps the least discretionary and most critical of the  
15 regulatory functions for small utilities. As a corollary to its  
16 ratemaking review, the Commission intends to examine the annual  
17 report forms currently used by small utilities for simplifica-  
18 tion, wherever possible, and for maximum coordination with the  
19 supporting information requirements of rate cases. The Commis-  
20 sion understands that there are also opportunities for simplify-  
21 ing other areas of small utility regulation, such as the prepara-  
22 tion and processing of miscellaneous tariff filings. While com-  
23 ments are welcome on the full range of regulatory reform for  
24 small utilities, the Commission's anticipated order of priority  
25 in this inquiry is: (1) ratemaking; (2) annual report forms; and  
26 (3) other matters.

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1 Interested persons are encouraged to provide the Com-  
2 mission any and all information and suggestions which they  
3 believe are relevant to this inquiry. However, to facilitate  
4 comments to the HOI, the list of questions which follow includes  
5 issues which the Commission believes should be considered. Some  
6 questions are more relevant for utilities or their representa-  
7 tives responding to this inquiry, while others may be more ap-  
8 propriate for a response from Staff or other interested parties  
9 such as the Alaska Consumer Advocacy Program, the Alaska Rural  
10 Electric Cooperative Association, or the Alaska Telephone As-  
11 sociation. All respondents are encouraged to be as specific as  
12 possible and, where appropriate, to detail the content and format  
13 of any forms which may be proposed.

14 1. What should be the objectives of any procedures for  
15 simplifying ratemaking and reporting functions for small  
16 utilities?

17 2. What should be the criteria for being designated a  
18 "small" utility which is eligible for participation in simplified  
19 ratemaking procedures?

20 3. What approach should be used to simplify the ratemaking  
21 process for small utilities? For example,

22 a. Should the emphasis be on making periodic rate case  
23 filings easier?

24 b. Should a simplified rate filing procedure similar to  
25 that found in AS 42.05.381(e) and 3 AAC 48.700 -- 3 AAC 48.790 be  
26 adopted? (A copy of these provisions is attached as Appendix 2.)

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1           c. Should some other alternative to traditional rate  
2 base/rate of return regulation be implemented such as a ratio of  
3 operating expenses to revenues?

4           4. What is the minimum amount of information needed to per-  
5 form the type of small utility regulation which is proposed?

6           5. What additional information (above that suggested in  
7 response to question 4) would be desirable or necessary to in-  
8 crease the accuracy or accountability of small utility regula-  
9 tion; what is the cost/benefit of acquiring that information?

10          6. What, if any, forms or information are provided to other  
11 state or federal agencies by small utilities which could be sub-  
12 stituted for some or all of the forms required for rate cases or  
13 Commission annual reports? (Please provide a sample.)

14          7. Is it possible to develop a substantially similar set of  
15 forms to be used for both rate case filings and annual reports by  
16 small utilities? (Please provide examples of proposed forms.)

17          8. What are the most difficult sections of the annual re-  
18 port forms for small utilities to complete? Why?

19          9. What are the most useful and the least useful sections  
20 of the annual report? Why?

21          10. What, if any, changes should be made in the procedures  
22 for processing small utility rate filings in order to minimize  
23 their administrative complexity and cost? (Please provide an  
24 example.)

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1 11. What level of support have small utilities been provided  
2 by Commission Staff for ratemaking or other regulatory require-  
3 ments? (Individual utilities should be as specific as possible.)

4 12. What level of support, guidance, or assistance is neces-  
5 sary for the Commission to provide to small utilities?

6 In conclusion, the Commission is issuing this NOI to  
7 solicit comments on and suggestions for simplification of the  
8 regulation of small utilities consistent with the Commission's  
9 responsibilities under the law. Written responses to this NOI  
10 should be filed no later than April 3, 1989, with reply comments  
11 due no later than May 1, 1989. Further procedures and schedules  
12 will be established upon review of those comments.

13 ORDER

14 THE COMMISSION FURTHER ORDERS:

15 1. By issuance of this notice of inquiry, a proceeding  
16 is opened for the purpose of considering simplification of reg-  
17 ulation of small utilities.

18 2. All interested persons may submit comments in  
19 response to the notice of inquiry no later than 4 p.m.,  
20 April 3, 1989.

21 3. All interested persons may submit reply comments no  
22 later than 4 p.m., May 1, 1989.

23 DATED AND EFFECTIVE at Anchorage, Alaska, this 3rd day of Febru-  
24 ary, 1989.

25 BY DIRECTION OF THE COMMISSION  
(Commissioner Louis E. Agi, not participating)  
26 (S E A 'L)

**ELECTRIC UTILITIES  
(1987 Calendar Year)**

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$5,000,000)</u>				
Alaska Electric Generation & Transmission Cooperative, Inc.	\$ 17,139,417	\$ 16,256,727	\$ 86,170	1
Alaska Electric Light and Power Company	34,739,603	15,000,700	1,360,802	10,370
Alaska Village Electric Cooperative, Inc. <sup>1</sup>	27,219,242	11,485,103	1,016,263	4,970
Chugach Electric Association, Inc.	366,771,780	93,533,908	5,394,175	60,007
Copper Valley Electric Association, Inc.	14,053,824	7,171,696	886,209	2,358
Golden Valley Electric Association, Inc.	138,156,431	39,115,609	3,173,267	26,784
Homer Electric Association, Inc.	82,327,628	31,168,368	2,551,630	17,239
Kodiak Electric Association, Inc.	32,519,997	14,044,493	2,325,009	4,354
Natanuska Electric Association, Inc.	106,672,760	37,879,553	4,640,728	27,479
Municipal Light & Power Department, Municipality of Anchorage d/b/a	<u>146,962,166</u>	<u>61,594,072</u>	<u>722,462</u>	<u>30,040</u>
Subtotal	<u>\$966,553,848</u>	<u>\$327,258,389</u>	<u>\$22,173,595</u>	<u>104,506</u>

(This Appendix contains excerpts from the Commission's FY88 Annual Report to the Legislature; footnotes are omitted.)

1R-87-1(1)  
APPENDIX 1

ELECTRIC UTILITIES (CONT.)  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,500,000 but Less Than \$5,000,000)</u>				
Alaska Power & Telephone Company	\$ 3,354,850	\$ 3,164,175	\$ 500,190	1,716
Arctic Utilities, Inc. <sup>1</sup>	2,152,979	3,146,571	249,226	26
Barrow Utilities and Electric Cooperative, Inc.	-----2	1,606,804	229,661	1,246
Bethel Utilities Corporation, Inc.	2,036,560	4,277,113	136,114	1,691
Kotzebue Electric Association, Inc.	6,449,884	2,790,390	420,487	973
Nushagak Electric Cooperative, Inc. <sup>3</sup>	4,771,174	2,498,707	260,577	1,084
Tlingit-Haida Regional Electrical Authority	<u>5,620,503</u>	<u>2,986,005</u>	<u>480,024</u>	<u>975</u>
Subtotal	\$ <u>25,193,973</u>	\$ <u>20,557,933</u>	\$ <u>2,356,279</u>	<u>7,711</u>

(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,500,000)

Aniak Light and Power Company, Inc.	\$ 526,320	\$ 741,912	\$ 119,449	150
G & K, Inc.	N/A	895,814	N/A	70
Gwitchyaa Zhee Utility Company <sup>4</sup>	690,130	578,608	<110,310>	297
Haines Light & Power Company, Inc.	1,206,793	1,162,049	97,064	750
I-H-H Electric Cooperative, Inc.	1,522,832	695,272	<1,032>	259
McGrath Light & Power Company <sup>4</sup>	1,069,476	837,306	143,931	231
Sand Point Electric, Inc. <sup>5</sup>	438,301	939,039	2,132	400
Tanana Power Company, Inc.	751,797	551,930	81,258	104
Yakutat Power, Inc.	<u>674,831</u>	<u>693,338</u>	<u>45,659</u>	<u>201</u>
Subtotal	\$ <u>6,880,480</u>	\$ <u>7,095,268</u>	\$ <u>377,343</u>	<u>2,622</u>

ELECTRIC UTILITIES (CONT.)  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Assets
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Less Than \$500,000)</u>				
Andreanof Electric Corporation <sup>1</sup>	\$ 129,345	\$ 79,072	\$ 15,203	37
Bettles Light & Power, Inc.	316,722	373,529	<47,041>	49
Far North Utilities	355,414	112,315	<6,110>	44
Levelock Electric Cooperative, Inc. <sup>2</sup>	75,534	144,844	20,344	69
Hanley Utility Company, Inc.	266,322	111,344	<66,062>	84
Middle Kuskokwim Electric Cooperative, Inc.	1,714,495	375,093	<21,233>	152
Hapaklak Incinaq Power Company <sup>3</sup>	141,137	275,343	61,212	81
Northway Power & Light, Inc.	327,927	366,442	39,759	110
Pelican Utility Company	504,202	394,794	106,033	107
Teller Power Company	96,429	305,600	71,561	86
Subtotal	\$ 4,007,607	\$ 2,539,256	\$ 252,066	819
TOTALS	<u>\$1,002,635,913</u>	<u>\$357,450,046</u>	<u>\$25,159,203</u>	<u>195,658</u>

GAS UTILITIES  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$5,000,000)</u>				
ENSTAR Natural Gas Company <sup>1</sup> (a division of Seagull Energy Corporation)	\$157,479,366	\$99,956,451	\$15,855,146	70,223
Subtotal	\$157,479,366	\$99,956,451	\$15,855,146	70,223
<u>(Gross Operating Revenue Greater Than \$500,000 but Less Than \$1,500,000)</u>				
Darrow Utilities and Electric Cooperative, Inc.	\$----- <sup>2</sup>	\$ 804,907	\$ 74,685	900
Subtotal	\$----- <sup>2</sup>	\$ 804,907	\$ 74,685	900
<b>TOTALS</b>	<u>\$157,479,366</u>	<u>\$100,761,430</u>	<u>\$15,929,831</u>	<u>79,131</u>

REFUSE AND GARDAGE UTILITIES  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Customers
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$200,000)</u>				
Anchorage Refuse, Inc.	\$2,458,004	\$ 9,210,396	\$163,811	26,076
Channel Sanitation Corporation	276,094	2,132,305	<390,404>	4,920
Drake's Sanitation, Inc. <sup>1</sup>	132,400	454,641	<0,716>	165
Eagle River Refuse, Inc.	105,610	932,965	32,697	4,110
Far North Sanitation, Inc.	1,569,616	1,214,258	133,867	712
Interior Services, Ralph E. Bartlett d/b/a	780,822	519,916	<23,940>	262
Kodiak Sanitation, Inc.	82,437	820,551	70,322	182
Peninsula Sanitation Company, Inc. <sup>2</sup>	252,395	1,350,321	85,004	1,340
Weslita Refuse, Inc. <sup>3</sup>	130,700	541,037	74,504	702
<b>TOTAL</b>	<u>\$5,877,846</u>	<u>\$17,176,390</u>	<u>\$137,937</u>	<u>30,477</u>

SEWER (WASTEWATER) UTILITIES  
(1967 Calendar Year)

Utility	Net Plant <sup>1</sup>	REVENUES		Users
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,000,000)</u>				
Anchorage Water and Wastewater Utility, Municipality of Anchorage d/b/a	\$54,302,553	\$10,099,005	\$<1,206,190>	49,140
College Utilities Corp. <sup>2</sup>	<u>2,201,975</u>	<u>1,366,995</u>	<u>101,412</u>	<u>1,554</u>
Subtotal	<u>\$56,504,528</u>	<u>\$19,466,000</u>	<u>\$&lt;1,106,778&gt;</u>	<u>50,694</u>
<u>(Gross Operating Revenue Less Than \$250,000)</u>				
Barrow Utilities and Electric Cooperative, Inc.	\$----- <sup>3</sup>	\$ 554,500	\$ 3,333	367
Salmantof Utilities, Inc.	50,000	004	514	3
Sottlers Bay Properties, Inc.	<u>- 0 -</u>	<u>5,045</u>	<u>&lt;159,390&gt;</u>	<u>12</u>
Subtotal	<u>\$ 50,000</u>	<u>\$ 560,509</u>	<u>\$ &lt;155,543&gt;</u>	<u>382</u>
TOTALS	<u>\$56,634,528</u>	<u>\$20,027,309</u>	<u>\$&lt;1,342,321&gt;</u>	<u>51,076</u>

**TELECOMMUNICATION UTILITIES**  
(Long Lines and Local Exchange Carriers)  
(1987 Calendar Year)

Utility	Net Plant	Revenues		Main Access Lines
		Total Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$4,000,000)</u>				
Alascom, Inc.	\$329,029,964	\$281,030,131	\$42,456,392	N/A
Anchorage Telephone Utility, Municipality of Anchorage d/b/a	219,695,213	87,020,380	1,669,758	112,107
General Telephone Company of Alaska	12,884,609	8,255,030	1,002,776	10,602
Interior Telephone Company	8,837,986	4,407,591	8,605	1,965
Katanaska Telephone Association, Inc.	91,414,691	29,325,474	1,381,188	25,418
Telephone Utilities of Alaska, Inc.	94,008,561	43,760,048	6,850,419	34,031
Telephone Utilities of the Northland, Inc.	1,871,909	14,845,183	2,050,959	14,297
United Utilities, Inc.	15,760,748	7,651,037	652,195	2,065
Subtotal	<u>\$794,503,841</u>	<u>\$476,294,874</u>	<u>\$56,080,292</u>	<u>201,285</u>
<u>(Gross Operating Revenue Greater Than \$1,000,000 but Less Than \$4,000,000)</u>				
Arctic Slope Telephone Association Cooperative, Inc.	\$ 3,429,404	\$ 3,686	\$ 564,797	855
Bristol Bay Telephone Cooperative, Inc.	3,073,711	1,517,469	150,112	942
Copper Valley Telephone Cooperative, Inc.	10,453,257	3,432,288	696,218	2,795
Hukluk Telephone Company, Inc.	2,731,542	1,363,916	347,815	642
National Utilities, Inc.	1,670,124	1,419,241	208,968	1,571
Hushagak Telephone Cooperative, Inc.	3,436,799	1,754,223	304,736	1,286
OTZ Telephone Cooperative, Inc.	3,900,178	2,001,021	349,989	1,540
Subtotal	<u>\$ 28,695,015</u>	<u>\$ 15,317,644</u>	<u>\$ 2,622,635</u>	<u>9,631</u>
<u>(Gross Operating Revenue Less Than \$1,000,000)</u>				
Dush-Tell, Incorporated	\$ 2,384,383	\$ 814,510	\$ <14,506>	520
Yukon Telephone Company, Inc.	684,335	644,904	<63,290>	343
Subtotal	<u>\$ 3,068,718</u>	<u>\$ 1,459,414</u>	<u>\$ &lt;77,796&gt;</u>	<u>863</u>
TOTAL	<u>\$826,267,574</u>	<u>\$493,071,932</u>	<u>\$ 58,625,131</u>	<u>211,779</u>

**WATER UTILITIES**  
(1967 Calendar Year)

Utility	Net Plant <sup>1</sup>	Revenues		Users
		Gross Revenues	Net Income	
<u>(Gross Operating Revenue Greater Than \$1,000,000)</u>				
Anchorage Water and Wastewater Utility, Municipality of Anchorage d/b/a	\$91,067,395	\$17,029,084	\$391,062	40,305
Barrow Utilities and Electric Cooperative, Inc.	----- <sup>2</sup>	2,497,134	431,071	380
College Utilities Corp. <sup>3</sup>	<u>3,605,731</u>	<u>1,402,341</u>	<u>170,270</u>	<u>1,600</u>
Subtotal	<u>\$94,753,126</u>	<u>\$20,926,559</u>	<u>\$990,403</u>	<u>42,293</u>
<u>(Gross Operating Revenue Less Than \$250,000)</u>				
Alpat Water Utility Company	\$ 93,299	\$ 22,782	\$ 9,976	76
Alyeska Utilities, Inc. <sup>4</sup>	85,689	102,143	20,522	526
Chugiak Utilities	247,418	51,919	20,454	195
Dawn Development Corporation		(Not Reported)		
Eagle Utilities, Inc.	- 0 -	29,459	7,860	03
Eklutna Utilities, Inc.	456,993	193,555	<66,475>	608
ERU, Inc.	66,608	9,727	<5,352>	34
Kwik Log Water System, Myron Allon Newton d/b/a	- 0 -	2,688	890	18
Natanuska Utility Company, Inc.	69,689	12,443	<1,159>	12
McGahan Utilities, Inc.	22,801	23,046	2,603	N/A
McKinley Utilities, Inc. <sup>5</sup>	69,742	9,924	1,635	34
Norfolk Utilities, Inc.	696,505	248,156	235	866
Omlin Water Utility, Paul Omlin d/b/a	31,216	4,437	533	15
Pelican Utility Company		(Not Reported)		

WATER UTILITIES (CONT.)  
(1987 Calendar Year)

<u>Utility</u>	<u>Net Plant<sup>1</sup></u>	<u>Gross Revenues</u>	<u>Net Income</u>	<u>Users</u>
Potter Creek Water Company	\$ 128,642	590	<3,653>	9
Romig Park Improvement Company <sup>2</sup>	- 0 -	12,350	<3,174>	85
Sandlake Services, R. J. & Clara Rhodes d/b/a	35,648	28,566	9,310	130
Settlers Day Properties, Inc.	- 0 -	8,670	<62,000>	62
South Central Utilities, Inc.	81,577	1,323	<22,103>	11
Southeast Utilities, Inc., Robert H. Scott, Evelyn V. Scott, Charles J. Schneider and Marlene C. Schneider, S & S Development d/b/a	214,912	116,903	30,415	638
Spensard Heights Water System, Wayne Cates d/b/a	5,742	4,057	<409>	20
Valley Water Company, Inc. <sup>3</sup>	<u>230,175</u>	<u>157,600</u>	<u>54,560</u>	<u>265</u>
Subtotal	<u>\$ 2,536,656</u>	<u>\$ 1,041,128</u>	<u>\$ &lt;5,460&gt;</u>	<u>3,715</u>
TOTAL	<u>\$97,209,782</u>	<u>\$21,969,607</u>	<u>\$984,935</u>	<u>16,000</u>

**Sec. 42.05.365. Interest on deposits.** (a) A public utility may collect and retain a deposit for contracted recurring monthly service. A public utility that collects and retains a deposit of over \$100 for recurring monthly service shall pay interest on that deposit at or before the time it is returned. Interest paid under this section shall be at the legal rate of interest at the time the deposit is made. However, if the deposit is placed in an interest bearing account, the utility shall pay the interest rate of the interest bearing account.

(b) If delinquent payments result in interruption of service, a public utility is not required to pay interest under (a) of this section for 12 months after reestablishment of service. (§ 1 ch 50 SLA 1986)

**Cross references.** — For legal rate of interest, see AS 46.45.010.

**Sec. 42.05.381. Rates to be just and reasonable.** (a) All rates demanded or received by a public utility, or by any two or more public utilities jointly, for a service furnished or to be furnished shall be just and reasonable; however, a rate may not include an allowance for costs of political contributions, or public relations except for reasonable amounts spent for

(1) energy conservation efforts;

(2) public information designed to promote more efficient use of the utility's facilities or services or to protect the physical plant of the utility;

(3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance; or

(4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown.

(b) In establishing the revenue requirements of a municipally owned and operated utility the municipality is entitled to include a reasonable rate of return.

(c) A utility, whether subject to regulation by the commission or exempt from regulation, may not charge a fee for connection to, disconnection from, or transfer of services in an amount in excess of the actual cost to the utility of performing the service plus a profit at a reasonable percentage of that cost not to exceed the percentage established by the commission by regulation.

(d) A utility shall provide for a reduced fee or surcharge for standby water for fire protection systems approved under AS 18.70.081 which use hydraulic sprinklers.

(e) The commission shall adopt regulations for electric cooperatives setting a range for adjustment of rates by a simplified rate filing procedure. A cooperative may apply for permission to adjust its rates over a period of time under the simplified rate filing procedure regulations. The commission shall grant the application if the cooperative

satisfies the requirements of the regulations. The commission may review implementation of the simplified rate filing procedure at reasonable intervals and may revoke permission to use the procedure or require modification of the rates to correct an error. (§ 6 ch 113 SLA 1976; am § 1 ch 86 SLA 1976; am § 5 ch 106 SLA 1977; am § 4 ch 45 SLA 1980; am § 3 ch 104 SLA 1986)

Effect of amendments. — The 1986 amendment added subsection (a).

#### NOTES TO DECISIONS

Lobbying expenses excluded from revenue requirement. — The commission acted reasonably and within its statutory authority in excluding lobbying expenses as part of a utility's revenue requirement. *Homer Elec. Ass'n v. State, Pub. Utils. Comm'n, Sup. Ct. Op. No. 3327 (File No. S-1952), 12d (1988).*

**Sec. 42.05.385. Charges for water and sewer line extensions.**  
 (a) A water or sewer line extension may not be constructed unless the legislative body of each municipality through which the extension passes has approved the extension. This subsection does not apply to an extension that will not create any charges or assessments against the adjacent property.

(b) Except as provided in (c) of this section, when utility service is available to a property owner as a result of a water or sewer line extension, the utility offering the service through the extension shall notify the property owner, according to the procedure set forth for service of process in the Alaska Rules of Civil Procedure, of the charges and interest due the utility if the property owner elects to obtain the utility service through the extension. The property owner does not owe the charge for the extension until the property owner connects to the extension.

(c) Except as provided in (e) of this section, and unless the property owner connects to the extension,

(1) charges do not accrue against the property for construction of the extension;

(2) interest does not accrue against the property for the construction of the extension; and

(3) a lien or encumbrance may not be levied against the property for the construction of the extension.

(d) If the costs of constructing a water or sewer line extension have been paid by charges collected under this chapter, a utility may not charge for connection to the extension an amount greater than the actual cost of the connection.

(e) The provisions of this section do not apply to a water or sewer line extension constructed by a municipality under AS 29.46. (§ 1 ch 107 SLA 1986)

explaining the reason for the action and stating that the action is without prejudice to refiling.

(b) If an application is found to be partially incomplete or defective, a letter may be written to the applicant containing the statement "By direction of the commission" in which attention is directed to the omitted material or defects and specifying a future date when the application may be dismissed unless satisfactory action is taken to correct the deficiencies of the application. If the applicant needs additional time to perfect his application, he may request an extension at least five days before the deadline date specified in the commission's letter. The commission may then by letter grant or deny the request or specify an alternative deadline date.

(c) If the commission's technical staff finds that an application, which is otherwise complete, lacks certain information needed to determine and fully evaluate its merits, the commission may request the applicant to furnish it, by a specified date, in a letter written "By direction of the commission" and the applicant shall supply it by the date specified as a condition precedent to any further action by the commission other than dismissing the application. (EIF. 1/13/73, Register 44)

Authority: AS 42.05.141(1)  
AS 42.05.151

**3 AAC 48.660. BURDEN OF PROOF.** Every applicant shall have the burden of furnishing whatever information and data that may be required to prove to the commission's satisfaction that the applicant has, or will, comply with the governing law and the provisions of any applicable rule, regulation or order of the commission. When a governing law requires the commission to make a finding in regard to any application, the applicant shall, in each case, have the burden of furnishing whatever information, data, and documents may be required to prove to the commission's satisfaction that the finding is justified. (EIF. 1/13/73, Register 44)

Authority: AS 42.05.141  
AS 42.05.151

**Article 5. Simplified Rate Filing Procedures  
for Electric Cooperatives**

Section  
700. Application and purpose  
710. Filing requirements  
720. Supporting information  
730. Notice and effective date  
740. Rate adjustments  
750. Calculation of TIER

Section  
760. Target TIER determination  
770. Limitations on use of simplified procedure  
780. Application of rate increases  
790. Cost-of-service filings

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**3 AAC 48.700. APPLICATION AND PURPOSE.** (a) The purpose of 3 AAC 48.700 — 3 AAC 48.790 is to implement AS 42.05.381(e) and to establish simplified, expedited filing and rate adjustment procedures for those nonprofit electric cooperatives organized under AS 10.25 and regulated by the commission.

(b) If allowed or required by 3 AAC 48.740, an electric cooperative organized under AS 10.25 may adjust rates no more than quarterly based on the filing requirements and other conditions set out in 3 AAC 48.710 — 3 AAC 48.790. (EIT. 1/1/87, Register 100)

Authority: AS 42.05.141            AS 42.05.411  
                   AS 42.05.151            AS 42.05.421  
                   AS 42.05.381            AS 42.05.431

**3 AAC 48.710. FILING REQUIREMENTS.** (a) A rate adjustment filing under 3 AAC 48.700 — 3 AAC 48.790 is governed by 3 AAC 48.240 and 3 AAC 48.270.

(b) A cooperative that adjusts its rates under the authority of 3 AAC 48.700 — 3 AAC 48.790 shall then file all of the information required by 3 AAC 48.720 for whichever period is elected, quarterly or semi-annual, whether or not a change in rates is requested, until permission to discontinue the filing is granted by the commission or the cooperative submits a filing in accordance with AS 42.05.411 and 3 AAC 48.275. A cooperative that files the information required by 3 AAC 48.720 for each quarterly period shall file that information within 60 days after the end of each quarter, and a cooperative that files the information required by 3 AAC 48.720 for each semi-annual period shall file that information within 90 days after the end of the semi-annual period. (EIT. 1/1/87, Register 100)

Authority: AS 42.05.141            AS 42.05.411  
                   AS 42.05.151            AS 42.05.421  
                   AS 42.05.381            AS 42.05.431

**3 AAC 48.720. SUPPORTING INFORMATION.** (a) In accordance with 3 AAC 48.710(b), a cooperative shall file with the commission the following information for each quarterly or semi-annual period:

- (1) APUC Form 201 (Modified REA Form 7);
- (2) a schedule and explanation of all amortized expenses;
- (3) a schedule and explanation of all pro forma and normalizing adjustments;
- (4) a schedule and explanation of each line item on APUC Form 201 which has increased or decreased more than 10 percent from the previous 12-month period;
- (5) a schedule of the calculation of the cooperative's Times Interest Earned Ratio (TIER), calculated in accordance with 3 AAC 48.750;

(6) a schedule showing the ratio of residential class kilowatt-hour sales to total kilowatt-hour sales for the current 12-month period and the ratio that existed when the cooperative last filed a cost-of-service study;

(7) if appropriate, a schedule showing the ratio of retail kilowatt-hour sales as a percentage of total retail and wholesale kilowatt-hour sales, and the ratio that existed when the cooperative filed its last cost-of-service study; and

(8) a copy of the cooperative's annual certified audit, including any adjusting journal entries.

(b) If a cooperative proposes to adjust rates in accordance with 3 AAC 48.740 based on its quarterly or semi-annual filing, the cooperative shall file with the commission the following additional information:

(1) tariff sheets showing any proposed adjustments to the cooperative's rates;

(2) if applicable, power cost equalization updates, including tariff sheets;

(3) a copy of the resolution of the board of directors of the cooperative authorizing the requested increase in rates; and

(4) a narrative description or evidence of the cooperative's actions taken to comply with the notice requirements in 3 AAC 48.730. (EIT. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

48.730

3 AAC 45.730: NOTICE AND EFFECTIVE DATE. (a) A cooperative's rate adjustment filing under 3 AAC 48.700 — 3 AAC 48.790 is governed by 3 AAC 48.280 and will become permanent at the end of the notice period described in AS 42.05.411 unless the commission suspends the filing in accordance with AS 42.05.421. If the commission suspends the filing, the commission will, in its discretion, allow the filing to take effect on an interim basis, subject to refund.

(b) A cooperative shall provide to its customers prior individual notice of the intent of its board of directors to consider participation in the simplified rate filing procedure established in 3 AAC 48.700 — 3 AAC 48.790. That notice must include, at a minimum,

(1) the purpose of 3 AAC 48.700 — 3 AAC 48.790 and its possible effect on recurring electric rates on a quarterly or semi-annual basis, whichever is appropriate;

(2) the time and place of the board of director's meeting scheduled for consideration of the appropriateness and desirability of participation in the simplified rate procedure; and

3 AAC 48.740 . COMMERCE AND ECON. DEV. 3 AAC 48.760

(3) acknowledgment that the major responsibility for rate adjustments under the simplified procedure will rest with the board of directors of the cooperative rather than with the commission.

(c) A cooperative shall provide its customers with reasonable notice of any rate adjustments approved by its board of directors either before or at the time the rate adjustment takes effect. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.740. RATE ADJUSTMENTS.** If a cooperative's TIER deviates from the cooperative's Target TIER, the cooperative may adjust rates in accordance with 3 AAC 48.700 — 3AAC 48.790 to achieve its Target TIER. If a cooperative's TIER is more than five percent above the cooperative's Target TIER, the cooperative shall reduce rates to achieve its Target TIER. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.750. CALCULATION OF TIER.** A cooperative's TIER is calculated for the most recent 12-month period, based on the information filed in accordance with 3 AAC 48.720 and on the following principles:

(1) the annualized long-term interest expense for the period must be used;

(2) the actual operating expenses for the period must be normalized to remove nonrecurring items and to adjust for items normally amortized for ratemaking purposes, and may also be normalized to reflect pro forma adjustments for known and measurable changes that are more than likely to continue through the period in which the rates will be in effect;

(3) interest income must be included in the determination of TIER to the extent that interest income exceeds short-term interest expense. (Eff. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.381 AS 42.05.431

**3 AAC 48.760. TARGET TIER DETERMINATION.** (a) The Target TIER (Times Interest Earned Ratio) for a cooperative is the TIER approved by the commission in that cooperative's last general rate case or the TIER established under (b) of this section.

3 AAC 48.770 ALASKA ADMINISTRATIVE CODE 3 AAC 48.790

(b) By petition separate from another proceeding under 3 AAC 48.700 — 3 AAC 48.790, a cooperative may request that a new Target TIER be set, based on consideration of the cooperative's present equity levels, optimum equity levels, cost of debt, growth rate and capitalization, mortgage covenants, the capital credits retirement program of the cooperative, and other relevant factors. (EFF. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.301 AS 42.05.431

3 AAC 48.770. LIMITATIONS ON USE OF SIMPLIFIED PROCEDURE. (a) Rate adjustments allowed under 3 AAC 48.700 — 3 AAC 48.790 may not exceed a cumulative 20 percent increase in any three-year period, or a cumulative eight percent in any 12-month period, excluding purchased power and fuel costs rate adjustments.

(b) For good cause shown, the commission will, in its discretion, revoke or deny a cooperative's authority to request an increase under the simplified rate filing procedure in ~~3 AAC 48.700~~ = 3 AAC 48.790. (EFF. 1/1/87, Register 100) 3 AAC 48.700 - 3 AAC 48.790.

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.301 AS 42.05.431

3 AAC 48.780. APPLICATION OF RATE INCREASES. A rate increase granted under 3 AAC 48.700 — 3 AAC 48.790 must be applied as an across-the-board adjustment to all recurring charges, except the customer charge. (EFF. 1/1/87, Register 100)

Authority: AS 42.05.141 AS 42.05.411  
AS 42.05.151 AS 42.05.421  
AS 42.05.301 AS 42.05.431

48.790

3 AAC 48.790. COST-OF-SERVICE FILINGS. To ensure that a cooperative's rates properly reflect the cost to serve the various classes of customers, a cost-of-service study in accordance with 3 AAC 48.540(c) — (h) must be filed if

(1) the residential class kilowatt-hour sales as a percentage of total kilowatt-hour sales, on an annual basis, changes by more than 5 percent from the percentage that existed when the cooperative last filed a cost-of-service study; or

(2) the retail kilowatt-hour sales as a percentage of total retail and wholesale kilowatt hour sales, on an annual basis, changes by more than 5 percent from the percentage that existed when the cooperative last filed a cost-of-service study; or

(3) the cooperative files a rate case complying with the requirements of AS 42.05.411 and 3 AAC 48.275, and if 3 AAC 48.540(a) or (b) requires that cooperative to file a cost-of-service study. (Eff. 1/1/87, Register 190)

Authority: AS 42.05.141      AS 42.05.411  
AS 42.05.151      AS 42.05.421  
AS 42.05.301      AS 42.05.431

**Article 6. Miscellaneous Provisions**

Section      Section  
800. General administrative provisions      810. Delegation of authority  
805. Waivers      820. Definitions

**3 AAC 48.800. GENERAL ADMINISTRATIVE PROVISIONS.** (a) Each utility and pipeline carrier has the continuing responsibility to conform the language of its tariff with the definitions in 3 AAC 48 and 3 AAC 52. A definition that is not substantially the same must be revised by means of an appropriate tariff filing.

(b) Definitions contained in 3 AAC 52.080, 3 AAC 52.150 and 3 AAC 52.340 also apply to the defined words as they are used in 3 AAC 48.010 — 3 AAC 48.820. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90)

Authority: AS 42.05.141      AS 42.06.140(a)  
AS 42.05.151      AS 42.06.350

**3 AAC 48.805. WAIVERS.** (a) Except for those that are also required under AS 42.05, any requirement in 3 AAC 48 may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion.

(b) Application for waiver under this section must be in writing and must set out the pertinent facts in sufficient detail to support a finding by the commission that no legitimate public interest will be served by enforcing the requirement designated in the application. An application under this section may be made to the commission by motion, petition, or, where appropriate, by a tariff advice letter.

(c) If modification of a requirement in 3 AAC 48 cannot be granted without also exempting the applicant from a provision of AS 42.05, the application for the modification or waiver must include application for exemption from the provision of AS 42.05.

(d) The commission will grant or deny an application, in whole or in part. The commission's decision will be announced by order or in a letter written "By Direction of the Commission." (Eff. 6/29/84, Register 90)

Appendix B

42.05.711 (b) is amended to read:

(b) Except as otherwise provided in this subsection, public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 -- AS 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter and may elect to revoke a previous election to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter; when the direct competition ends the governing body of the political subdivision may elect not to have one or more of the utilities or electric operating entities owned and operated by the political subdivision subject to this chapter.

APPENDIX

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION  
SUMMARY OF APPROPRIATIONS AND EXPENDITURES  
For Fiscal Years 1988 and 1989  
(UNAUDITED)

<u>Category</u>	1988 Authorized	1988 Expenses and Encumbrances	1989 Authorized
Personal Services	\$2,113,600	\$2,103,406	\$2,113,600
Travel	28,660	27,423	57,100 <sup>2/</sup>
Other Services	1,592,330 <sup>1/</sup>	1,224,346 <sup>1/</sup>	1,688,500 <sup>2/</sup>
Supplies	21,000	20,800	22,000
Capital Outlay	<u>3,910</u>	<u>3,910</u>	<u>2,900</u>
<u>Total</u>	<u>\$3,759,500</u>	<u>\$3,379,885</u>	<u>\$3,884,100</u>

Note: The information included in this summary was obtained from APUC records and the state accounting system. This information has not been audited by us and, accordingly, we express no opinion on it.

Commission Footnotes:

- 1/ The "Other Services" category is predominantly funded through program receipts which can only be expended for case related activities which are reimbursable by cost allocations. The difference between the 1988 authorization and expenditure in this category is because of a lapse in program receipts funds which were not required for case related expenses.
- 2/ Since FY1982, "Travel" and "Other Services" budget authorizations have been funded by both the General Fund and program receipts: For FY1989, the funding ratio is \$27,100 General Fund to \$30,000 program receipts for the "Travel" category and \$473,500 General Fund to \$1,215,000 program receipts for the "Other Services" category.

**S B**

**126**

**FILE 1**

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/3/89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 5/4/89

1/18/89

Mr. President:

LABOR AND COMMERCE Committee considered SB 126

Board of Dental Examiners

and recommended:

- replace with cs SB 126 (L+C)  same titl  
 new titl
- attached amendment(s) and
- \_\_\_\_\_ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_
- FISCAL NOTE(S) attached DC+ED 1/27/89  zero  fiscal impact
- appropriation no FN attached  Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman signature and recommendation

Committee backup attached

SB 126: An Act relating to the Board of Dental Examiners.

AS 08.36.234, entitled "Licensure by Credentials," provides that the Board of Dental Examiners may admit an applicant to the practice of dentistry in Alaska without the applicant having to take the written and practical dental examinations required of dental applicants if that applicant meets certain established criteria. SB 126 simply deletes the permissive "may" and replaces it with the required "shall." Should this bill be enacted, this amendment would henceforth require the Dental Board to admit dentists without examination if they meet the criteria.

A letter detailing the Dental Board's position on licensure by credentialing, and its concern for the difficulties involved in credentialing is attached.

Until now, because of the permissive language in AS 08.36.234, the Dental Board has refused to license dental applicants without examination under the authority of administrative regulation 12 AAC 28.950, entitled "Cessation of Licensing by Credentials." That regulation reads as follows:

In the absence of specific regulations implementing AS 08.36.234 or legislation clarifying the statute, no applications for licensure by credential will be accepted.

The amendment proposed in SB 126 will clarify the Legislature's intent in AS 08.36.234 and thus require the board to adopt specific regulations implementing mandated licensure without examination.

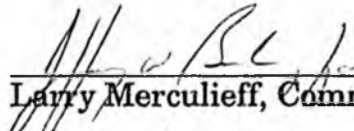
The Dental Board last summer created a committee headed by Dental Board member Dr. Douglas Smoley to review the pros and cons of licensure by credential (a very controversial subject within Alaska's dental community). In addition, in response to the Legislative Budget and Audit Committee's 1988 performance report of the Dental Board, which supported licensure by credential, the Department of Commerce and Economic Development took the position that the board itself should be given further time to review and debate the matter before the Legislature mandated that the board adopt licensure by credential. The department took this position in view of the controversy surrounding the subject and the sound arguments that can be made both in favor of and against credentialing.

It is the department's impression that, without the amendment proposed in SB 126, the Dental Board's review and consideration of this matter may well be protracted. The present board remains conservative on this issue.

At this point, the department is without a recommendation to the Legislature on this matter. Nationwide, dental licensing is not nearly as uniform among the states as is the admission criteria for many other major professional groups (e.g., doctors, nurses, accountants). Such variances can admittedly make evaluation of a dental application for admission by credential less exacting than for other professions the department licenses. However, it is also true that recent actions to establish standardized, albeit regional, examination entities are changing that heterogeneous situation very quickly.

Proponents of mandating licensure by credential believe this change would allow more dentists into the state which they believe could potentially lower the cost of dental care.

The department's neutral stand on this bill results from its appreciation of the issues that make this matter so controversial and a belief that the Legislature is the entity best suited to decide whether the Dental Board should be mandated to admit experienced dentists without examination or whether the state should continue to require written proof of competency by requiring all dental applicants to take the WREB exam prior to admission in Alaska. It is a matter affecting the public's health, safety and welfare. The debate on this legislation should help the public weigh the advantages and disadvantages of credentialing.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner  
Date: 2/2/89

LM/RPB/dgl3203D  
020389d

Dental

August 31, 1988

Mr. Patrick J. McKay  
Attorney at Law  
605 West 2nd Ave., Ste. 100  
Anchorage, AK 99501

Dear Mr. McKay:

I apologize for my delay in responding to your letter of August 10, 1988, and apologize again for not having apprised your clients long before this date of the formal action of the Board of Dental Examiners on their applications for licensure by credential. As staff (a Ms. Sharon Francis) from your office was present during the May 6, 1988 meeting when this issue was considered, I have assumed you were at least aware of the board's decision in this matter.

This letter is written, however, to advise you of the Board of Dental Examiner's May 6 action vis-a-vis the applications of Thomas Kovaleski, D.D.S., and Robert Felker, D.D.S., for licensure by credentials under AS 08.36.234. On a roll call vote, the following motion, duly made and seconded, passed on a vote of 5 to 3 (chair not voting):

RESOLVED, in view of administrative regulation 12 AAC 28.950, entitled "Cessation of Licensing by Credentials," that the applications of Drs. DeNucci, Felker and Kovaleski be denied because the Board of Dental Examiners is not in a position to accept any applications for licensure by credentials.

As stated by letter to your clients in April of this year (copies enclosed), the Board of Dental Examiners has maintained its present position on licensure by credential for a number of years now.

As you know, the current statute contains discretionary language, stating that the board "may" provide for licensure without examination to dentists who meet a series of eight (8) criteria set out in AS 08.36.234. The language is permissive and does not require the board to provide for licensure by credential.

The impetus for the promulgation of 12 AAC 28.950, the regulation that states for the record the board's position on the discretionary authority provided in AS 08.36.234, comes from the board's finding that such discretionary authority leaves it vulnerable to criticism of bias or subjectivity every time it admits one candidate by credential while denying such admission to another. As you know, the criteria to be met for licensing without examination includes determining that an applicant has "been licensed to practice dentistry in another state, territory, or region with licensing requirements at least equivalent in scope, quality, and difficulty to those of this state at the time of licensure" (emphasis added).

This board believes this language effectively requires it to do an exhaustive study of the extent and nature of the practical and written exams administered by the applicant's licensing jurisdiction. This review would require the board to reach very subjective, comparative conclusions as to the "scope, quality, and difficulty" of Alaska's licensing requirements versus those of the dentist's current jurisdiction. The board does not find itself fully competent to reach such conclusions, lacking a large research staff to conduct the necessary studies and, for that reason, has opted to exercise its statutory discretion and not provide for licensure without examination.

By requiring all applicants to take the written and practical dental exam administered by the Western Regional Examining Board (WREB), both the Board of Dental Examiners and the public-at-large is assured that all applicants admitted to the practice of dentistry in Alaska have met Alaska's licensing requirements. It also assures that this standard has been evaluated by a much more objective means than a "paper evaluation" by nine board members as to how well a credentialing applicant measures up to Alaska's licensing requirements.

As I stated earlier, the board has maintained this position for some years now, even in the face of public criticism and negative legislative Budget and Audit Committee performance audits. Despite this, there has been no action by at least the last two legislatures to remove the permissive language in AS 08.36.234. Given the ample opportunity provided to require the Board of Dental Examiners to provide for licensure by credential, the Legislature in the past four years has taken no action to do so. The board believes its current regulation clearly states its position and gives fair notice to those considering applying for licensure without examination that, in Alaska, competency must be proven by examination, not by a subjective evaluation of an applicant's credentials.

Your clients should consider this formal notice of the board's decision on your clients' applications as the board's statement of issues in this matter (see AS 44.62.370). In accordance with AS 44.62.390

Patrick J. McKay

-3-

August 31, 1988

("Notice of Defense"), you have up to fifteen (15) days upon receipt of this statement to file a Notice of Defense. Please note the requirements in AS 44.62.390 for the form and content of the notice, should your clients decide to appeal the Board of Dental Examiners' decision to deny Drs. Felker and Kovalski admission without examination.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Randall P. Burns  
Director

RPB/cw8450c

83088a

Enclosures

cc: All Members, Board of Dental Examiners  
Linda O'Bannon, Assistant Attorney General  
Kevin Messing, Licensing Examiner

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to the Board of Dental Examiners.  
 Sponsor: Senator Halford  
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.  
 BR#: Occupational Licensing  
 Components: Administration

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

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

The bill proposes to mandate the Board of Dental Examiners to provide for licensing without examination. No new funds are required to implement this provision.

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing

Phone: 465-2144  
 Date: January 27, 1989

Approved by Commissioner: Larry Mercurieff, Commissioner  
 Agency: Commerce and Economic Development

Date: 1/28/89

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

## FISCAL NOTE

**REQUEST:**

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EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

The bill proposes to mandate the Board of Dental Examiners to provide for licensing without examination. No new funds are required to implement this provision.

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

This fiscal note is appropriate  
for CS SB 126 (L+C) page 1 of 1

*Shula Peterson*  
Senate L+C Committee

CS will incorporate this  
amendment

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 126 ( )

Page 2, on line 8, after suspended insert:

"for grounds similiar to those found in AS 08.36.315"

# Alaska State Legislature

Chairman  
(907) 465-4523



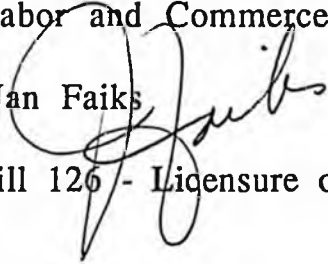
Jan Faiks  
Post Office Box V  
Juneau, Alaska 99811

## Senate Judiciary Committee

April 19, 1989

### MEMORANDUM

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

FROM: Senator Jan Faiks 

SUBJECT: Senate Bill 126 - Licensure of Dentists

Given the questions which I believe still need to be addressed regarding the licensure of dentists as proposed in Senate Bill 126, I request the bill be assigned to a subcommittee for further evaluation during the interim. I will also be pleased to chair the subcommittee.

Thank you.

Members  
Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session  
3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

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

### DIVISION OF OCCUPATIONAL LICENSING

May 1, 1989

The Honorable Dick Eliason  
Chair, Labor and Commerce  
Committee  
Alaska State Senate  
P. O. Box V  
Juneau, AK 99811

Dear Senator Eliason:

Sheila Peterson of your staff asked the Division of Occupational Licensing to respond to concerns expressed by Kerry Kennedy, President of the Alaska Dental Society, regarding the effectiveness of the division's enforcement activities.

I think that Dr. Kennedy accurately reflects the frustration that a portion of the licensed dentists in this state feel toward the actions of the state vis a vis investigations by the division of complaints regarding dentist incompetence. I must say that I also share some of their concerns, but to a lesser degree.

The division is not without fault in contributing to the frustration. Until mid-1988, the division employed an individual who I do not believe -- and who the Board of Dental Examiners (and a number of other boards) did not believe -- was competent. I inherited this person when I came to work for the division. We had removed him from receiving any new Dental Board investigations, but he did continue to work on a number of substantial and serious cases. We had begun to follow "progressive discipline" procedures, including setting very specific deadlines on those cases, all with an eye toward termination, when, fortunately, this individual took another job. Not unexpectedly, the full extent of the individual's investigatory incompetence was not discovered until after the person left.

As a result, a number of dental cases were closed, either because of the age of the case or because the case should never have been carried on the books as long as it had because the level of potential disciplinary problem was not as serious as it appeared on its face. Nevertheless, the division's credibility and, unfortunately, the Dental Board's credibility, was certainly hurt by the lack of competent investigatory work during those years.

However, that was then and this is now. In fairness to the present investigatory staff, they have had to dig out of a mess but are progressing well. One of the serious cases carried over from the former investigator which we would not close just ended two weeks ago with the dentist agreeing to surrender his license. A hearing officer's decision in another old and rather massive investigation is due to be released this week. While we do not excuse the past, we believe the present course of division investigations reflects well on the Dental Board and the division.

I must also agree, albeit again to a lesser degree, with some of the comments Dr. Kennedy makes regarding the Attorney General's Office. We are often similarly frustrated with the delays that result, not from our office, but from the Department of Law.

But, wherever the cause of or blame for the delays might lie, please understand this one important point: except for the former investigator's incompetence, most causes for delay result from a lack of resources, not from any specific inattention.

In addition, there is the issue of priorities. Within the division, as you know, we are responsible for investigating complaints in thirty-one different areas. It is often difficult to explain to a citizen with a seemingly legitimate complaint that, while we are happy to take his or her complaint, given our caseload-to-staff-ratio, we are forced to handle our complaints according to a list of established priorities. This list places complaints involving a potential danger to the physical well-being of the public first, a potential for serious financial loss second, serious misconduct third, and technical violations of the licensing statutes fourth. Therefore, at least internally, investigations of complaints against dentists are generally high on our list.

However, the Department of Law's priorities are naturally different from the division's. Matters which we refer to them for review are scrutinized from a different priority listing. It may not come as a surprise to you to learn that occupational licensing cases have not historically been a high priority of the Department of Law. This fact, of course, is very frustrating for board members and licensed professionals alike and explains, in part, the concerns expressed by Dr. Kennedy regarding the Attorney General's Office. In response, the division has attempted, where feasible, to pay for additional attorney assistance from the Department of Law and we have, recognizing the problem, requested funds in our FY 90 budget to pay for increased attorney services.

There is, however, one other matter that must be factored into an understanding of Dr. Kennedy's comments. The Board of Dental Examiners, the dental profession, and the Department of Law have had a long standing dispute over the credentialing issue. This dispute continues even today. Of all the boards, I think it safe to say that the Attorney

General's Office is inclined to believe that the Dental Board is one of the boards most dominated by the profession that it regulates. The Department of Law believes the actions of the board are often bathed in the waters of protectionism. The continuing fight over the issue of credentialing, when so many other boards regularly admit professionals by credential, causes the Department of Law considerable distress.

In my opinion, there is hope here: the relationship between the board and the Department of Law is improving. And, in fairness to the board, the credentialing issue is, I believe, more complex than the Attorney General's Office cares to admit. Nevertheless, the historical animosity remains, despite continuing improvements, and a good deal of the comments Dr. Kennedy made reflect the dental profession's distrust of the Department of Law.

Finally, my last comments. Having been with the division now just under two years, I have found that of all of the cases we investigate, complaints against dentists are the most difficult. Part of this is explained by the nature of the profession: people love to hate dentists or, more accurately, hate having to have dental work done. People, for some reason, seem to believe that they are an expert in this area. I surmise, given the visibility of our teeth, that we all carry around with us real concern for how are teeth look when we smile or laugh, and that if we believe all is not right as a result of a visit to the dentist, we complain.

Unfortunately, the practice of dentistry is not an exact science, and dental experts give individual dentists a great deal of leeway regarding the manner in which a particular dental problem is addressed. Often, when we refer a case to a board member or other expert for review, the response is simple: the work reviewed is within the acceptable realm of treatment. Such a standard seems logical, but some members of the profession and the public seem uncomfortable with it.

During an investigation, we must get copies of patient records, the plaster models used, etc., and these must be reviewed by experts. Witnesses must be interviewed. Even when an expert says the work is poor, the question the division must answer to the Attorney General's satisfaction is whether the treatment provided ended up in real harm to the patient. Witnesses and the reliability of their testimony are also an important factor. The Attorney General's caseload demands that the Department of Law take only those matters of significant import and which are readily defensible. Thus, even some unsettling matters may not go to hearing because of an Attorney General's determination that the case is not sufficiently serious enough to warrant taking to hearing.

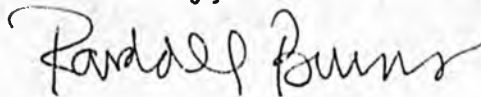
I sincerely believe that the law itself is adequate to protect citizens, and that citizens are being adequately protected right now. That does not mean that every dentist complained against for a bad filling is being

May 1, 1989

charged with incompetence. But I believe any dentist posing a serious threat to the health and safety of Alaskans is properly dealt with, particularly now that we have competent investigatory staff. Like everything else, the state must balance the extent and quality of its services against the cost of those services. With additional resources, enforcement would obviously improve. Given today's economic climate, we are doing as well as can be expected; indeed, in my opinion, we are doing even better than can be expected.

I hope this lengthy letter is responsive to your question. Please do not hesitate to contact me if you wish additional information or if I can be of further assistance.

Sincerely,



Randall P. Burns  
Director

RPB/djd0072W  
050189a

cc: Larry Mercurieff, Commissioner  
Board of Dental Examiners  
Gary Dodson, Chief Investigator

# **CORRECTION**

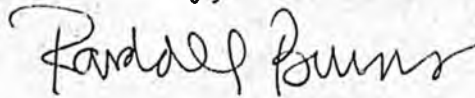
**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

May 1, 1989

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Sincerely,



Randall P. Burns  
Director

RPB/djd0072W  
050189a

cc: Larry Mercurieff, Commissioner  
Board of Dental Examiners  
Gary Dodson, Chief Investigator

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**Facts**

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**About**

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**States**

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**1986**

STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

FEB 11 1986

DIVISION OF  
OCCUPATIONAL LICENSING

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**For the dentist seeking a location**

# American Dental Association Guidelines for Licensure\*

Dental Licensure is intended to insure that only qualified individuals provide dental treatment to the public. Among qualifications deemed essential are satisfactory theoretical knowledge of basic biomedical and dental sciences and satisfactory clinical skill. It is essential that each candidate for an initial license be required to demonstrate these attributes on examination, a written examination for theoretical knowledge and a clinical examination for clinical skill. These guidelines suggest alternate mechanisms for evaluating the theoretical knowledge and clinical skills of an applicant for licensure who holds a dental license in another jurisdiction. Requiring a candidate who is seeking licensure in several jurisdictions to demonstrate this theoretical knowledge and clinical skill on separate examinations for each jurisdiction seems unnecessary duplication.

**Licensure by Examination:** Written examination programs conducted by the Council of National Board of Dental Examiners have achieved broad recognition by state boards of dentistry. National Board dental examinations are conducted in two parts. Part I covers basic biomedical sciences; Part II covers dental sciences. It is recommended that satisfactory performance on Part II of National Board dental examinations within five years prior to applying for a state dental license be considered adequate testing of theoretical knowledge. National Board regulations require a candidate to pass Part I before participating in Part II. Consequently, this recommendation excludes Part I only from the time limit.

No clinical examination has achieved as broad recognition as have National Board written examinations. Clinical examinations used for dental licensure are conducted by individual state boards of dentistry and by regional clinical testing services. It is recommended that satisfactory performance within the last five years on any state or regional clinical examination at least equivalent in quality and difficulty to the state's own clinical examination be considered adequate testing for clinical skill provided that the candidate for licensure

- a. Is currently licensed in another jurisdiction.
- b. Has been in practice since being examined.
- c. Is endorsed by the state board of dentistry in the state of his current practice.
- d. Has not been the subject of final or pending disciplinary action in any state in which he is or has been licensed.
- e. Has not failed the clinical examination of the state to which he is applying within the last three years.

**Licensure by Credentials:** The American Dental Association believes that an evaluation of a practicing dentist's theoretical knowledge and clinical skill based on his performance record can provide as much protection to the public as would an evaluation based on examination. Issuing a license using a performance record in place of examinations is termed licensure by credentials.

All candidates for licensure by credentials might be required to fulfill basic education and practice requirements. It is recommended that graduation from a dental school accredited by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs be considered minimum satisfactory education for licensure by credentials. Further, it is recommended that licensure by credentials be available only to a candidate who:

- a. Is currently licensed in another jurisdiction.
- b. Has been in practice or full-time dental education for a minimum of five years immediately prior to applying.
- c. Is endorsed by the state board of dentistry in the state of current practice.
- d. Has not been the subject of final or pending disciplinary action in any state in which he is or has been licensed.
- e. Has not failed the clinical examination of the state to which he is applying within the last three years.

Alternate ways that current theoretical knowledge might be documented follow. It is recommended that for a candidate who meets eligibility requirements for licensure by credentials, these methods be considered as possible alternatives to the written examination requirement.

1. Successful completion of an accredited advanced dental education program in the last ten years.
2. A total of at least 180 hours of acceptable, formal, scientific continuing education in the last ten years, with a maximum credit of 60 hours for each two-year period.
3. Successful completion of a recognized specialty board examination in the last ten years.
4. Teaching experience of at least one day per week or its equivalent in an accredited dental education program for at least six of the last ten years.

Possible documentation for current clinical skill appears in the following list. Provided that eligibility requirements for licensure by credentials are met, it is recommended that these methods be considered as possible alternatives to satisfactory performance on a clinical examination.

1. Successful completion of an accredited general practice residency or dental internship within the last ten years.
2. Successful completion of an accredited dental specialty education program in a clinical discipline within the last ten years.
3. A total of at least 180 hours of acceptable clinically oriented continuing education in the last ten years, with a maximum credit of 60 hours for each two-year period.
4. Clinical teaching of at least one day per week or its equivalent in an accredited dental education program, including a hospital-based advanced dental education program, for at least six of the last ten years.
5. Presenting case histories of patients treated by the candidate in the last five years, with preoperative and postoperative radiographs, covering procedures required on the state clinical examination, for discussion with the state board.

\*The above guidelines were adopted by the ADA House of Delegates and are published in 1976 *Transactions of the American Dental Association*, page 919 and 1977 *Transactions*, page 923.

## Summary of Requirements for Licensure by Credentials in Certain States Granting Licensure by Credentials (1986)

The states that grant licensure by credentials have individual requirements, of which the following is an overview. All states require a jurisprudence examination; however, this might be a formal, written examination, or a signed statement attesting that the candidate is familiar with the laws governing dentistry in the state. Candidates should write to the individual states for complete information and application.

State	Will accept applications from	Letters of recommendation	Personal interview	Years in practice
[Arkansas] delete	R	2	X	5
District of Columbia	Specialists Only		X	
Indiana	All states	3	X	5
Iowa	R	2	X	5
Kansas	R	5		5
Maine	All states	0	X*	5 <sup>1</sup>
Maryland	All states	3	X	5 <sup>1</sup>
Massachusetts	R	1	X	5
Michigan	On an individual basis	4	Rarely	No Limit
Minnesota	All states	4	X	2 <sup>2</sup>
Missouri	All states	2		5
Nebraska	All states	2	X	5 <sup>3</sup>
New Hampshire	R	3	X	5
New York	All states	3		5
North Dakota	* Has an option, but has not granted licensure by credentials in 5 years			
Oklahoma	R	10		5
Pennsylvania	All states	2		5
Rhode Island	R	3		5
[Tennessee] delete	R	1 <sup>4</sup>		5
[Vermont] delete	At the discretion of the board	2		5

R = states that will issue licenses by credentials only to candidates from states with a reciprocal agreement.

\*The state of Maine will require a personal interview with a candidate who passed a state board examination more than 1 year before applying to Maine for a license.

<sup>1</sup>Will issue a licensure by credentials to candidates who pass the Northeast Regional Board Examination in lieu of active practice.

<sup>2</sup>Two years of the past 3 years must have been in active practice.

<sup>3</sup>This requirement will change to 3 years of active practice.

<sup>4</sup>One letter of recommendation from each state board in each state in which the dentist has practiced.

Source: "Licensure by Credentials — Is it Working?", report published in the *Journal of the American Dental Association*, Vol 111, July 1985, pages 19-32.

Add: Connecticut  
(12/31/88) Illinois  
North Dakota  
Wisconsin

TOTAL: 21 states

STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

FEB 04 1988

DIVISION OF  
OCCUPATIONAL LICENSING

## Other Licensure Provisions of States

States	By Reciprocity	By Criteria	Temporary License	Provisional License
Alabama	No	No	No	No
Alaska	No	No	No	Yes
Arizona	No	No	No	Yes
Arkansas	No	Yes	No	No
California	No	No	No	No
Colorado	No	No	No	No
Connecticut	Yes	No	No	Yes(a)
Delaware	No	No	No	No
District of Columbia (e)	No	Yes	No	—
Florida	No	No	—	—
Georgia	No	No	Yes	Yes(b)
Hawaii (e)	No	No	Yes (l)	—
Idaho	No	No	Yes	Yes(d)
Illinois	Yes	No	Yes	—
Indiana	Yes	No	Yes	Yes
Iowa	No	Yes	No	No
Kansas	No	Yes	No	No
Kentucky	No	No	No	—
Louisiana (e)	No	No	No	—
Maine (e)	No	Yes	No	—
Maryland	No	Yes	No	Yes(d)
Massachusetts	No	Yes	Yes	Yes(b)
Michigan (e)	No	Yes	No	No
Minnesota	No	Yes	No	No
Mississippi	No	No	No	Yes(d)
Missouri	No	Yes	No	No
Montana	No	No	No	No
Nebraska	Yes	Yes	No	No
Nevada	No	No	No	No
New Hampshire	No	Yes	Yes	No
New Jersey	No	No	No	No
New Mexico (e)	No	No	Yes (g)	—
New York	No	Yes	Yes	Yes(b)
North Carolina	No	No	Yes	Yes(d)
North Dakota (e)	No	No	No	—
Ohio	No	No	No	No
Oklahoma	Yes	Yes	Yes	Yes
Oregon	—	<u>Yes</u>	No	—
Pennsylvania	No	Yes	No	No
Rhode Island	No	Yes	No	No
South Carolina (e)	No	No	No	—
South Dakota (e)	Yes	Yes	Yes	—
Tennessee	No	Yes	No	No
Texas	No	No	No	No
Utah (e)	No	Yes	No	—
Vermont	No	No	Yes	No
Virginia	No	No	No	Yes(c & d)
Washington	No	No	No	No
West Virginia	No	No	Yes	No
Wisconsin	No	No	No	No
Wyoming (e)	No	No	No	—
Virgin Islands (e)	No	No	Yes (h)	—

Data as of January 1, 1986 unless otherwise indicated.

- (a) Practice as a Dental Intern
- (b) Teaching in a Dental College or Clinic
- (c) Charitable or Social Agency
- (d) Limited Practice Permits
- (e) 1982 data
- (l) Practice restricted to hospital, public school, state/municipal institutions or Board of Public Health, as approved by Board.
- (g) Restricted to state health office or agency.
- (h) Practice restricted to government service.

Source: Joint Commission on National Dental Examinations

STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

FEB 01 1988

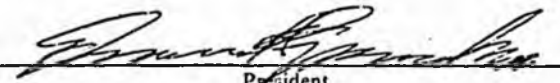
DIVISION OF  
DENTAL LICENSING



# WESTERN REGIONAL EXAMINING BOARD

*This is to certify that JASON MICHAEL RAMPTON  
has successfully completed an examination in clinical proficiency in Dentistry given by  
the Western Regional Examining Board on March 24-26, 1985  
and is issued this certificate as verification of that proficiency to Western Regional  
Examining Board member states. This certificate is valid, only for that period of time  
prescribed by the member states in their laws or rules, from the date of the  
examination. This does not constitute licensure.*

Signed and seal affixed  
this 8th day of  
April A.D.  
19 85

  
President

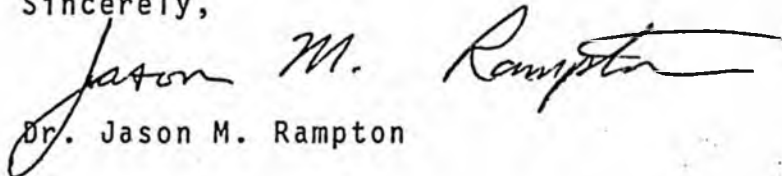
9711 Takli Circle  
Eagle River, AK 99577  
February 16, 1989

Senator Dick Eliason  
P. O. Box V  
Juneau, AK 99811

Dear Senator Eliason:

On <sup>9</sup>~~15~~ Feb 89, I gave testimony to the Senate labor and Commerce Committee supporting Senate Bill 126 concerning dental licensure. Four days later, I submitted an application for a dental license. Included with my application was a notarized copy of the certificate that was awarded to me when I passed the Western Regional Dental Board Exam in March 1985. (Please note the enclosed copy of this document.) Under the present regulations of the Alaska State Board of Dental Examiners, I am not eligible for licensure. I need your help in this matter. I think it is obvious to everyone that the regulations adopted by the Alaska Board of Dental Examiners are superceding the intent of the law. Please, support us in restoring some sanity to the licensure process by adopting Senate Bill 126.

Sincerely,

  
Dr. Jason M. Rampton

HESS Letter of Intent

It is the intent of the Senate Committee on Health, Education and Social Services in passing HB 614 that the Board of Dental Examiners exercise its statutory authority under AS 08.36.234 to license dentists by credentials,

50286HB0614 DOCUMENT= 17 OF 24 PAGE = 2 OF 2

including credentialling for dental specialties. The committee realizes that this will require repeal of the existing regulation under which the board ceased licensing by credentials (12 AAC 28.950), and urges that this be done. Further, it is the intent of the committee that the Board report to the Legislature by the first day of the first session of the 15th Alaska Legislature on implementation of the credential provision. The report should include the number of licenses issued by credentials since the effective date of HB 614 and an analysis of those situations under which licensure by credentials was requested but not granted. In addition, any recommendations for revision to the credential statute should be included.

CS FOR HOUSE BILL NO. 614 (HESS) (title am) was referred to the Rules Committee.

Senate Letter of Intent  
1986

Letter of Intent  
for  
CSHB 614 (HESS)

"It is the intent of the House Health, Education and Social Services Committee in passing the Committee Substitute for HB 614 (HESS) that in the next year, the Board of Dental Examiners and the Division of Occupational Licensing complete the following tasks, and report their recommendations to the House and Senate HESS Committees by

1986HB0614 DOCUMENT= 5 OF 24 PAGE = 2 OF 2  
the first day of the first session of the 15th Alaska State Legislature:

1. Complete continued competency regulations.
2. Develop new procedures for credentialling including credentialling for dental specialities.
3. Restructure the examination, including elimination of the gold foil portion of the test, and scoring procedures, including calibration of scoring techniques.
4. Evaluate the possibility of joining the Northwest Regional Examination Board.

The report should include any other areas the Board or Division feel require change. The House HESS Committee is also requesting a Legislative Audit of the Board to be completed by the first day of the second session of the 15th Alaska State Legislature."

HB 614 was referred to the Finance Committee.

Legislative Letter of Intent  
Passed both House + Senate  
1986

# Alaska State Legislature

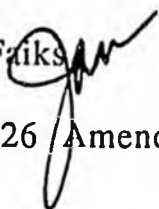


## Senate Judiciary Committee

March 23, 1990

### MEMORANDUM

TO: All Senators

FROM: Senator Jan Frits 

SUBJECT: Senate Bill 126 Amendments

It is my understanding Senate Bill 126, which relates to the licensing of dentists by credential, will be on Monday's Senate calendar.

For your review, attached are amendments to the bill which I will offer on the Floor. I also asked the Division of Occupational Licensing to review the amendments to evaluate any change in the bill's fiscal impact. Its response is also attached.

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 1, line 26:

Delete "been licensed"

Insert "an active license"

Page 1, line 27:

Delete "or region"

Page 1, line 28, after "requirements":

Insert "and methods"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 2, line 1:

Delete "the jurisdiction"

Insert "each jurisdiction"

Page 2, line 2:

Delete "is currently"

Insert "has ever been"

Delete "is employed"

Insert "has ever been employed"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 2, line 10, after "jurisdiction":

Insert ", law enforcement agency, or other governmental agency"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 2, line 15, after "state":

Insert "or, within the previous three years, failed the clinical examination given by the Western Regional Examining Board"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 2, line 29, after "board;":

Insert "during an interview under this paragraph, the board shall question the applicant while the applicant is under oath, and verify that the applicant is clinically and professionally competent; at the interview, the applicant shall orally present recent patient case reports and a defense of representative diagnosis and treatment plans from the previous five years of the applicant's practice of dentistry;"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 3, line 1, after "fees":

Insert "; notwithstanding AS 08.01.065(c), the Department of Commerce and Economic Development shall set the fee for licensure under this section so that the fee is sufficient to cover all investigative and administrative expenses of processing applications under this section"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 3, line 1, after "fees":

Insert ";

(13) is not the subject of an adverse report from the National Practitioner Data Bank or the American Association of Dental Examiners Clearinghouse for Disciplinary Information that relates to criminal or fraudulent activity"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 126 (L&C)

Page 3, line 1, after "fees":

Insert ";

(13) is not the subject of an adverse peer review report  
from a state or local dental society in any other state"

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

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

*DIVISION OF OCCUPATIONAL LICENSING*

March 22, 1990

Honorable Jan Faiks, Chair  
Senate Judiciary Committee  
Alaska State Senate  
P. O. Box V  
Juneau, AK 99811

Dear Senator Faiks:

This letter is written in response to your March 20 request regarding SB 126.

I have reviewed your proposed amendments to the bill and offer the following observations regarding their potential fiscal impact on the division's present zero fiscal note:

1. We would not be able to produce a zero fiscal note if the bill passed with your proposed amendments because
  - a. the bill is revenue generating [see proposed AS 08.36.234(12)]; and
  - b. the bill contains numerous provisions requiring substantial additional staff and board time in order to review and evaluate the documents required to be presented to the Dental Board by dentists seeking licensure by credential.
2. The bill will be fiscally "neutral," however, in that we read the bill to require the cost to the division of investigating and evaluating dentists seeking licensure by credential to be borne by the applicant.
3. It would and will be difficult to draw up a fiscal note on your proposed version of SB 126 because the division has no way of estimating either the processing costs or the application revenues because the estimate depends entirely on some reasonable guesstimate of the number of dentists who might seek on an annual basis to be licensed through the credentialing process you have outlined.

Honorable Jan Faiks

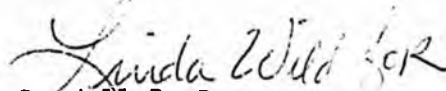
-2-

March 22, 1990

In addition, the factors that determine the costs are many. Clearly, the more credential reviews we are required to do, the greater the expense. But, for example, until we have some idea as to numbers of applicants, we will not have any effective way of determining the fee that should be assessed. We cannot set the fee on a case-by-case basis; it will have to be a flat fee that reflects the average costs associated with the credentials review process the bill outlines.

I hope the generalities contained in this letter can be of some use to you in discussing the fiscal impacts of your proposed amendments to SB 126.

Sincerely,



Randall P. Burns  
Director

RPB/va10595V  
032290A



Official Business


# Alaska State Legislature

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM

March 23, 1990

TO: All Senators

FROM: Senator Arliss Sturgulewski, Chairman   
Senate Rules Committee

RE: SB 126 "An Act relating to licensure of dentists"

Senate Bill 126 is scheduled for the floor on Monday, March 26, 1990. A memo from the sponsor, Senator Halford, with suggested amendments is attached for your information.

Attachments

# ALASKA STATE LEGISLATURE

Anchorage Office:  
3111 C St., Suite 530  
Anchorage, AK 99503  
907-561-7616

White in Juneau.  
P.O. Box V  
Juneau, AK 99811  
907-465-4958

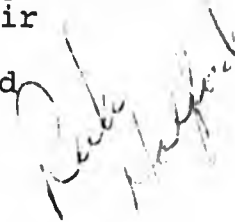
Senator Rick Halford

TO: Senator Arliss Sturgulewski  
Rules Committee Chair

FROM: Senator Rick Halford

DATE: 1 March 1990

RE: SB126



Please schedule SB126 for the Senate Floor at your earliest convenience. I am enclosing a list of amendments to SB 126 provided by the dental society. I am also enclosing a letter of opposition to the amendments by dentists supporting the bill without further amendment.

There seem to be strong feelings on both sides and in spite of numerous meetings, no compromise seems forthcoming.

The sections highlighted in pink are areas which obviously exclude federal service dentists practicing in Alaska from a license by credentials. The section highlighted in yellow is strongly opposed by federal service dentists, although compliance is not impossible.

Original sponsor: Halford

1 IN THE SENATE  
2  
3 CS FOR SENATE BILL NO. 126 (L&C)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 SIXTEENTH LEGISLATURE - FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to licensure of dentists."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 08.36.160 is amended by adding a new subsection to  
10 read:  
11 (e) A passing score on a clinical examination given by the  
12 Western Regional Examining Board within the five years preceding  
13 licensure application under this chapter constitutes a passing score  
14 on a clinical examination required under this chapter. The board may  
15 accept a passing score on a clinical examination given by the Western  
16 Regional Examining Board more than five years preceding licensure  
17 application if the examination was taken on or after January 1, 1987.  
18 \* Sec. 2. AS 08.36.234 is amended to read:  
19 Sec. 08.36.234. LICENSURE BY CREDENTIALS. The board shall [MAY]  
20 provide for the licensing without examination, except as provided in  
21 (10) of this section, of a dentist who  
22 (1) is a graduate of a dental college accredited by the  
23 Commission on Accreditation of the American Dental Association, or its  
24 successor agency, and holds a certificate from the American Dental  
25 Association Joint Commission on National Dental Examinations that the  
26 dentist has passed the written examination given by the commission;  
27 (2) has been licensed to practice dentistry in another  
28 state, territory, or region of the United States with licensing re-  
29 quirements at least equivalent in scope, quality and difficulty to  
those of this state at the time of licensure;

1           (3) is endorsed by the licensing entity in the jurisdiction  
2 where the dentist is currently licensed; if the dentist is employed by  
3 the federal government, the dentist must be endorsed by the employing  
4 federal agency;

5           (4) has been engaged in continuous active clinical practice  
6 averaging at least 20 hours per week for each of the five years imme-  
7 diately preceding the application;

8           (5) [(4)] is not the subject of an unresolved complaint,  
9 review procedure, or disciplinary proceeding undertaken by a dental  
10 licensing jurisdiction;

11           (6) [(5)] has not previously had a license to practice  
12 dentistry suspended for grounds similar to those specified under  
13 AS 08.36.315, or revoked;

14           (7) [(6)] has not failed the clinical examination of this  
15 state;

16           (8) submits to the board documentation that the dentist has  
17 completed at least 50 hours of continuing education related to clin-  
18 ical dentistry in the three years preceding application for a license  
19 in this state; the continuing education must have been approved by the  
20 American Dental Association, the Academy of General Dentistry, or the  
21 appropriate specialty board;

22           (9) provides proof of current certification in cardiopulmo-  
23 nary resuscitation techniques;

24           (10) has passed, to the satisfaction of the board, the part  
25 of the written examination given under AS 08.36.160 that pertains to  
26 the state's laws on the practice of dentistry; the board may not  
27 require a higher passing score for applicants under this section than  
28 the board requires for applicants under AS 08.36.110;

29           (11) [(7)] is personally interviewed by the board;

1           (3) is endorsed by the licensing entity in the jurisdiction  
2 where the dentist is currently licensed; if the dentist is employed by  
3 the federal government, the dentist must be endorsed by the employing  
4 federal agency;

5           (4) has been engaged in continuous active clinical practice  
6 averaging at least 20 hours per week for each of the five years imme-  
7 diately preceding the application;

8           (5) [(4)] is not the subject of an unresolved complaint,  
9 review procedure, or disciplinary proceeding undertaken by a dental  
10 licensing jurisdiction;

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12 dentistry suspended for grounds similar to those specified under  
13 AS 08.36.315, or revoked;

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15 state;

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17 completed at least 50 hours of continuing education related to clin-  
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25 of the written examination given under AS 08.36.160 that pertains to  
26 the state's laws on the practice of dentistry; the board may not  
27 require a higher passing score for applicants under this section than  
28 the board requires for applicants under AS 08.36.110;

29           (11) [(7)] is personally interviewed by the board;

1

(12) [(8)] pays all required fees.

REVISIONS TO SB 126

AS 08..36.160 is amended by adding a new subsection to read:

(a) .....

No additions are needed here, regulations AAC 28.105 (b) & (c) cover WREB and gives the Board the option to recognize another exam if it feels that WREB is no longer satisfactory.

A passing score on an examination given by the Western Regional Examining Board within the five years preceding licensure application under this chapter constitutes a passing score on the clinical examination required under this chapter, provided the WREB exam was taken on or before January 1, 1987.

AS 08.36.234 LICENSURE BY CREDENTIALS. The Board shall provide for the licensing by credentials of a dentist who

(1) is a graduate of a dental school accredited by the Commission of Accreditation of the American Dental Association, or its successor agency, and holds a certificate from the American Dental Association's Joint Commission of National Dental Examinations that the dentist has passed the entire written examination given by the Commission;

(2) has an active license to practice dentistry in another state or territory of the United States, with licensing requirements and licensing availability identical to those of this state at the time of licensure;

(3) has been engaged in continues active clinical practice in that state or territory, averaging at least 20 hours per week for each of the five years immediately preceding the application as verified by daily treatment schedules.

(4) is endorsed by all licensing entities in the jurisdictions where the dentist has ever been licensed.

(5) is not the subject of an unresolved complaint review procedure, current, or pending investigation or disciplinary proceeding undertaken by a dental licensing jurisdiction, dental licensing agency, law enforcement agency, or other governmental agency;

(6) is not the subject of an adverse report from the National Practitioner Data Bank and/or American Association of Dental Examiners Clearinghouse for Disciplinary Information that includes criminal and/or fraudulent activity;

(7) is not the subject of adverse peer review reports from constituent dental societies;

(8) has not previously had a license to practice dentistry suspended or revoked;

(9) has not previously failed the clinical examination of this state or the regional examination it recognizes;

(10) submits to the Board documentation that the dentist has completed at least 50 hours of continuing education related to clinical dentistry in the three years preceding application for a license in this state; the continuing education must have been approved by the American Dental Association, the Academy of General Dentistry, or the appropriate specialty board;

(11) submits to drug testing;

(12) completes a jurisprudence examination conducted by the Board on the dental statutes and regulations of this state;

(13) provides proof of current certification in cardiopulmonary resuscitation;

(14) questioned, under oath, is verified to be clinically and professionally competent through a personal interview and oral examination by the Board and submits recent patient case reports and/or oral defense of diagnosis and treatment plans;

(15) pays all required fees, that are sufficient to cover all investigative and administrative expenses of processing the application.

February 14, 1990

Senator Rick Halford  
P. O. Box V  
Juneau, AK 99811

Dear Senator Halford:

We reviewed the proposed revisions to SB 126 which were submitted by the Alaska Dental Society through Sam Kito. We found four proposed revisions that clearly discriminate against us. Failure to comply with any one of these proposed requirements would result in certain licensure rejection of the applicant dentist. There is virtually no dentist that could measure up to this ridiculous yardstick. These four unacceptable revisions are numbered in the left margin and highlighted in the attached photocopy. Explanations are given below.

1. The WREP Exam has been consistent in quality since 1984 when the periodontal section was included. If a dentist has proven himself to be clinically competent once, he shouldn't have to prove it again. Also, if a dentist is eligible for licensure in other WREP states, (Arizona, Utah, Idaho, Montana, New Mexico) he cannot be forced to jeopardize his good standing in those states by retaking the exam and possibly failing it. This would create a double jeopardy situation. Therefore, this is not acceptable.
2. There is no other state which has "licensing requirements and licensing availability identical to those of this state". This to is not acceptable.
3. This clearly discriminates against federally employed dentists who hold dental licenses in other states, but due to their federal service assignments, they cannot practice in the states where they hold these licenses. Therefore this is not acceptable.
4. Regarding oral examinations, and evaluation of case reports and/or oral defense of diagnosis and treatment plans: These are subject to a subjective evaluation by the State Dental Board. The board has shown over and over that they can effectively "screen out" almost all of those dentists who apply. This has been shown to be the case as evidenced by numerous licensure lawsuits against the dental Board. To include these requirements would create an unmanageable administrative nightmare with red tape and lawsuits which would result in a certain collapse of the entire process. Therefore, this is not acceptable.

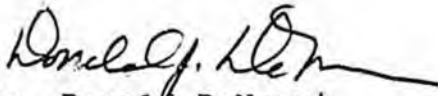
Further, the American Dental Association states in its official guidelines on licensure: "Issuing a license using a performance record in place of examinations is termed licensure by credentials". If any examination procedure (oral, written or clinical) is utilized in the licensure process the process is then termed licensure by examination.

The intent of the Alaska State law is that the State Dental Board will allow dentists to be licensed by credentials. This has been expressed by recent letters of intent by both the Senate and the House of Representatives. (See attachments). Both the Senate and the House have directed the State Dental Board to "exercise its statutory authority under AS 08.36.234 to license dentists by credentials". The Dental Board has failed to comply with these letters of intent. Instead, they adopted an "emergency regulation" to avoid compliance.

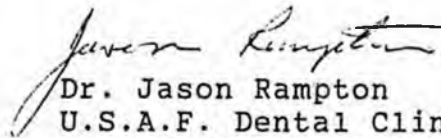
Again, it must be made very clear that if the Dental Board is allowed to adopt an oral examination...then licensure by credentials will, by definition, not exist. If this is allowed, then the Dental Board will have once again failed to comply with the legislative letters of intent and the intent of the law will be circumvented.

To include any of these four revisions in SB 126 would not be acceptable in a credentialing bill.

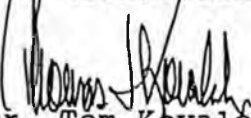
Sincerely,



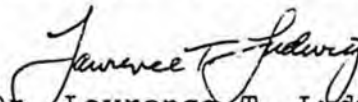
Dr. Donald DeNucci  
U.S. Army Dental Clinic  
Ft. Richardson, Alaska



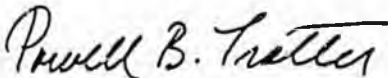
Dr. Jason Rampton  
U.S.A.F. Dental Clinic  
Elmendorf AFB, Alaska



Dr. Tom Kovalesski  
U.S. Public Health Service  
Alaska Native Medical Center



Dr. Lawrence T. Ludwig  
U.S. Navy Dental Clinic  
Adak, Alaska



Dr. Powell B. Trotter  
U.S. Coast Guard Dental Clinic  
Kodiak, Alaska

Attachments: Letters of Intent (2)  
Proposed revisions to SB 126

cc. Patrick McKay  
Shiela Toomey  
Alaska Dental Society  
State Dental Board

A PERFORMANCE REPORT  
ON THE BOARD OF  
DENTAL EXAMINERS

July 1, 1985 - June 30, 1987

Audit Control Number

08-1316-88-R

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

Deputy Commissioner, Department of  
Commerce and Economic Development      John Williams

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