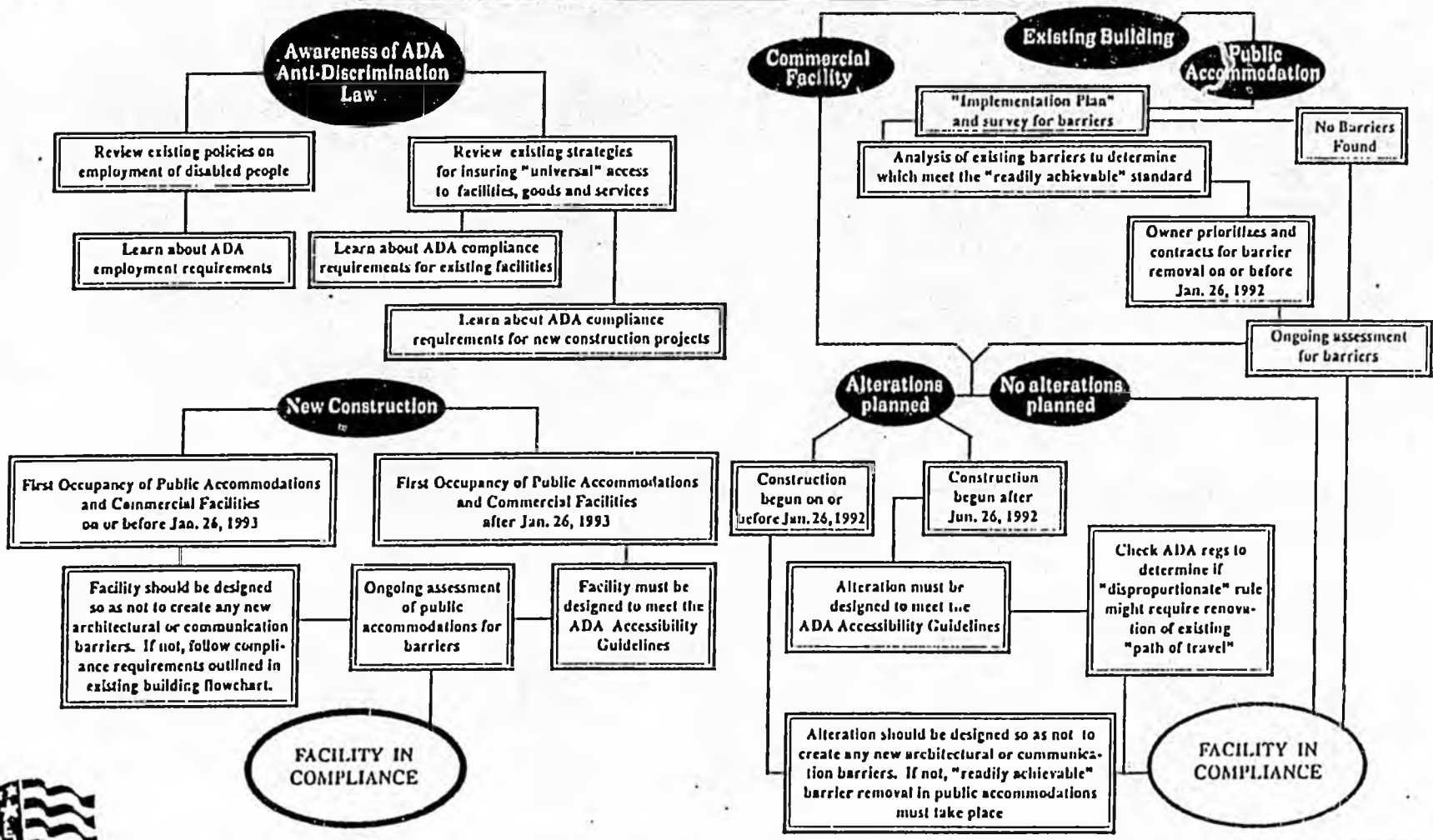


ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

6825 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

Americans with Disabilities Act Facilities Compliance Flowchart Title III - Public Accommodations



What is ADA?

THE FOLLOWING DOCUMENT MAY NOT FILM
LEGIBLY BECAUSE OF THE POOR QUALITY OF THE
ORIGINAL

CHAIRMAN KUBINA ANNOUNCED THAT THE COMMITTEE WOULD THEN HEAR HB 155. HE NOTED THAT A CS FOR HB 155 HAD BEEN PREPARED.

NUMBER 320

REP. CHOQUETTE MADE A MOTION TO ADOPT THE CS FOR HB 155. THERE WERE NO OBJECTIONS AND IT WAS SO ADOPTED.

NUMBER 335

ROD WILSON, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, TESTIFIED IN FAVOR OF HB 155. HE STATED THAT NEW FEDERAL LAWS HAD ADOPTED THE AMERICAN DISABILITIES ACT (ADA). THE ADA REQUIRED STATES TO PROVIDE EQUAL ACCESS TO FACILITIES FOR THE HANDICAPPED AND THAT IF THE STATE OF ALASKA DID NOT ACT, THEN FEDERAL LAW WOULD TAKE OVER.

CHAIRMAN KUBINA ASKED WHEN THE FEDERAL GUIDELINES WOULD TAKE EFFECT.

MR. WILSON STATED THAT THEY WOULD TAKE EFFECT ON JULY 26, 1991.

CHAIRMAN KUBINA ASKED WHY THE DOT HAD NOT ACTED SOONER TO ADDRESS THESE NEW FEDERAL GUIDELINES.

MR. WILSON RESPONDED THAT THE DOT DID NOT YET KNOW THE OUTCOME OF ALL THE NEW REGULATIONS.

CHAIRMAN KUBINA EXPRESSED HIS CONCERN THAT NO ACTION HAD BEEN TAKEN TO ADDRESS THESE REGULATIONS IN A TIMELY MANNER.

CHAIRMAN KUBINA ASKED MR. WILSON IF THE DOT APPROVED OF THE CS FOR HB 155 AND IF THEY WOULD RECOMMEND THAT IT BE WORKED ON DURING THE INTERIM.

MR. WILSON REPLIED THAT THE DOT DID APPROVE OF HB 155 AND THAT THEY WOULD RECOMMEND IT.

JUDY KNIGHT, DIRECTOR, DIVISION OF EMPLOYMENT SECURITY DIVISION, STATED THAT THEY WERE VERY CONCERNED ABOUT THE AMERICAN DISABILITY ACT. SHE ADDED THAT THERE WAS A MANDATED DEADLINE IN THE BILL. SHE SAID THAT THE REGULATIONS WOULD BE CIRCULATED FOR PUBLIC TESTIMONY AND NOT ADOPTED UNTIL THE END OF THE YEAR AND THAT THEY WOULD HAVE STAGGERED EFFECTIVE DATES.

NUMBER 414

CHAIRMAN KUBINA ASKED IF THE DIVISION OF EMPLOYMENT SECURITY DIVISION APPROVED OF THE CS FOR HB 155.

MS. KNIGHT STATED THAT IT DID. SHE ADDED THAT SHE WOULD PROVIDE THE COMMITTEE WITH AN OUTLINE OF THE ADA AND INVITED THE COMMITTEE TO ATTEND A MEETING OF THE COMMITTEE ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES IN SEWER IN EARLY JUNE, 1991.

CHAIRMAN KUBINA CALLED FOR AN AT EASE AT 2:50 P.M.

CHAIRMAN KUBINA CALLED THE MEETING BACK TO ORDER AT 2:52 P.M.

TAPE 92-2, SIDE A
NUMBER 000

THE HOUSE STATE AFFAIRS COMMITTEE MEETING WAS CALLED TO ORDER BY CHAIRMAN KUBINA AT 8:41 A.M. MEMBERS PRESENT WERE REPRESENTATIVES (REPS.) KUBINA, MOYER, CHOQUETTE, BAKER, MILLER AND GRUENBERG.

CHAIRMAN KUBINA ANNOUNCED THAT THE COMMITTEE WOULD FIRST HEAR HB 155, RELATING TO THE BARRIER-FREE REMODELING FUND, AND THEN HB 157, RELATING TO APPROPRIATION FOR BARRIER-FREE FACILITY FUND. HE BRIEFED THE COMMITTEE ON HB 155 AND ADDED THAT A COMMITTEE SUBSTITUTE (CS) HAD BEEN PROPOSED. CHAIRMAN KUBINA ASKED REP. KAY BROWN, PRIME SPONSOR OF HB 155, TO ADDRESS THE COMMITTEE.

NUMBER 050

REP. BROWN EXPLAINED THAT HB 155 OFFERED A CONSTRUCTIVE APPROACH TO MEETING STATE RESPONSIBILITIES TO MAKE THEIR FACILITIES ACCESSIBLE TO PEOPLE WITH DISABILITIES AS WELL AS ASSIST LOCAL GOVERNMENT AND PRIVATE ENTITIES TO DO THE SAME. SHE ADDED THAT THE AMERICAN DISABILITIES ACT (ADA) BECAME EFFECTIVE JANUARY 26, 1992, AND THE STATE NEEDED TO PUT A PROCESS IN PLACE TO ADDRESS IT.

REP. BROWN SAID THE FULL SCOPE OF THE PROBLEM IN ALASKA REGARDING FACILITIES AND THEIR INACCESSIBILITY WAS NOT FULLY KNOWN, BUT IT WOULD BE AN EXPENSIVE PROPOSITION. SHE ADDED THAT THE FIVE MILLION DOLLARS PROPOSED IN HB 157 WAS MERELY A BEGINNING. THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT&PF) ESTIMATED ABOUT 60 MILLION DOLLARS WAS NEEDED FOR STATE FACILITIES IN THEIR MOST RECENT FISCAL NOTE. THE COST COULD EXCEED 200 MILLION DOLLARS FOR ALL STATE AND PRIVATE FACILITIES.

REP. BROWN NOTED THAT THE FUNDING IN HB 157 WOULD COVER STATE AGENCIES, LOCAL GOVERNMENT, SCHOOL DISTRICTS, NONPROFITS, AND PRIVATE BUSINESSES. AT THE END OF THE PREVIOUS SESSION, THE HOUSE STATE AFFAIRS COMMITTEE HELD A HEARING ON HB 157 AND ADOPTED A WORK DRAFT CS DATED APRIL 29, 1991. REP. BROWN ANNOUNCED THERE WAS A REVISED WORK

DRAFT DATED JANUARY 2,

1992, FOR HB 155 AND ALSO A REVISED WORK DRAFT CS FOR HB 157 THAT WAS DATED JANUARY 16, 1992.

NUMBER 169

REP. BROWN STATED SHE HAD PREPARED A MEMORANDUM (MEMO) DESCRIBING THE CHANGES THAT HAD TAKEN PLACE DURING THE INTERIM. THE MAJOR CHANGE WAS TO REPLACE THE PREVIOUSLY PROPOSED 50/50 GRANT FOR PRIVATE ENTITIES WITH A NO INTEREST LOAN. THIS WOULD GIVE THE STATE A STREAM OF PAYMENTS THAT COULD BE LOANED OUT AGAIN. SHE ADDED THAT THE FISCAL NOTE FROM THE DEPARTMENT OF LABOR (DOL) FUNDED THE ACTIVITIES OF THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

STATE AFFAIRS, 1/22/92

CHAIRMAN KUBINA ASKED IF STATE AGENCIES COULD APPLY FOR THE LOANS.

REP. BROWN EXPLAINED THAT THE GOVERNOR'S COMMITTEE WOULD MAKE A RECOMMENDATION TO THE COMMISSIONER OF DOT&PF AS TO THE DIVISION BETWEEN LOANS AND GRANTS. A PRECISE DIVISION WAS NOT SPECIFIED IN HB 155, BUT STATE AGENCIES COULD APPLY FOR A LOAN.

CHAIRMAN KUBINA ASKED WHY STATE AGENCIES SHOULD NOT PUT IN REMODELING REQUESTS ON THEIR CAPITAL BUDGETS FOR FUNDS RATHER THAN USING THAT FUND. HE FELT THE FUND SHOULD BE USED FOR LOCAL GOVERNMENT, SCHOOL DISTRICTS, AND PRIVATE NONPROFITS.

REP. BROWN EXPLAINED SHE DID NOT VIEW IT AS PRECLUDING STATE AGENCIES FROM BRINGING FORTH THOSE REQUESTS TO BE CONSIDERED IN THE CAPITAL BUDGET. SHE FELT THE COMMITTEE SHOULD DEVELOP SOME CRITERIA TO MEASURE WHERE THE GREATEST IMPACT WAS.

NUMBER 267

CHAIRMAN KUBINA ASKED WHAT WAS THE PAYBACK PERIOD OF THE LOANS FINANCED THROUGH THE FUND.

ERIC MEYERS, LEGISLATIVE AIDE TO REP. BROWN, COMMENTED HE UNDERSTOOD THE TERM OF THE LOAN WAS DETERMINED BY REGULATION.

CHAIRMAN KUBINA ASKED IF THE MONEY PAID BACK INTO THE FUND HAD TO BE APPROPRIATED AGAIN.

REFERRING TO PAGE 2 OF HB 155, LINES 28-30, REP. BROWN STATED THAT THE BARRIER-FREE REMODELING FUND WAS ESTABLISHED IN THE DOT&PF AND IT CONSISTED OF MONEY APPROPRIATED AND IN REPAYMENT TO THE PRINCIPAL OF THE LOAN.

CHAIRMAN KUBINA ASKED IF THE MONEY REMAINED IN THE FUND ONCE THE MONEY WAS APPROPRIATED.

REP. BROWN RESPONDED THAT THE MONEY DID REMAIN IN THE FUND BUT DID NOT RESTRICT THE LEGISLATURE FROM APPROPRIATING MONEY FROM THAT LOAN FUND BACK TO THE GENERAL FUND TO BE USED FOR OTHER PURPOSES.

NUMBER 309

REP. MOYER ASKED ABOUT THE LOAN INTEREST.

REP. BROWN EXPLAINED THAT THE PROPOSAL STATED THERE WOULD BE NO INTEREST ON THE LOAN TO GIVE ASSISTANCE TO PRIVATE ENTITIES THAT DID NOT HAVE THEIR OWN RESOURCES TO MAKE THEIR PROJECTS HAPPEN.

REP. MOYER ASKED IF THE LOANS WOULD ALWAYS REMAIN WITH NO INTEREST.

REP. BROWN REPLIED THAT NO INTEREST LOANS WOULD BE SPECIFIED IN THE STATUTE.

REP. MOYER ASKED, IF A LANDLORD WAS RECALCITRANT, WOULD THE RECOURSE BE TO TAKE THAT LANDLORD TO FEDERAL COURT?

REP. BROWN SAID SHE WAS NOT SURE WHAT THE REMEDIES WERE. LANGUAGE ON LINE 3 OF HB 155, AND LINE 26, MENTIONED THAT A LANDLORD COULD POSSIBLY RECEIVE FUNDS FOR LEASED PROPERTIES.

REP. BAKER ASKED IF ANY RESEARCH HAD BEEN DONE REGARDING THE ADEQUACY OF THE FUND. HE MENTIONED THAT THE PERFORMING ARTS CENTER IN ANCHORAGE WAS VASTLY INADEQUATE UNDER NEW FEDERAL LEGISLATION AND PROBABLY WOULD TAKE 25 PERCENT OF THE FIVE MILLION DOLLARS APPROPRIATED IN HB 155.

NUMBER 390

REP. BROWN ASKED WHY PAGE 3 OF HB 155 DID NOT MENTION STATE AGENCIES.

MR. MEYERS EXPLAINED THAT UNDER THE PROCESS DESCRIBED ON PAGE 3, LINE 11, THE DOT&PF WAS CHARGED WITH PREPARING A LIST OF ALL STATE AGENCIES CONTROLLED BY THE EXECUTIVE BRANCH EXCEPT FOR THE UNIVERSITY OF ALASKA AND THE ALASKA RAILROAD. BY THAT PROCESS, STATE AGENCY PROJECTS THROUGHOUT THE EXECUTIVE BRANCH WOULD BE IDENTIFIED FOR THE GOVERNOR'S COMMITTEE FOR CONSIDERATION.

NUMBER 440

DON BRANDON, CHAIRMAN OF THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES (GCEPD), SPOKE IN FAVOR OF HB 155. HE STRONGLY FELT THAT A STATE AGENCY SHOULD DO EVERYTHING POSSIBLE TO ADDRESS THEIR ARCHITECTURAL

BARRIER PROBLEMS. MR. BRANDON ADDRESSED AN ISSUE IN HB 155 THAT THE GCEPD WOULD NEED TO CHANGE REGARDING PEOPLE WHO SERVE ON THE COMMITTEE. HE SAID THE EXPERTISE OF AN ARCHITECT, A GOVERNMENT OFFICIAL, AND FOUR PEOPLE WITH DISABILITIES WOULD ENSURE THAT EVERYONE WAS REPRESENTED. HE ADDED THAT HE WAS AVAILABLE ON AN ONGOING BASIS TO OFFER RESOURCE INFORMATION. MR. BRANDON ALSO MENTIONED THAT THE COMMITTEE OFFERED TRAINING FOR EMPLOYERS INTERESTED IN HIRING PEOPLE WITH DISABILITIES.

NUMBER 542

REP. BAKER MENTIONED THERE SHOULD BE A WAY TO COMMUNICATE THE INFORMATION REGARDING REMODELING TO THE BUSINESS COMMUNITY AND GOVERNMENTAL AGENCIES.

REP. BROWN REPLIED THAT DURING THE INTERIM SHE MAILED OUT SEVERAL HUNDRED LETTERS TO DIFFERENT BUSINESS GROUPS INFORMING THEM ABOUT HB 155. SHE ADDED THAT THE GCEPD HAD RESOURCES AVAILABLE TO TAKE A MORE FORMAL APPROACH FOR BUSINESS OUTREACH.

NUMBER 585

REP. BAKER REMARKED THAT BUSINESSES COULD BE REACHED THROUGH THE BUSINESS LICENSE DIVISION BY ATTACHING INFORMATION TO THE APPLICATIONS.

CHAIRMAN KUBINA ASKED IF THERE HAD BEEN ANY FUNDING FOR REMODELING AT THE FEDERAL LEVEL.

REP. BROWN REPLIED THAT SHE WAS NOT AWARE OF ANY.

CHAIRMAN KUBINA ASKED ROD WILSON, AN ARCHITECT WITH THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (DOT), HOW MUCH THE OVERALL DOLLAR FIGURE WAS FOR BRINGING THE STATE OF ALASKA INTO COMPLIANCE.

MR. WILSON ESTIMATED THAT 200-300 MILLION DOLLARS WAS NEEDED.

CHAIRMAN KUBINA ASKED HOW MUCH THE DOT HAD REQUESTED FOR THE CAPITAL BUDGET THAT FISCAL YEAR.

MR. WILSON BELIEVED THERE WAS 500,000 DOLLARS IN THE DOT CAPITAL IMPROVEMENT PROJECT PROGRAM. THE 500,000 DOLLARS WAS SIMPLY THERE TO ESTABLISH A TRANSITION PLAN.

NUMBER 621

MR. WILSON STATED THAT HE HAD BEEN WORKING WITH GENERAL SERVICES AND SUPPLY (GS&S) AND TOGETHER THEY HAD REVAMPED THE CONTRACT LANGUAGE WITHIN A LEASE WHICH REQUIRED THAT A SPACE BE DEEMED A TITLE TWO FACILITY. THE LEASE WOULD ALSO

SAY THAT THE LEASED FACILITY WOULD MEET THE SAME CRITERIA AS THAT OF THE STATE. CONSEQUENTLY, IF THE LANDLORD DID NOT COMPLY, THE STATE COULD WITHHOLD PAYMENT OR COULD BREAK THE LEASE.

JUDY KNIGHT, DIRECTOR OF THE EMPLOYMENT SECURITY DIVISION AND LIAISON FOR THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES (GCEPD), SPOKE IN SUPPORT OF HB 155. SHE AGREED WITH THE TESTIMONY GIVEN BY THE PREVIOUS SPEAKERS.

CHAIRMAN KUBINA ASKED IF THE COMMISSIONER OF THE DEPARTMENT OF LABOR (DOL) WAS AWARE OF THE EFFECTS OF HB 155.

NUMBER 657

MS. KNIGHT STATED THAT THE COMMISSIONER WAS AWARE OF THE EFFECTS. SHE NOTED THE DEPARTMENT HAD A FISCAL NOTE THAT WOULD BE FUNDED FROM BARRIER-FREE REMODELING FUND.

TAPE 92-2, SIDE B
NUMBER 000

HELEN CRAIG TESTIFIED VIA TELECONFERENCE FROM SITKA IN SUPPORT FOR HB 155.

EARL FULLINGIM, PRESIDENT OF BARRIER-FREE ALASKA, A NONPROFIT ORGANIZATION, TESTIFIED VIA TELECONFERENCE FROM ANCHORAGE IN FAVOR OF HB 155. HE NOTED THAT THE FUNDING UNDER HB 155 NEEDED TO BE INCREASED AND EXPANDED TO OTHER PROGRAMS. SUCH AS PRIVATE NONPROFITS.

NUMBER 149

GEORGE HAYNES, A MEMBER OF THE ADVISORY COUNCIL FOR VOCATIONAL EDUCATION, TESTIFIED VIA TELECONFERENCE FROM ANCHORAGE IN SUPPORT OF HB 155. HE FELT THE 5,000,000 DOLLAR FUNDING SHOULD BE INCREASED.

PATRICK REINHART, DIRECTOR OF CHALLENGE ALASKA, TESTIFIED VIA TELECONFERENCE FROM ANCHORAGE IN FAVOR OF HB 155. HE SAID THAT HE RECEIVED LETTERS ON A DAILY BASIS FROM POTENTIAL TOURISTS REGARDING ACCESSIBLE ACCOMMODATIONS AND RECREATIONAL OPPORTUNITIES. HE FELT THAT HB 155 WAS A STEP IN THE RIGHT DIRECTION, AND THE STATE NEEDED TO LOOK AT ALL AREAS, INCLUDING TOURISM AND RECREATIONAL FACILITIES. HE COMMENTED FURTHER THAT STATE AGENCIES NEEDED TO PLAN AHEAD IN THEIR CAPITAL BUDGET REQUESTS REGARDING ACCESSIBILITY IMPROVEMENTS.

CRYSTAL SMITH, ALASKA MUNICIPAL LEAGUE, JUNEAU, STATED THAT THE LEAGUE HAD NO OFFICIAL POSITION AT THAT TIME, BUT THEY WERE AWARE OF THE IMPACT OF HB 155.

NUMBER 290

ARTHUR SNOWDEN, ADMINISTRATIVE DIRECTOR OF THE ALASKA COURT SYSTEM, JUNEAU, SAID THE TERMS OF HB 155 NEEDED MORE DEFINED LANGUAGE. MR. SNOWDEN WANTED TO SEE MORE PRESCRIPTIVE LANGUAGE ADDED TO HB 155 STATING THAT ALL STATE AGENCIES, WHEN RENEWING OR CREATING NEW LEASES, WOULD COMPLY WITH THE AMERICAN DISABILITIES ACT.

(REF. BRUCKMAN ARRIVED AT 9:45 A.M.)

NUMBER 354

JERRY SCHACH, DIRECTOR OF SOUTHEAST ALASKA LIVING COUNCIL, SPOKE IN FAVOR OF HB 155. HE FELT THAT THERE APPEARED TO BE A CONSENSUS THAT HB 155 WAS AN EXPENSIVE PROPOSITION AND THAT IT MEANT NOT UTILIZING HUMAN RESOURCES. HE SAID ALASKA IS A LAND OF OPPORTUNITY WHICH SHOULD FACILITATE THE CONGRESSIONAL INTENT OF THE ADA IN ALASKA. MR. SCHACH ADDED THAT RESPONSIBILITY TOWARDS CREATING OPPORTUNITIES FOR EVERYONE IN ALASKA WAS A STEP IN THE RIGHT DIRECTION.

REF. MOYER MADE A MOTION THAT THE CS FOR HB 155 BE ADOPTED. THERE WERE NO OBJECTIONS TO THE CS AND IT WAS SO ADOPTED.

REF. MOYER MADE A MOTION TO MOVE THE CS FOR HB 155 OUT OF COMMITTEE WITH INDIVIDUAL RECOMMENDATIONS. THERE WERE NO OBJECTIONS AND IT WAS SO MOVED.

CHAIRMAN KUBINA STATED THAT THE COMMITTEE WOULD HEAR HB 157. HE CALLED FOR A MOTION THAT HB 157 BE AMENDED TO CHANGE THE DOLLAR FIGURE FROM 5,000,000 TO 20,000,000.

REF. MOYER MADE THE MOTION TO CHANGE THE DOLLAR FIGURE. THERE BEING NO OBJECTIONS, HB 157 WAS SO AMENDED.

REF. MOYER CALLED FOR A MOTION THAT HB 157 BE MOVED OUT OF COMMITTEE WITH INDIVIDUAL RECOMMENDATIONS. THERE BEING NO OBJECTIONS, HB 157 WAS SO MOVED.

CITY OF PALMER



231 W. EVERGREEN AVE.
PALMER, ALASKA 99645



Phone (907) 745-3271

A HOME RULE CITY

December 17, 1991

The Honorable Kay Brown
Representative, State of Alaska
Legislative Information Office
3111 "C" Street, #435
Anchorage, Alaska 99503

RECEIVED
DEC 20 1991
ALASKA MUNICIPAL LEAGUE

RE: CS for House Bill 155

Dear Representative Brown,

The City of Palmer has received your December 10, 1991 letter regarding CS for House Bill 155.

As CS for House Bill 155 now stands, the funds, if appropriated can only be used for remodeling facilities to be accessible to the handicap.

Probably the most important aspect of the American Disabilities Act is making the work place handicap accessible which can cost from a few dollars to megabucks. I believe CS for House Bill 155 should have an additional section relating to making the work place handicap accessible as well.

Presently, the new American Disabilities Act has not received as much attention in the State of Alaska as it should, particularly the area in making the work place handicap accessible. Remodeling of facilities is an area which will in all probability have to be spread over a many year period. The need to implement a handicap accessible work place by either the State or a local government with over 50 employees is something which will need immediate funding on a case by case basis for compliance. Many small communities such as Palmer will be financially strapped to make the necessary work place accommodations should this be required.


The City of Palmer supports CS for House Bill 155 but would like to see an amendment to specifically address the issue of making the work place handicap accessible.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325. Fax (907) 463-5480

January 22, 1992

TO: Representative Gene Kubina, Chair
Members, House State Affairs Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 155 - Barrier-free remodeling fund
HB 157 - Appropriation for barrier-free remodeling fund

Provisions of the Americans with Disabilities Act (ADA), which goes into effect January 26, 1992, place a number of obligations on municipalities and other employers. While the federal legislation is directed toward a laudable goal, its implementation will not be without considerable cost. HB 155, which establishes a fund to help employers remodel facilities to make them accessible by the physically handicapped, aged, and infirm, and HB 157, which makes an appropriation to that fund, will help Alaska's local governments meet the costs of those obligations.

Under provisions of the ADA and its implementing regulations, municipalities must, among other things:

- conduct an evaluation of current services, policies, and practices, including employment practices, and modify them to extent necessary for compliance by January 26, 1993
- if they have 50 employees or more, appoint an ADA coordinator and adopt a grievance procedure for handling complaints about non-compliance with ADA
- provide public notice of the rights and protections provided by ADA and the compliance actions undertaken and post signs indicating whether building entrances are accessible or directing individuals to accessible entrances
- ensure that communications with disabled individuals are as effective as communications with others; this could include purchase of telecommunication devices for the deaf, preparation of braille or recorded informational materials, and provision of readers and interpreters
- if structural changes are necessary to make programs and services accessible, complete them by January 26, 1995; in municipalities with 50 or more employees, a transition plan outlining the timing of structural changes must be completed by July 26, 1992

All of these federally mandated but unfunded activities will cost money for Alaska's state and local governments, private businesses, and our citizens. HB 155 and HB 157 will provide some much-needed state assistance to address at least the required structural changes.

cc: Representative Kay Brown

CLEG92:HB155.122

Member of the National League of Cities and the National Association of Counties

Deadline to improve disabled access nears

By HUGH CURRAN

TIMES WRITER

The slide on the screen was of a gray metal wheelchair ramp placed over steps.

"What's wrong with this ramp?" asked the presenter at the seminar on disabled access.

"Everything," grumbled wheelchair-bound Duane French, executive director of Access Alaska. French is all too familiar with inadequate or non-existent access for disabled people.

The question of access and the millions

of dollars involved in bringing existing private and public buildings into compliance with the far-reaching Americans with Disabilities Act was the focus of a Wednesday seminar at the Hotel Captain Cook.

The act requires improved access to both existing and future buildings by Jan. 26, 1992. After that date, people who believe they have been discriminated against in the area of access can file a civil lawsuit in federal court.

Among items covered in the act's ex-

See Access, back page

Access

Continued from page A1

haustive list of detailed requirements are the height of light switches and towel dispensers, the size of doorways, vestibules and toilet stalls, and the amount of water pressure necessary in drinking fountains for the water stream to reach the proper height.

"There's going to be much more for us to do than I had originally thought," said Andy Stember, plan review engineer for the municipality of Anchorage. "The deadline is coming up very quickly and that should wake up a lot of people as to what's needed."

About 40 local and state officials, along with representatives of private companies and Native corporations, attended the seminar sponsored by Access Alaska, the Governor's Commission on Employing People with Disabilities and the Alaska Center for a Barrier Free Environment.

The effect of the act, signed by President Bush in July of 1991, has been compared to the civil rights legislation of the 1960s.

"It's going to increase integration," French said. "It's long overdue and the reason is that for so long people with disabilities were seen as sick or unhealthy. The realization is finally being made that we are active individuals who get around."

Daphne Brown, who attended the seminar for the architectural firm of Kumin Associates Inc., supports the act but worries about the cost of getting into compliance.

Brown also disagreed with the estimated 1 percent increase in the total cost of a new structure to meet the requirements.

"I think 1 percent is too low," Brown said. "It's easier to design new buildings for compliance. Retrofitting older buildings would be much more difficult."

James Terry, the seminar's instructor whose Alabama architectural firm advises corporations on compliance, said many changes would be inexpensive.

"Often times, especially for private entities, it's cheap and easy to do," Terry said. "It can be as easy as lowering a paper towel dispenser, changing a door handle or reserving a parking space."

Rep. Kay Brown, D-Anchorage, has sponsored a bill to offer grants to public and private facilities to help pay remodeling costs. The bill is due for consideration this session before the House State Affairs Committee.

Terry said an extra effort will be needed in Alaska to meet the requirements.

"Weather is a factor," Terry said. "You'd have to keep access areas clear and get snow removed."



Times photo by AL GRILLO

Access Alaska members Les Misner, left, and Monte Ninans measure the height of the fire alarm at the Hotel Captain Cook on Wednesday to see if it is accessible to a person in a wheelchair.

Easing access for the disabled carries considerable price tag

Times
11/4/91

By LIZ PULLIAM

TIMES WRITER

Access Alaska Director Duane French was arrested, twice, for demonstrating in favor of the Americans with Disabilities Act.

In the end, he and dozens of other activists fighting for the rights of disabled people were invited to the Rose Garden last year to watch as President Bush signed the act into law.

Yet after all that, after living the fight's high and low points, he says one of the campaign's most interesting moments occurred at home. He watched as the Anchorage Assembly talked of finding money to remodel — the first time disabled access has been a local budget priority.

"I think it's great to see some of these moves made and no, I don't think they would have been made without the ADA," French said.

Anchorage is looking for \$500,000 to begin complying with the new law, which requires sweeping changes in public and private buildings.

The statewide tab is expected to be much higher, however — tens of millions of dollars higher. The act, which supporters labeled as the civil rights bill for the disabled, is expected to affect virtually every building the public uses in Alaska.

City officials estimate they will need at least \$1.5 million to widen doors, reconfigure bathrooms, in-

Anchorage is looking for \$500,000 to begin complying with the new law, which requires sweeping changes in public and private buildings.

stall power-assisted doors and make other changes needed to ease access for disabled people.

That figure does not include the cost of remodeling either the Municipal Hill Building or the Alaska Center for the Performing Arts, buildings that have been widely criticized as inaccessible to disabled people.

The city expects its landlord to foot the costs for the Hill Building, while the center's remodeling could cost about \$300,000.

"Right now we've got \$90,000 we'll spend before the end of the year," said Dick Raynor, city facility maintenance manager. "That does not take care of the major problems, like connecting the Discovery Theater with the rest of the facility so people in wheelchairs don't have to go outside."

The city's figure also does not include remodeling. See Access, page B3

The deficiencies are likely to prompt expensive lawsuits, he said. The act was designed to be enforced not by government agencies but through lawsuits, with courts interpreting the act case by case.

"While there are no penalties, enforcement will be swift," Fullingim said. "They (building owners) will not only have to do the remodeling, they'll have to pay for attorney's fees and reasonable court costs."

State officials hope to head off some of those suits by explaining the law to building owners. The state Department of Transportation is scheduled to publish some guidelines by Jan. 26, 1992, the day the act's public accommodation laws go into effect.

The huge costs involved in retrofitting Alaska's buildings prompted Rep. Kay Brown, D-Anchorage, to propose a "Barrier-Free Remodeling Fund" to provide money to state agencies, local governments, school districts and private businesses. The fund would give grants to public agencies, while private interests could get matching funds for every dollar they spend.

Brown has asked for \$5 million to start the fund; her bill is pending in the House State Affairs Committee.

City officials said Anchorage would be among the first in line at the fund. Voters rejected a bond proposition Oct. 1 that would have provided \$500,000 for studies and remodeling; the money is now on a proposed city wish list for state capital grant money.

Access

Continued from page B1

ing school district buildings, or any of the hundreds of private businesses — restaurants, theaters, hotels, shops and day-care centers — affected by the act.

The school district has received \$2 million in state grants to correct about \$12 million in life-safety problems, including barriers to disabled people, district facilities director Louis Overstreet said.

A state Department of Transportation and Public Facilities survey six years ago estimated it would cost some \$60 million to make state-owned buildings more accessible. Department architect Rod Wilson says the cost has probably grown \$20 million to \$80 million since then. The tab statewide for local agencies and private businesses could be more than triple that total, but no one knows for sure, Wilson said.

"This (DOT) report was more or less from the hip pocket," Wilson said. "Nobody has actually gone out there and inventoried the problems."

Earl Fullingim, president of the non-profit Alaska Center for a Barrier-Free Environment, believes government officials are seriously underestimating the cost of complying with the law.

Fullingim said he has seen many facilities touted as handicapped accessible that actually were not — doors that were too difficult to open, restroom stalls that were designed so a wheelchair could not turn around in them.

Disabilities law backed by big fines

Measure goes into effect on Jan. 26

By LIZ PULLIAM

TIMES WRITER

Buildings ranging from Anchorage's skyscrapers to remote lodges and roadhouses will be required to alter their facilities or risk expensive lawsuits under the new Americans with Disabilities Act, a local lawyer told business managers Thursday.

Courts can impose \$50,000 to \$100,000 in civil fines, plus attorneys fees and "pain and suffering" damages, for violations after the act goes into effect Jan. 26, said Robert Stewart of Davis Wright Tremaine.

The Anchorage law firm joined with Koonce Pfeffer, Inc. architects to present the two-hour seminar at the Anchorage Hilton Hotel.

Stewart recommended business people survey their buildings, seek advice from disability rights advocate groups and make relatively simple renovations, such as installing ramps, repositioning furniture and adding grab bars in toilet stalls, to protect themselves from suits.

"The best defense . . . is to make a good-faith effort," Stewart said.

A restaurant owner who could not enlarge bathrooms without tearing out walls could instead install grab bars, lower paper towel dispensers and insulate pipes under the sinks to prevent wheelchair users from being burned, said James Bohannon, a Koonce Pfeffer architect.

Bohannon recommended other
See Law, page C3

Law

Continued from page C1

lower-cost methods. Among them:

- Make curb cuts in sidewalks and entrances.
- Reposition shelves, furniture and telephones.
- Widen doors.
- Eliminate turnstiles or provide alternate routes.
- Install raised toilet seats and full-length mirrors in bathrooms.
- Remove high-pile carpeting.
- Add raised numbers in elevators.
- Add paper cup dispensers next to existing water fountains, if not easily accessible.

President George Bush signed the Americans with Disabilities Act into law last year. Public fa-

cilities such as restaurants, hotels, movie theaters, stores, day-care facilities and schools will be affected first, although all commercial establishments, from office buildings to warehouses and factories, will be covered after Jan. 26, 1993.

The act does not require businesses to make expensive renovations just to accommodate the disabled, but does require new buildings, and any remodeling of existing facilities, to be handicapped accessible, Stewart said.

That may include installing elevators if the building has three or more stories, has more than 3,000 square feet per floor, is a shopping mall or houses medical facilities, Stewart said.

Roadhouses or lodges in rural Alaska may have to pave gravel parking lots or install ramps to improve access.

Few businesses prepared as Disabilities Act becomes law today

Ads featuring disabled good business, firms say

By ALAN L. ADLER
The Associated Press

DETROIT — Colleen Stewart doesn't appear to be anyone special in Kmart's folksy TV ads showing Americans at their shopping best.

That's the point. Stewart, who uses a wheelchair, is one of two disabled actors among a recurring cast of characters in the company's ongoing ads in the aisles of a Kmart store in New Jersey.

Kmart is one of dozens of companies regularly using disabled people in their advertising. They're trying to appeal to the buying power of the estimated 43 million physically handicapped people in America.

Peter Hirsch, executive creative director of Calet, Hirsch and Spector Inc., the New York advertising agency that created the spots, said he wasn't thinking of using disabled actors when the ad concept was designed, but paraplegics Stewart and James Geraghty fit in well with the theme.

"When we started to cast this campaign, we were looking to represent the Kmart shopping universe,"

Hirsch said. "We didn't do it to seek publicity. We did it to create a reality, a truth with a consumer."

That truth had long been ignored in the advertising business, said Sandra Gordon, a senior vice president for the National Easter Seals Society.

"It was the mid-'70s when I first started trying to get companies interested in using someone disabled," Gordon said. "I went and talked with them and you would have thought I had suggested they put a dog in there."

There was little change until Du Pont's 1987 ad featuring Bill Demby, a Vietnam veteran who lost both his legs in the war. With artificial legs partly created by Du Pont, Demby was able to play full-contact basketball.

The commercial told his touching, inspiring story and broke an unofficial barrier against using disabled people in advertising.

"It was a corporate ID spot that in some ways became a corporate image spot," said Jack Conmy, manager of special events for Du Pont.

The ad won an EDI —



The Associated Press

Colleen Stewart, left, is featured in Kmart's ad campaign featuring Americans at their shopping best.

Equality, Dignity, Independence — award for Du Pont from Easter Seals.

Dayton-Hudson and Nordstrom department stores, McDonald's, Colgate-Palmolive, Procter & Gamble and IBM are other companies incorporating physically disabled people into their print and television ads.

Such ads have altruistic value but they also help the bottom line, said How-

ard Liszt, president of Minneapolis-based Campbell-Mithun-Esty Advertising. His agency handles the Easter Seals media campaigns.

"I think what we see is a lot of companies realizing they may have begun using disabled in their advertising for reasons of social responsibility," Liszt said. "Now they realize it's not only the right thing to do, it's good business."

The Associated Press

The nation is required by law today to make buildings more accessible to the disabled. But the fortunes of one door company suggest businesses aren't rushing to comply.

"We hope it will be a boost to business," said Doug Davis, a salesman for Atlanta-based Georgia Entrance Systems, which sells and installs automatic doors. "It hasn't been anything extraordinary yet."

The first phase of the expansive law requires office buildings, restaurants, theaters and other places that serve the public to remove or bypass barriers such as manual doors and stairs, where possible.

The law also requires public transportation systems to improve access so that service to the disabled matches that offered to the general public. The transit systems must increase the amount of special service for the disabled and make sure any new buses and rail cars are accessible to them.

Businesses that make changes to help the disabled can get tax credits and deductions. Those that don't, face lawsuits or fines.

"I'd say it's a mixed bag of people being prepared," said Dave Capozzi, who helped develop the Americans with Disabilities Act and is tracking compliance as a vice president of the

National Easter Seal Society.

The government estimates that 43 million Americans have disabilities.

Other sections of the law, affecting such things as job discrimination, will take effect later.

Many businesses across the country are confused about exactly what they have to do to comply.

"Our phones have been ringing pretty much non-stop. The most common question is, 'How do I come into compliance?'" said Raffaella Bachiccia, coordinator of advocacy programs for the Governor's Commission on Concern for the Handicapped in New Mexico.

Capozzi, who heads advocacy programs for Easter Seals, said a recent national poll found 90 percent of respondents unaware of the law. But he said some businesses have been making changes anyway as the value of attracting disabled customers has become clear.

The Somerset Savings Bank in Bound Brook, N.J., is building new entrance ramps and has lowered check-writing desks in some branches for customers in wheelchairs. But Vice President Michael Walsh said other businesses in the area are not following suit.

"As I look around, it seems that it is a non-issue for many businesses," Walsh said.

*New law
for the
disabled
packs power
of the courts*

BREAKING DOWN BARRIERS

By JAY BLUCHER
Daily News reporter

The federal Americans with Disabilities Act, passed in the summer of 1990 and going into effect Sunday, extends civil rights protection to disabled persons.

More important, the law lets people do something about discrimination — in federal court.

The country's most far-reaching civil rights law since 1964 protects 43 million Americans from discrimination, and assures equal access to workplaces and public facilities.

Previous laws provided some help to disabled persons. But the new law does more, going far beyond simply requiring adequate numbers of parking spaces or wider bathroom stalls.

It guarantees equal opportunity in employment, access to public and private buildings, transportation, state and local government services and telecommunications.

Yet because of ambiguous or imprecise language in the new law, disability rights experts agree that

much of what the law requires will ultimately be decided in the courts.

For example, the law requires employers of 15 or more to make changes for disabled persons unless it would cause the company "undue hardship." Public areas such as restaurants, hotels, doctor's offices, pharmacies or retail stores must be made accessible only if such alterations are "readily achievable."

Vague phrases such as these prompt Earl Fullingim, president of Barrier-Free Alaska, to call the law the "Attorneys' Full Employment Act."

Some of the new law's provisions were deliberately left ambiguous to leave room for innovation. For example, rather than requiring every business with hand-operated doors to install electric ones, the law may allow a simple doorbell at wheelchair height.

If a bank customer is blind and wants a monthly checking statement in Braille, the law entitles him to get it. If a deaf university student

Please see Page F-2, BARRIERS

BARRIERS: Law for the disabled goes into effect Sunday

Continued from Page F-1

needs a sign-language interpreter, it is the school's duty to provide one. If a hearing-impaired person attends an arts event or a movie theater, listening devices should be available.

A host of questions confronts business. Can clerks retrieve merchandise for disabled persons, or must the disabled be able to reach any item in the store? Is it permissible to seat persons who use a wheelchair only where they can be served, or do they need to have access to the entire restaurant?

The answers depend on circumstances — and future court decisions.

"But it's no longer relevant for business to say it costs too much or not enough persons with disabilities use my store," says David Thompson, executive director of the Alaska Center for Blind and Deaf Adults. "It's the law; they have no choice."

He views the new law as part of the country's growing commitment to extend civil rights to more people.

"In the '60s, it was civil rights for blacks; in the '70s, women; in the '80s, gays; and in the '90s, persons with disabilities."

Previously fragmented enforcement now will be centralized under the Department of Justice's office of civil rights.

Although people can still file access complaints with the Anchorage Equal Rights Commission or the state's Human Rights Office, those who want faster action now can use the courts.

Under the new law, whoever wins a lawsuit also wins attorney fees and court costs. And since the Disabilities Act is all about civil rights, class-action suits and punitive damages are also available.

These two factors ought to encourage more attorneys to handle cases involving discrimination based on disability, says Rick Tessandore, executive director of Advocacy Services of Alaska.

Under the act, people are considered disabled if they have a documented "physical or mental impairment that substantially limits one

Americans with Disabilities Act

Effective dates

Employment: July 26, 1992, for employers with 25 or more employees. July 26, 1994, for employers with 15 or more employees.

Public services and activities of local and state governments: Jan. 26, 1992

Public transportation (buses, light and rapid rail): Aug. 26, 1990: All orders for purchases or leases of new vehicles must be for accessible vehicles (equipped with wheelchair lifts). New stations built after Jan. 26, 1992, must be accessible.

Public transportation by inter-city Amtrak and commuter rail: July 26, 2000.

Public transportation provided by private

entities: Jan. 26, 1992

Facilities open to the public: Jan. 26, 1992, for businesses with 25 or fewer employees and revenue of less than \$1 million. Jan. 26, 1993, for businesses with 10 or fewer employees and revenues of less than \$500,000.

New construction or alteration to public and commercial facilities: Jan. 26, 1993, for new construction. Jan. 26, 1992, for alterations.

Telecommunications: July 26, 1993, relay services for the deaf must operate 24 hours per day.

Source: U.S. Department of Justice Civil Rights Division, Office on the ADA

What you need to do

The U.S. Justice Department says the following steps need to be taken to make your facility accessible to people with disabilities. The list is not intended to be exhaustive, but simply to show barriers that could be readily removed.

- Install ramps.
- Make curb cuts in sidewalks and entrances.
- Reposition shelves.
- Rearrange tables, chairs, vending machines, display racks and other furniture.
- Reposition telephones.
- Add raised markings on elevator control buttons.
- Install flashing alarm lights.
- Widen doors.
- Provide alternative paths to turnstiles (as in banks and supermarkets)

- Install accessible door hardware.
- Install grab bars in toilet stalls.
- Insulate lavatory pipes under sinks to prevent burns.
- Reposition paper towel dispensers in bathrooms.
- Remove high-pile, low-density carpeting.

For additional information about ADA, contact:

Office on the Americans with Disabilities Act
Civil Rights Division
U.S. Department of Justice
P.O. Box 68118
Washington, D.C. 20035-6117
(202) 514-0301 (voice)
(202) 514-0381 (TDD)

or more of the major life activities" — a definition that fits one in six Americans.

Both Fullingim and Tessandore say the new law's provisions for lawsuits have prompted a flood of calls to their offices — mostly from individuals who wish to avoid a lawsuit, not file one.

Susan Williams, staff attorney for Advocacy Services, says employers and local government agencies are most interested in how to avoid litigation, find loopholes and do the minimum required. She would rather they were concerned about doing the right thing.

For the last 18 months, Duane French, executive director of Access Alaska — a local non-profit group offering independent-living services to disabled persons — has explained the new law's

complexities to numerous local groups.

But in the last few weeks, and more frequently since Sunday, he says, his office has been deluged with calls. He says most of the more than 100 inquiries have been misinformed, misguided and too late.

Thompson, of the Center for Blind and Deaf Adults, thinks he knows why: an "appalling lack of community awareness about ADA." But he also says the law could change that.

"If business and local government doesn't wake up, they are going to get ambushed on this one, and it's nobody's fault but their own," he says.

Even though cities have had since 1990 to act on the law, little has happened in Alaska.

Scott Burgess, executive

director of the Alaska Municipal League, says that's because local governments lack money to make the changes.

Some Anchorage businesses have made changes. In October, the Sullivan Arena removed 69 seats, the entire top mezzanine row. New Sagaya Oriental Grocery Store went far beyond existing codes to make the entire store accessible.

"We knew we had a problem before ADA, so after it passed it really came down to a question of just wanting to do the right thing," says Tom Anderson, manager of the Sullivan Arena for Ogden Facility Management, which also runs 80 other public facilities across the country.

Making the changes was neither as costly nor as difficult as Anderson imagined.

"Mostly just taking out seats and providing wheelchair locations — a few internal things like an electric door, new signs, more handicapped parking — no big deal, really," he said.

When Paul Reid, co-owner of New Sagaya, chose to make all areas of his store accessible last year, he did it because he had friends who use wheelchairs.

"I guess your consciousness gets kind of raised when you see the barriers they confront in everyday life," says Reid.

Since the law's passage 18 months ago, cities like Washington, D.C., and Chicago have been engaged in a multimillion-dollar scramble to modify facilities and install equipment to aid disabled people.

Anchorage, however, is "a little behind the curve," concedes Dick Raynor, manager of the municipality's facility maintenance department.

The city hasn't studied what needs to be done to make its public theaters, libraries, museums and other facilities accessible. But he says it plans to do that soon.

"Ideally, all of our buildings are supposed to be accessible as of Sunday, but we still don't have a handle on what we'll find or what's required yet."

Things aren't much further along at the state level, either. The legislature is considering a bill (HB-155) sponsored by Rep. Kay Brown, D-Anchorage, to set aside \$20 million as a revolving fund to help offset the costs of remodeling.

No one's entirely certain how much any of it might cost. In various testimony, the state's Department of Transportation and Public Facilities has estimated it will cost \$60 million for state buildings alone, \$200 million for state and private buildings.

No exemptions exist for either local government or small businesses, but disability rights experts say it will be far easier for small business to prove "undue hardship" than it would be for, say, a municipality with a multimillion-dollar budget.

SECTIONAL ANALYSIS
Barrier Free Remodeling Fund
CS House Bill 155 (State Affairs)

Section 1

Amends purposes of the Governor's Committee on Employment of People with Disabilities to include the elimination of physical barriers to facilities, including work places, that hinder access and employment opportunities for persons with disabilities.

Section 2

Amends composition of the Governor's Committee on Employment of People with Disabilities to provide that membership be from throughout the state and include an architect and a representative of local government. Adds requirement that at least four members of the Committee be persons experiencing a disability. Provides that a representative of the Department of Transportation and Public Facilities (DOTPF) and the Chair of the Governor's Council for the Handicapped and Gifted serve as ex-officio members of the Governor's Committee on Employment of People with Disabilities when the Committee meets pertaining to the Barrier Free Remodeling Fund.

Section 3

Amends the duties of the Governor's Committee on Employment of People with Disabilities to include serving as the advisory committee to DOTPF on expenditure of money from the Barrier Free Remodeling Fund.

Section 4

Amends statutes of the Governor's Committee on Employment of People with Disabilities to allow the Committee to hold additional meetings.

Section 5

Establishes a Barrier Free Remodeling Fund within DOTPF. The Fund consists of money appropriated to the Fund by the legislature and repayment of principal of loans made from the fund. Money in the Fund will be used to finance the remodeling of public and private facilities completed by January 1,

1991 that are open to or used by the general public in order to make them accessible by the disabled, aged, or infirm.

By June 1 of each year, DOTPF shall prepare a list of state agency facilities controlled by the executive branch that are not accessible, together with a proposed budget for remodeling costs. The University of Alaska and the Alaska Railroad Corporation are also required to submit lists of their facilities that are in need of access improvements. The Legislative Affairs Agency and the Alaska Court System may submit remodeling requests. State agencies, local governments, school districts and private non-profits may apply for grants while private businesses may apply to the department for zero interest loans to make accessibility improvements.

By July 15 of each year, DOTPF shall submit to the Governor's Committee on Employment of People with Disabilities a list of requests and applications for remodeling grants. The committee shall recommend to the Commissioner the grants and loans to be made for remodeling. The Committee may consider whether alternative sources of funds are available to an applicant. The Commissioner shall, by December 15, make a final written determination of facilities whose remodeling costs are to be paid through grants or loans from the Fund. Using money from the fund that has been approved for state agency projects, the department shall remodel state facilities to provide access except that the Legislative Affairs Agency, the Alaska Court System, the University of Alaska or the Alaska Railroad Corporation may request the disbursement of funds awarded by the Commissioner in order to undertake their own remodeling efforts.

In cooperation with the Governor's Committee on Employment of People with Disabilities, the department shall provide information and technical assistance to state agencies, local governments, school districts and other persons who own or lease facilities open to or used by the public.

DOTPF shall adopt regulations to implement the program. The department may contract out for the servicing of loans.

Section 6

The Barrier Free Remodeling Fund and the advisory duties of the Governor's Committee on Employment of People with Disabilities pertaining to the Barrier Free Remodeling Fund are repealed effective July 1, 2000.

Section 7

The composition of the Governor's Committee on Employment of People with Disabilities must comply with the amended requirements of section 2 by July 1, 1994.



Alaska State Legislature

Please enter into the record my testimony to the Health, Education, and Social
 committee name Services
 committee on HB 155 and HB 157, dated February 5, 1992.
 bill/subject

Dear members of the Committee:

HB 155 and HB 157 will go a long way in addressing some of Sitka's accessibility issues and afford relief to many who will have difficulty in complying with The Americans With Disabilities Act of 1990.

The building which houses the Forest Service needs designated accessible parking facilities, and a level transition from the graveled lot to the sidewalk which leads to the entry.

A major medical center has a wheelchair ramp which fails to meet accessibility guidelines in it's design and caused me to tip over and fall out of my wheelchair. It has not been rectified to date. It is unusable to those with less than good upper body strength or power assisted wheelchairs and certainly not to one who is really ill and needs to see a physician.

Signed: *Jerry Kainulainen* Jerry Kainulainen
 Testifier

 Representing (Optional)
4401 HPR, Sitka
 Address
747-4703
 Phone No.

The Swan Lake Terrace, under the jurisdiction of the Alaska State Housing Authority, houses senior citizens and has a graveled parking lot in the front of the building and a cement ramped sidewalk to the entrance. One very rainy dark night after visiting a friend I was trying to get down off the sidewalk onto the gravel when I tipped out of my chair as front wheels sunk into the gravel. After 20 soaked minutes and a pound of gravel in my clothes I was able to get into vehicle. This is enough to dampen anyone's spirit about going out into inaccessible places. The administration said it has tried to get the parking lot paved but to now avail.

The Health and Social Services also has an inaccessible entrance. It also has a gravel parking area, no designated accessible parking and sidewalk curbs with no curb cuts. Immunizations by persons using wheelchairs must be done in their vehicles with advance notice given to the public health nurse. This disrupts office efficiency. I haven't had to get a shot in the rear yet but that would be either embarrassing or illegal or both!

The only book store in town is inaccessible and I love to browse in book stores, 3 restaurants' entrances are inaccessible, 2 others are very difficult to get into. A clothing store, electronic store, travel agency, beauty shop and a house furnishings store are inaccessible. The only theatre in town is inaccessible through the front door. Some of these owners say it is very difficult for them to make their establishments accessible because of lack of financial resources.

HB 155 and HB 157 will contribute to the movement to restore self esteem and self reliance to persons with disabilities by removing the physical barriers which keep them from integrating into their community and at the same time help the open more doors of government and business to employment of some of the 62% to 67% of persons with disabilities who are not currently working .

Thank you.



Alaska State Legislature

Please enter into the record my testimony to the House HESS
committee name
 committee on HB 155, dated 2/11/92
bill/subject

Dear members of the Committee:

House bills 155 and 157 will go a long way in addressing some of Sitka's accessibility issues and afford relief to many who will have difficulty in complying with The Americans With Disabilities Act of 1990.

The following are some of Sitka's accessibility issues:

The building which houses the Forest Service needs a designated signed accessible parking space and a wider sidewalk with a flush transition from the parking lot .

A major medical center has a wheelchair ramp that fails to meet slope guidelines and a drop to the graveled parking lot which tipped me out of my wheelchair. A for sale sign went on the building the day after and it has not been rectified to date. It is unusable to those with less than good upper body strength or power assisted wheelchairs and certainly not to one who is really ill and needs to see a physician.

Signed: *Jerry Kainulainen*
Testifier

Representing (Optional)

PO Box 1629 Sitka

Address

907 747-4703

Phone No.

The Swan Lake Terrace, under the jurisdiction of the Alaska State Housing Authority, houses senior citizens and has a graveled parking lot in the front of the building and a cement ramped sidewalk to the entrance. One very rainy dark night two years ago after visiting a friend at the Terrace I was trying to get down off the sidewalk onto the gravel when I tipped out of my chair as the front wheels sunk into the gravel. After 20 soaked minutes and a pound of gravel in my clothes I was able to get into my vehicle. This is enough to dampen anyone's spirit about going out into so called accessible places. The administration said it has tried to get the parking lot paved but to no avail. I see now the ground has dropped even further from the sidewalk making it more hazardous to wheelchair users.

The Health and Social Services building has an inaccessible entrance. It also has a graveled parking area, sidewalk curbs with no curb cuts and no designated signed accessible parking. Immunizations by persons using wheelchairs must be done in their vehicles with advance notice given the public health nurse. I haven't had to get a shot in the rear yet but that would be either embarrassing or illegal or both!

The only book store in town is inaccessible with three steps to its door and I love to browse in book stores and this leads to purchases.

3 restaurants have inaccessible entrances, 2 others are very difficult to get into.

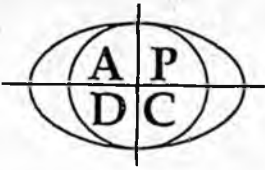
A clothing store, electronic store, travel agency, beauty shop and a house furnishings store are inaccessible.

The only access to the only theatre is through the gravel and mud to the side service emergency doors.

These are some of the accessibility issues in Sitka. Some of these owners say it is very difficult for them to make their establishments accessible because of lack of financial resources.

HB 155 and HB 157 will contribute to the movement to restore self reliance and self esteem to persons with disabilities in Alaska by removing the physical barriers which keep them from fully integrating into their community and at the same time help to open more doors to employment for some of the 62% to 67% of persons with disabilities who are not currently working .

Thank you!



Alaska Designs

February 1992

Volume 15, No. 2, February 1992

The Official Newsletter of the Alaska Professional Design Council

The Impact of the Americans with Disabilities Act in Alaska

by Don J. Cather, Chief, Mechanical Inspection
Alaska State Department of Labor

The Americans with Disabilities Act (ADA) appears to be the most far reaching civil rights legislation in recent history. At the code meeting that I recently attended, those affected by this act appeared to be divided into three groups: First, the "pro-actives", who are doing all they can to comply with the law now. Second, the "stone wallers", who include lawyers already lining up to argue for non-compliance. Third, those with their heads in the sand, who don't know anything about ADA, don't want to know anything about ADA, and believe that if they are ignorant of the law, the ADA will go away.

Overview

To achieve its stated purpose, the ADA married basic civil rights legislation with the traditional codes, standards, rules, regulations, and procedures governing building codes and transportation design and construction. Most of the five Titles of ADA will become effective in 1992.

Title I

Title I governs employment aspects, making it illegal for employers of 15 or more persons to discriminate not only against individuals

with disabilities, but against their families, friends, and associates. Title I also mandates that all covered employees (including state government) must "reasonably accommodate" the disabilities of qualified applicants or employees by modifying work stations, equipment, and other physical aspects of the workplace unless "undue hardship" to the employer would result.

As a note of interest, employers with 25 or more employees must comply with the ADA requirements by July 26, 1992. Employers with 15-24 employees must comply with the ADA requirements by July 26, 1994.

Title II

Title II bans discrimination against disabled individuals and their associates in *all* public services provided by federal, state or local government.

By January 26, 1992, all government services *must* be made accessible. For services provided in an inaccessible building, like services must be provided in an accessible building. Within the law there are few exceptions, however, one exception that will be considered by the US Department of Justice is "undue

See ADA, page 2

undergoing alterations and all new buildings must meet the stringent technical accessibility requirements of the ADA law.

Title IV

Title IV governs telecommunications and requires that by July 26, 1993, telephone companies must provide telecommunications relay service for hearing and speech impaired individuals 24 hours a day

Title V

Title V covers insurance issues and states that Title I-IV are *not* to be construed as to prohibit or restrict any insurance activities allowed under existing state laws.

In conclusion: the titles are restrictive and their future impact will be large and costly, this will be especially true in municipally owned or operated buildings, and any privately owned structure that is to be renovated.

Don Cather is the Chief of Mechanical Inspections for the State Department of Labor, and serves as Vice-chairman of the National Board of Boiler and Pressure Vessel Inspectors.

•ADA

Continued from page 1

financial hardship". Whenever a governmental body is either altering or constructing a new building, the work must meet the intent of the ADA.

Title II also mandates that new buses and rail vehicles for "fixed route systems" must be accessible or provide disabled individuals with equivalent services.

Title III

Title III governs discrimination in public accommodations provided by the private sector. These accommodations include restaurants, hotels, theaters, and malls, to name a few. It also includes transportation services in the private sector including buses and trains. By January 26, 1992, all such buildings must remove those physical barriers which can be replaced "easily and without much difficulty or expense". After January 26, 1992, any structures

Business Card Ads

APDC has received several requests to return to the business card ads, which were replaced by the "Directory of Sustaining Members" in 1990. If you would be interested in a business card ad, please contact the Alaska Designs editor at P.O. Box 112387, Anchorage, Alaska 99511-2387 or phone or fax 345-1066. Comments or suggestions would be appreciated.

A Resolution of the Alaska Municipal League Board of Directors

Board Resolution No. 92-2

**A RESOLUTION URGING THE PASSAGE OF LEGISLATION THAT
WOULD ESTABLISH A BARRIER-FREE REMODELING FUND
TO ASSIST MUNICIPALITIES TO COMPLY WITH THE
FEDERALLY-MANDATED "AMERICANS WITH DISABILITIES ACT"**

WHEREAS, the Alaska Municipal League urges reimbursement to municipalities for the costs of transferred responsibility or regulations; and

WHEREAS, the 1990 "Americans With Disabilities Act" ("ADA") extended civil rights protection to people with disabilities beginning January 26, 1992; and

WHEREAS, the federally-mandated protections affect state and local governments ensuring that all programs, activities, and services provided or made available by them do not discriminate against individuals with disabilities; and

WHEREAS, state and local governments may not discriminate against a person with a disability regarding terms or conditions of employment and must provide reasonable accommodation unless doing so represents undue hardship for the employer; and

WHEREAS, state and local government facilities and services, including public transportation and communications, must be accessible by providing, for example, wheelchair ramps and special arrangements for people who have hearing impairments or who are sightless; and

WHEREAS, both the State of Alaska and some municipalities already have architectural barrier removal statutes but have not appropriated or do not have sufficient funds to enforce their own ordinances or the new federal regulations; and

WHEREAS, state financial assistance for federally-mandated capital expenditures would allow for progress in providing for accessibility for Alaskans;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation that would establish and capitalize a Barrier-Free Remodeling Fund to provide financing for the remodeling of state and municipal facilities to comply with the 1990 "Americans With Disabilities Act."

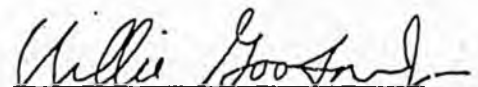
BE IT FURTHER RESOLVED that the Alaska Municipal League urges the Governor and the Alaska Legislature to work with the League to address the problem of unfunded federal mandates on state and local governments.

Adopted this 30th day of January 1992 in Juneau, Alaska.

Attest:



Scott A. Burgess, Executive Director



Willie Goodwin, Jr., President

H B

1 5 6



TELECOPY COVER SHEET
Anchorage Legislative Information Office
Office - (907) 561-7007 Fax - (907) 562-4376

TO: JNU L10

ATTN: (H) HESS FAX: _____ PHONE: _____

FROM: ANC L10 (NANCY K. Scheetz-Freymiller) PHONE: _____

INSTRUCTIONS: _____

WRITTEN TESTIMONY FOR

(H) HESS

SENT: Date 4-22-91 Time 8:30

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 3 (counting cover sheet)

TRANSMITTED BY: Lani



Abused Women's Aid in Crisis, Inc.

100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

TESTIMONY IN SUPPORT OF HB156

Submitted by Nancy K. Scheetz-Freymler
Executive Director

I hope with my testimony this morning to emphasize critical importance and need for HB156 in terms of the safety of women impacted by domestic violence and the ability to provide the services they need.

At AWAIC we have seen more than 600 women per year involved in domestic violence. After 14 years, we have seen thousands of women enter both the shelter and the justice system. Therefore, I believe we speak with some authority. I will divide my testimony into justified support from both the women's and the agency's point of view. Confidentiality needs to be protected for the benefit of both.

1. FOR THE WOMEN/VICTIMS—Confidentiality must be protected for a simple issue of safety or potentially saving one's life. Release of files must be the woman's choice. Just this week, a woman sought help. Her partner had assaulted her and was threatening to kill her. She had moved three times. Still, she received 15 calls per day where he taunted her with, "not today honey". If she brought charges and files could be subpoenaed, could the system guarantee her safety—guarantee prosecution and conviction? I think not. Other pieces of the justice system must be in place before we can continue to place the victim in jeopardy without any choice in the matter. Release of "her files" needs to be "her choice". She is the one taking all the risks. She is the one needing to assess the risks and the consequences. It is her life. Many brave women make the choice to release their file, to prosecute. When they make that choice, we do all we can to support them.

In addition, what are the consequences to the woman, if she seeks help at our agency, tells her story, displays justified frustrations and anger about what has been done to her, then it is used against her in court. She not only loses trust in anyone, she loses the opportunity to receive help to change her situation.

2. FOR AWAIC—How can we help the woman in crisis if everything she says can be used against her in court? The privileges granted to other professionals protect the communication so that the individual may be served.





Abused Women's Aid in Crisis, Inc.

100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

Page 2. Testimony in Support of HB 156

We, on the other hand, have been forced to make some very significant choices: guarding the safety and trusted communication of the client or possibly breaking the law.

We have worked with attorneys to quash subpoenas when the notice and timing have been sufficient. That method can work but depends on the situation and the attitudes and opinions of the attorneys in that particular case. We have stood outside a courtroom waiting to be called and ready to deny the information. Fortunately, our testimony was not needed. We have stood before a judge and compromised for in-camera-review of the file. This was not an effective solution for us. Again, the file is not totally protected, but subject to the opinion and discretion of that particular judge.

We have seen men use the subpoena power for the reason of locating the woman, placing her in jeopardy and going against our prime reason to exist—to provide safety and confidentiality.

We have seen three domestic violence-related murders in Anchorage just this past year. Can the court system promise this woman protection when they have made placed her life in jeopardy. I do not think so. This is a serious social issue with high risks and highly serious consequences.

We are not saying we do not believe in prosecution. We support strong prosecution. We are saying the victim should have the choice to release her files, her confidential communication with a counselor. She suffers the consequences. She should have the choice of whether to take the risks. And AWAIC should be protected so that we can offer the confidentiality needed to provide our helping service. Otherwise, the very nature, the very reason for our existence is eroded.



HOUSE COMMITTEE REPORT

(7)

Date Referred: April 8, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4-22-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SSHB 156

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 156

CONFIDENTIALITY/DOM. VIOLENCE COUNSELORS

"An Act providing that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged and may not be disclosed, with certain exceptions; prohibiting the disclosure of the location of certain types of facilities used by victims of domestic violence or sexual assault and the identities of domestic violence or sexual assault counselors; and providing for an effective date."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note DPS

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
Cheri Davis	✓				
Mary Miller	✓				
Mark P. ...	✓				
Betty ...	✓				
Kathy ...	✓	(CARNEY)			
...	✓	(LINCOLN)			

[Signature]
CO-CHAIRMAN'S SIGNATURE

4/18/91
Rep. Kay Brown

Sectional Analysis

SSHB 156 — Confidentiality Regarding Domestic Violence & Sexual Assault

Section 1

Findings and Purpose.

Section 2

Amends AS 18.66 to provide that communications between a domestic violence or sexual assault counselor and a domestic violence or sexual assault victim would be privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim. Provides for exceptions to this rule of confidentiality in cases involving child abuse, if the victim is deceased, or if the failure to disclose information would place the victim or another person in imminent danger. Provision is also made to allow a minor to waive the confidentiality privilege established under this section.

Further, the legislation provides that the location of a safe house or the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding.

Section 3

Immediate effective date.

Sectional Analysis

SPONSOR STATEMENT

SSHB 156 — Providing for Privileged Communications in Cases of Domestic Violence & Sexual Assault

Sponsor Substitute for House Bill 156

SSHB 156 would provide that the communications between a victim of domestic violence and/or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim.

This privilege would be held with the following exceptions:

- 1) If there is evidence during the discussion that a child is suffering from abuse or neglect;
- 2) The counselor has reason to believe either the victim or another person is in danger of being severely hurt or killed;
- 3) The victim is deceased.

Further, the legislation provides that the location of a safe house of the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding.

Discussion

Domestic violence and sexual assault are growing problems in Alaska. Communities throughout the state have established shelters and safe homes in an effort to provide counseling and safety to victims of these crimes. Since FY 87, the number of nights of safety provided by funded shelters has increased by 44 percent.

As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for their emotional injuries. In order to fully recover from these crimes it is necessary for victims to discuss thoughts and feelings with someone who is trained to address these issues. Domestic violence/sexual assault counselors provide this assistance. The relationship that develops is fragile and requires trust.

Current Alaskan law discourages some victims from coming forward by allowing the court system to subpoena records that disclose all information,

Sponsor Stmt

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 156

Revision Date: _____
Title: An Act providing communications
... are privileged ...
Sponsor: Brown, et al
Requestor: _____

Department Affected: Public Safety
BRU: Council on Domestic Violence & Sexual
Component: Assault

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

This bill is expected to have no fiscal impact on the Council on Domestic Violence and Sexual Assault.

Prepared by: Barbara Miklos, Executive Director *Bm* Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: April 19, 1991

Approved by Commissioner: Richard L. Burton *Richard L. Burton*
Agency: Department of Public Safety Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 301 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women's Aid in Crisis (AWAIC);
Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC);
Manilaq Regional Women's Crisis Program;
Tongass Community Counseling Center; Parent Aid Family Support Center;
Safe & Fear-Free Environment (SAFE); Sitkans Against Family Violence (SAFV);
Seward Life Action Council (SLAC); Southwestern Alaska Council
for the Prevention of Child Sexual Assault (SWACPCSA);
South Peninsula Women's Services (SPWS);
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWC);
Unalaskans Against Sexual Assault & Family Violence (USAFV);
Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

HOUSE BILL 156

The Alaska Network on Domestic Violence and Sexual Assault strongly supports House Bill 156, which provides that communications between a victim of domestic violence or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal or legislative proceeding without the victim's consent.

The first rape crisis centers and domestic violence shelters in Alaska opened their doors in the mid-1970's as part of a national movement toward recognizing the pervasiveness of these crimes and the long-term trauma and emotional needs suffered by victims of domestic violence and sexual assault. Rape and domestic violence assaults were commonly underreported and underprosecuted because of the stigma attached to the crimes, and because of the victim's fear--both of the perpetrator, and of the criminal justice system itself, where the victim's credibility rather than the defendant's culpability often became the focus of the trial.

The 7700 victims and minor children served by Alaska's domestic violence and sexual assault programs last fiscal year came to our programs only because they felt that we would respect their confidences and would not take their decision-making out of their hands. The counseling and advocacy offered by sexual assault and domestic violence programs has led to increased reporting and greater success in prosecution of both crimes in Alaska. This has, paradoxically, been based on an assurance to the victim that what is said to a program counselor or advocate will be maintained in absolute confidentiality --- that we won't tell her friends, her family, or even the police or courts what she has said to us unless she decides this is what she wants.

Programs make this promise to their clients, and make it in good faith. However, as rape crisis centers and domestic violence shelters have become an integral part of society, they have attracted the attention of attorneys seeking information about victims. Here, as in

the rest of the nation, tactics such as subpoenas of counselors and their files are threatening to undermine the victim/counselor relationship -- and thereby the effectiveness of the programs themselves -- by forcing disclosure of confidential information. And we know that such forced disclosures do effect the actions of victims. When the Pennsylvania Supreme Court refused to provide privilege in a widely publicized rape case, the number of callers who refused to give even their names on the crisis line of the center involved in the case rose from 32% to 61%.

In response to this problem, states began enacting privilege for the victim/counselor relationship. The first such statute was enacted 11 years ago in California. Since that time 24 states have enacted such statutes which focus on domestic violence and/or sexual assault victims (although 5 states have provisions for all victims of violent crimes).

The Network believes that the victim/counselor relationship clearly meets the criteria laid out by Wigmore in his Rules of Evidence. Communications are originated in confidence that they will not be disclosed; this confidentiality is clearly essential to the relationship between the parties; the relationship is one which society has found to be valuable and which the State of Alaska clearly supports, and the injury done by the violation of confidentiality adversely effects not only the relationship itself, but the very ability of the State to address these crimes effectively.

The Federal Victims of Crime Act also prohibits programs receiving VOCA funds from disclosing records in administrative or judicial proceedings. Fifteen of the twenty-three programs funded by the Council on Domestic Violence & Sexual Assault receive VOCA funds.

The current lack of such a privilege in state law also tends to promote inequity of treatment based on income. If a victim has the money to consult a psychiatrist or an attorney regarding her situation, her communications are protected by State law. Many of the victims who come to our programs cannot afford either of these alternatives, although their need for protected communication is the same.

The Network urges your support for this important bill.

ALASKA NETWORK

ON

DOMESTIC VIOLENCE

AND

SEXUAL ASSAULT

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Women In Crisis Counseling & Assistance (WICCA);
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NATIONAL ORGANIZATIONS SUPPORTING VICTIM/COUNSELOR PRIVILEGE

- * President's Task Force on Victims of Crime (1982)
- * The National Center on Women & Family Law
- * The National Organization for Victim Assistance
- * National Victim Center
- * National Coalition Against Domestic Violence
- * National Coalition Against Sexual Assault
- * National Network for Victims of Sexual Assault
- * National Woman Abuse Prevention Project

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SOME STATES WITH VICTIM/COUNSELOR PRIVILEGE*

Alabama
California
Connecticut
Florida
New Hampshire
Illinois
Indiana
Iowa
Maine
Massachusetts
Minnesota
New Jersey
New Mexico
North Dakota
Pennsylvania
Utah
Washington
Wyoming

*Primarily limited to victims of sexual assault and/or domestic violence, although some states include victims of all violent crimes. Also, federal statute under the Victims of Crime Act requires confidentiality of victim records for organizations receiving VOCA funding. About half of Alaska's dv/sa programs receive VOCA funds.

ALASKA NETWORK

ON

DOMESTIC VIOLENCE

AND

SEXUAL ASSAULT

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Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

What are the recognized requirements for the creation of privileges which provide protection from the disclosure of communications?

1. The communication must originate in confidence that it will not be disclosed.
2. The element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties.
3. The relationship must be one which, in the opinion of the community, must be sedulously fostered.
4. The injury that would inure to the relationship must be greater than the benefit thereby gained for the correct disposal of litigation.

Source: Wigmore's Rules of Evidence, 2291 and 2285, McNaughton Rev. Ed 1961

COUNCIL ON
DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

ANNUAL REPORT
TO
GOVERNOR HICKEL
AND THE
ALASKA LEGISLATURE

JANUARY 1991

excerpts - Council on Dom. Violence Report

COUNCIL MEMBERS AND STAFF

COUNCIL MEMBERS:

Mary Pete, Chair, Bethel (Public Member)

Paula Haley, Anchorage (Public Member)

Andrew Klamser, Homer (Public Member)

Karen Crane, Department of Education

Gayle Horetski, Department of Public Safety

Vacant, Department of Health and Social Services

Vacant, Department of Law

COUNCIL STAFF:

Barbara Miklos, Executive Director

Marcia Lynn McKenzie, Program Coordinator

Wil Coloma, Statistical Technician

Susan King, Secretary

Council on Domestic Violence
and Sexual Assault

Department of Public Safety

P.O. Box N

Juneau, AK 99811-1200

Phone: (907) 465-4356

Location:

Public Safety Building

450 Whittier Street

Room 204

Juneau, Alaska

INTRODUCTION

"We found that the perception you shared when you gave us our charge is unfortunately true. The innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds - personal, emotional and financial - have gone unattended."

In a letter to President
Ronald Reagan from the
President's Task Force
on Victims of Crime, 1982

"The problem of family violence has existed for generations, yet it is only recently that this phenomenon has begun to receive the attention it deserves."

Chief William L. Hart
Chairman, U.S. Attorney
General's Task Force on
Family Violence

Societies and shelters for the protection of animals existed in the United States before there was legislation to protect children who were abused. We have made progress since then. As a country, we have developed legislation and programs to protect children and adults who are victims of family violence. As a state, Alaska has programs and policies that are models for the rest of the country. However, much still needs to be accomplished. According to data compiled by the staff of the U.S. Senate Judiciary Committee, there are three times as many animal shelters in the United States as there are shelters for battered women.

Domestic violence and sexual assault continue to be major problems in our country and our state. People continue to be killed, beaten and raped in record numbers. Although violent crime in general is declining, violent crimes against women (including domestic violence) are increasing. Since 1974, the rate of assaults against young women (ages 20 - 24) has risen almost 50%; for young men it has decreased. Data from the National Crime Survey shows that women are the victims of violent crime committed by family members at a rate three times that for men. Also, according to the Survey, spouses or ex-spouses commit more than half of all violent crimes committed by relatives against women.

A woman is beaten every 18 seconds and 4,000 battered women are killed every year in the United States. Nationwide, more than one million abused women each year seek medical assistance for injuries caused by battering. In Alaska, 26% of adult women have been physically abused by a spouse sometime during their lives and most of the battered women were abused at least once a month. It is estimated that a minimum of 13,200 women living in Alaska have required medical treatment by a doctor or hospital for injuries sustained by abuse at some time in their life. In 1988, fifty

percent of female murder victims in Alaska were killed by their husbands or boyfriends.

Children raised in violent homes suffer the effects of living in this environment and are at higher risk for physical and sexual abuse. Children raised in violent homes are 1500% more likely to be physically abused or seriously neglected. Nearly fifty percent of abusive husbands batter their wives when they are pregnant, making these battered women four times more likely to bear infants of low birth weight. These women had twice as many miscarriages as non-battered women.

Former U.S. Surgeon General Dr. C. Everett Koop identified domestic violence as the number one health threat to women and declared it to be a public health issue. In one of his final speeches as U.S. Surgeon General, Koop stated: "The mind set that any type of violence that results in physical and mental damage is a private or family matter or a tradition should be abhorrent to us all. Battery is the single most significant cause of injury to women in this country." Dr. Koop went on to note that in the United States, an estimated 40% of all women have experienced some type of sexual abuse as children and as many as 44% of adult women report completed or attempted rape, including rape by their husbands or other family members.

People from all walks of life have come to recognize the seriousness of the problems and the need for a comprehensive and coordinated response to domestic violence and sexual assault. A study by the National Council of Juvenile and Family Court Judges recommends that courts treat family violence as a serious crime. The Honorable Stephen B. Herrell, Chairman of the group and a judge from Portland, Oregon, says that violence against women and children has created a generational cycle of violence that cannot be broken without strong intervention by the courts.

Responses to sexual assault have been improved, but sexual violence against women continues to rise. During the past ten years, rape rates have risen nearly four times as fast as the total crime rate. According to data provided by a criminological study conducted in 1990, rape remains the most under-reported of all major crimes; only 7% of all rapes are reported to police. One in five adult women will be raped at some time in their lives and one in four women now in college will be attacked by a rapist. Alaska continues to have one of the highest incidences of rape in the country. In 1989 in Alaska, there were 53 reported cases of forcible rape against adult women per 100,000 population compared to the national rate of 38 cases per 100,000.

Services for victims of domestic violence and their children are crucial in order to save lives and reduce the pain and suffering caused by these crimes. Victims of sexual assault must receive crisis intervention services so they can overcome the trauma. Without assistance, they may continue to relive the event and live in fear for their life and safety. The report from the U.S. Attorney General's Task Force on Family Violence states that "Shelters are an important resource for a diverse group of victims of family violence who must leave home to escape life-threatening

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abuse and have nowhere else to go. Among the most important services shelters offer for battered women and their children are immediate safety, counseling, referrals to alcohol and drug treatment programs and assistance in seeking employment and permanent housing.

Services for child victims must be available to help them cope with the horrors they have encountered. Children from violent homes suffer emotional and physical disorders as a result of their family situations. Many of these children are victims of physical and sexual abuse, who need to be protected and helped. Helping these children will not only ease the pain, but also prevent future problems. Alcohol and other drug abuse, suicide and criminal behavior are often caused by abuse suffered in childhood. Services for children are important to stop the cycle of abuse.

Treatment for batterers is an integral part of the system to protect victims. Experience has shown that most battered women return to the violent relationships. This happens for many reasons, including the lack of financial resources to allow them to live independently. Without counseling and treatment for batterers, violence in these relationships generally becomes more frequent and severe, often resulting in death.

Alaska is fortunate to have a comprehensive, coordinated system for addressing the pain and suffering caused by family violence. In FY91, the Council on Domestic Violence and Sexual Assault is funding 23 community-based programs to provide services to victims of domestic violence and their families. These programs also provide important educational services to their communities as well as outlying communities. Without an all-out effort by community members, family violence will not be stopped. In FY90, Council-funded programs served 9,729 clients. Almost 8,000 of these clients were victims of domestic violence and their children. These victims and their children were provided almost 53,000 nights of safety in shelters or safe homes. The need for these services can be seen in the numbers of clients as well as the tremendous increases in demand for services. Since FY87, the number of nights of safety has increased by 44%.

The mission of the Council on Domestic Violence and Sexual Assault is to provide immediate safety and support to victims of domestic violence and sexual assault in life-threatening situations and to reduce the incidence of domestic violence and sexual assault in Alaska. The Council accomplishes this through serving as a funding agency for community-based programs. The Council processes applications for funding and monitors programs that receive grants and provides technical assistance to programs and other community groups. It also serves as a planning and coordinating agency for domestic violence and sexual assault services provided by various agencies. This report presents major Council initiatives in 1990, describes programs funded by the Council, presents statistical data gathered from programs in FY90 and identifies issues of concern and possible solutions.

obtain injunctive relief orders in cases of domestic violence as well as other protections provided to victims of domestic violence be expanded to include people in dating relationships. Police officers may arrest for domestic violence misdemeanor assaults even if it was not committed in their presence; it is also important that this protection be provided in dating relationships.

2. Teen Violence, an Issue for Legislative Consideration

In December, 1989, the Council held a statewide teleconference on teen violence. After hearing from the people testifying, the Council agreed the problem merited the attention of the Legislature and requested that the House and/or Senate Health, Education and Social Services Committees hold hearings on the topic of teen violence. Many people who testified at the Council's teleconference wanted to address their concerns to legislators, and had suggestions for legislation and for needed services.

People who testified work with teens either through domestic violence programs, youth-serving agencies, or schools. Many people testified to the growing trend toward violence among youth and observed that young people state that "violence is a way to have fun". A clinical psychologist in Fairbanks stated that he feels teen violence is symptomatic of societal breakdown.

Many teens are victims of violence. One participant who works with pregnant teenagers spoke of the many young women who are either present or past victims of abuse, as well as some who are abusive to their own child. For some, violence begins in the womb.

A representative from the Division of Public Health, Department of Health and Social Services, testified that violence has replaced infection as the major cause of death for adolescents in the United States, with violent deaths accounting for 77% of all adolescent deaths. Accidents are the highest causal factor, with alcohol being implicated in over half the accidental deaths. Homicide is the second leading cause of teenage fatality in the U.S.; with a 300% increase of teenage homicide between 1950 and 1980. The third leading cause of teenage death is suicide, quadrupling since 1950.

3. Confidentiality of Victim Counseling

Domestic violence and sexual assault programs have identified the need to develop legislation that makes victim counseling legally privileged and not subject to defense discovery or subpoena. This type of legislation is important because it protects victims from further abuse by the system. If the confidential communications exchanged between victims and counselors during treatment can be used as evidence in criminal proceedings, counseling may not benefit victims, and, in fact, may add to their trauma. Victims often speak to their counselors about fears and feelings arising from the crime. Those who are

under the impression that they are revealing such information solely for therapeutic purposes often feel betrayed when their counselors are compelled to disclose their communication before the public at an open trial. Victims who realize in advance that their communications may be subject to disclosure may avoid counseling altogether. The President's Task Force on Victims of Crime recommended that legislation be enacted making designated victim counseling legally privileged.



**PRESIDENT'S
TASK FORCE ON
VICTIMS OF CRIME**

FINAL REPORT

DECEMBER 1982

I was upset when I was asked about my new location where I lived, and when I had to give my children's names, the man who had caused these problems was sitting in the courtroom and I was telling him how he or someone else could find me.—a victim

This experience brought me closer to death than one could ever imagine, not only because of the gun, but because of the rape itself. I felt ashamed, and I thought I wanted to die. My heart felt like it was going to burst. Crying and talking with people I could trust helped to relieve the pressures. I needed to share feelings with people who would keep my secret for however long I needed them to.—a victim

When victims or witnesses testify, they are frequently asked for their home address, sometimes by the prosecutor. Prosecutors should stop soliciting this sensitive information and should object to defense efforts to obtain it. Only when the defense is able to establish that the address is clearly relevant to credibility or to the facts of the case should the question be allowed.

Executive and Legislative Recommendation 2:
Legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena.

A number of organizations and victim/witness units provide psychological crisis counseling to ease the real and profound psychological trauma of victimization. Since the development of rape crisis centers, the need for and benefits derived from counseling for rape victims has become well established. Testimony before the Task Force confirms that counseling is necessary for many violent crime victims as well as their families. Such counseling has proven extremely beneficial and should be strongly encouraged at all levels.

Although some centers have made psychiatrists or psychologists available, the vast majority of the work has been done by social workers, nurses, or by people who have been victims themselves. During the counseling process, victims speak of their fears and feelings arising from the crime; these reactions are often related to their personal history and psychological makeup.

Failure to extend confidentiality to crisis counseling incurs the risk of undermining the effectiveness of the counseling. Some victims who need this kind of help now fear to seek it. Without the protection of confidentiality, victims have found their files subpoenaed by the defense, and feel betrayed when thoughts and feelings that they considered private are opened to public scrutiny in a courtroom.

Statutes that were passed before the importance of victim counseling became recognized extend confidentiality only to counseling by psychologists and psychiatrists. These statutes protect only those who

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can afford private treatment by these professionals; they do not shield the vast majority of victims.

At least one state has enacted a statute making rape victims' communications to counselors legally privileged.¹ While this is a step in the right direction, we believe that the privilege should encompass the counseling of all crime victims. Because of the responsibility of the prosecutor to afford discovery to the defendant, it is not contemplated that this counseling privilege extend to the prosecutor's office.

It was a great relief to have someone to talk to, who would in no way pass onto others what I thought, felt, or did at that confusing time.—a victim

Notes

1. The State of Pennsylvania has codified this privilege in 42 Pa. C.S.A. § 5945.1, "Confidential communications to sexual assault counselors."



Alaska State Legislature
House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

DATE: April 22, 1991

PLACE: Capitol Room 106

SUBJECT OF MEETING:
WITNESS REGISTER FOR:
 *HB 156 Confidentiality/Dom. Vio. Counsel.
 *HB 269 Private Health Care Review Agents
 *HB 165 Extend Board of Nursing
 *HB 161 Extend State medical Board

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Cindy Smith	Network in Domestic Violence Services	130 Seward #301 Seward Juneau 99801			586-3650	<input checked="" type="radio"/>	<input type="radio"/>	HB 156
Barbara Miklo's	Council on DV/SA	P.O. Box N Juneau 99811		364-3124	465-4352	<input type="radio"/>	<input checked="" type="radio"/>	unless questioned HB 156
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

 *
 * DELIVER TO: LHSCHES *
 * * *
 * ORIGINAL *
 * SENT: 04/22/91 TIME: 09:54 *
 * FROM: LTCBRET *
 * SUBJECT: *
 * PRINT DATE: 04/22/91 TIME: 10:34 *
 *

SUBJECT LINE TO READ: TC NO.; PL/FS; SHORT SUBJECT; DATE

T/C NO: 91-04-131
 DATE: APRIL 22, 1991
 SPONSOR: (H) HEALTH, EDUCATION & SOCIAL SERVICES
 SUBJECT: HB156, HB249, HB165, HB167
 MODERATOR: WALLI
 SITE: BETHEL

FINAL STATE LIST

 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. JENNY CAMILLE,	BOX 503, BETHEL 99559	-T.w.c.	HB156
2. ALICE CRISWELL,	BOX 29, BETHEL 99559		HB156
3. JOAN HAMILTON,	BOX 1270, BETHEL 99559	-T.w.c. Coordinator	HB156
4.			
5.			

 OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ANNE MARIE SIEBENLIST,	BOX 1765, BETHEL		HB156
2.			
3.			
4.			
5.			

 TESTIFIED: 3

UNABLE: 0
 OBSERVED: 1
 TOTAL: 4

START TIME: 7:50 A.M.

END TIME: 9:40 A.M.

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*****
*
* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 04/22/91 TIME: 09:55
* FROM: LIOCKOT
* SUBJECT: 91-04-124,FS;HB156;4-22-91
* PRINT DATE: 04/22/91 TIME: 10:34
*
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SUBJECT LINE TO READ: TC NO.,PL/FS,SHORT SUBJECT,DATE

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T/C NO: 91-04-124
DATE: 4-22-91
SPONSOR: (H) HEALTH, EDUCATION AND SOCIAL SERVICES
SUBJECT: VARIOUS BILLS
MODERATOR: DOUG NEAL AND KAREN JOHNSON
SITE: KOTZEBUE

```

FINAL STATS

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. KATHY GARFIELD/WOMEN'S SHELTER,	BOX 256	442-3311	HB 156
2.			
3.			

TESTIFIED: 0

OBSERVED: 1
TOTAL: 1

START TIME: 8:00 AM

END TIME: 9:40 AM

 *
 * DELIVER TO: LHSCHES
 *
 * ORIGINAL
 * SENT: 04/22/91 TIME: 10:00
 * FROM: LIOCLAI
 * SUBJECT: 91-04-124;FS;VARIOUS HB'S,4-22
 * PRINT DATE: 04/22/91 TIME: 10:00
 *

SUBJECT LINE TO READ: TC NO.; FL\FS;SHORT SUBJECT;DATE

TC NO: 91-04-124
 DATE: 04-22-91
 SPONSOR: H HESS
 SUBJECT: HB 156,269,165,161
 MODERATOR: LANI
 SITE: ANCHORAGE

FINAL STATS

 TO TESTIFY

NAME\ REPRESENTING	ADDRESS	PHONE	BILL NO.
1. THEDA FETTMAN	111 W 9TH,99501	276-0528	HB 156
2. LYNN RODD	BOX 196604,99519	261-3078	HB 269

AK Women's Resource CTR
Rodda - Providence Hospital

3. DARRYL LOGAN	4300 B ST,#202	562-2812	HB 269 <i>opposed</i>
4. NANCY SCHEETZ-FREYMILLER	100 W 13TH99501	279-9581	HB 156

Exec. Dir of AWAIC

TO OBSERVE:

NAME\ REPRESENTING	ADDRESS	PHONE	BILL NO.
1. MS. G KRUPPER	2530 DE BARR	258-7575	

TESTIFIED: 4
 UNABLE: 0
 OBSERVED: 1
 TOTAL: 5

STARTING TIME: 8:00

ENDING TIME:

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*
* DELIVER TO: LHSCHES
*
*
* ORIGINAL
* SENT: 04/22/91 TIME: 09:53
* FROM: LTCKKTH
* SUBJECT: 91-04-124;FS;HEALTH;4-22
* PRINT DATE: 04/22/91 TIME: 09:53
*
*****

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T/C NO: 91-04-124
DATE: APRIL 22, 1991
SPONSOR: HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
SUBJECT: HB 269: PRIVATE HEALTH CARE REVIEW AGENTS
        HB 156: CONFIDENTIALITY/DOMESTIC VIOLENCE COUNSELORS
        HB 161: EXTEND STATE MEDICAL BOARD
        HB 165: EXTEND BOARD OF NURSING
MODERATOR: JUNE ROBBINS
SITE: KETCHIKAN

```

FINAL STATS

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*****
TESTIFIED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. GIGI FILCHER/WOMEN IN SAFE HOMES	P.O. BOX 6552, KETCHIKAN 99901	225-0202	HB 156

```

*****
OBSERVED

```

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. CAROLYN DIXON	346 WARREN KETCHIKAN 99901	225-2044	HB 156

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TESTIFIED: 1
UNABLE: 0
OBSERVED: 1
TOTAL: 2

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START TIME: 8:00 AM END TIME: 9:20 AM

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*
* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 04/22/91 TIME: 09:50
* FROM: LIOCVAL
* SUBJECT: 91-04-124;FS;HB156;4-22-91
* PRINT DATE: 04/22/91 TIME: 10:33
*
*****

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SUBJECT LINE TO READ: TC NO.;PL/FS;SHORT SUBJECT;DATE

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T/C NO: 91-04-124
DATE: APRIL 22, 1991
SPONSOR: HOUSE HESS
SUBJECT: HB 156, HB 265, HB 161, HB 165.
MODERATOR: DONNA GRENIER
SITE: VALDEZ

```

FINAL STATS

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. MARY WILLIAMS A.V.V.	F.O. BOX 3504 VALDEZ, 99686	835-2980	HB 156

TESTIFIED:

 *
 * DELIVER TO: LIOCROG *
 *
 * ORIGINAL *
 * SENT: 04/22/91 TIME: 08:14 *
 * FROM: LTCCMAT *
 * SUBJECT: 124PL HHESS DOM VIOL 4/22 *
 * PRINT DATE: 04/22/91 TIME: 08:14 *
 *

SUBJECT LINE TO READ: TC NO,; PL/FS;SHORT SUBJECT;DATE

T/C NO: 91-04-124
 DATE: 4/22/91
 SPONSOR: H HESS
 SUBJECT: 4 BILLS/HR 156 - CONFID DOMESTIC VIOLENCE
 MODERATOR: CHARLOTTE
 SITE: MAT-SU LIO

PARTICIPANT LIST NUM 1

 TO TESTIFY:

1 LESLIE BOGDA

Valley Womens Center

HR 156

2

OBSERVED:
 NAME/REPRESENTING ADDRESS PHONE BILL NO.

1

2

TESTIFIED: 1
 UNABLE:
 OBSERVED:
 TOTAL: 1

START TIME: 8 AM

END TIME:

H B

1 5 7

(7)

HOUSE COMMITTEE REPORT

Date Referred: February 22, 1991

FURTHER REFERRALS:

HES
Finance

Date of Committee Action: 1/22/92

The STATE AFFAIRS Committee considered

HB 157

HOUSE BILL NO. 157

HB 157 APPROP: BARRIER FREE FACILITY FUND

"An Act making a special appropriation to the barrier free facility fund; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSAB 157 (STA) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene G. Kubina</i>		<i>Tommy...</i>		<input checked="" type="checkbox"/>	
		<i>David...</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input type="checkbox"/>	
		<i>[Signature]</i>		<input type="checkbox"/>	
		<i>Mike Hill</i>		<input checked="" type="checkbox"/>	

Eugene G. Kubina
CHAIRMAN'S SIGNATURE

Date Referred: January 24, 1992

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/12/92

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 157

HOUSE BILL NO. 157 APPROP: BARRIER FREE FACILITY FUND

"An Act making a special appropriation to the barrier free facility fund; and providing for an effective date."

RECOMMENDATIONS: [] the same title
be replaced with [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Chen Davis</i>	X	<i>Mark P. ...</i>		X	
<i>Betty Davis</i>	X	<i>J. C. ...</i>		X	
<i>[Signature]</i>	X	<i>[Signature]</i>		X	
		<i>Mary Miller</i>		X	

[Signature]
CHAIRMAN'S SIGNATURE

A Resolution of the Alaska Municipal League Board of Directors

Board Resolution No. 92-2

**A RESOLUTION URGING THE PASSAGE OF LEGISLATION THAT
WOULD ESTABLISH A BARRIER-FREE REMODELING FUND
TO ASSIST MUNICIPALITIES TO COMPLY WITH THE
FEDERALLY-MANDATED "AMERICANS WITH DISABILITIES ACT"**

WHEREAS, the Alaska Municipal League urges reimbursement to municipalities for the costs of transferred responsibility or regulations; and

WHEREAS, the 1990 "Americans With Disabilities Act" ("ADA") extended civil rights protection to people with disabilities beginning January 26, 1992; and

WHEREAS, the federally-mandated protections affect state and local governments ensuring that all programs, activities, and services provided or made available by them do not discriminate against individuals with disabilities; and

WHEREAS, state and local governments may not discriminate against a person with a disability regarding terms or conditions of employment and must provide reasonable accommodation unless doing so represents undue hardship for the employer; and

WHEREAS, state and local government facilities and services, including public transportation and communications, must be accessible by providing, for example, wheelchair ramps and special arrangements for people who have hearing impairments or who are sightless; and

WHEREAS, both the State of Alaska and some municipalities already have architectural barrier removal statutes but have not appropriated or do not have sufficient funds to enforce their own ordinances or the new federal regulations; and


WHEREAS, state financial assistance for federally-mandated capital expenditures would allow for progress in providing for accessibility for Alaskans;


NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation that would establish and capitalize a Barrier-Free Remodeling Fund to provide financing for the remodeling of state and municipal facilities to comply with the 1990 "Americans With Disabilities Act."

BE IT FURTHER RESOLVED that the Alaska Municipal League urges the Governor and the Alaska Legislature to work with the League to address the problem of unfunded federal mandates on state and local governments.

Adopted this 30th day of January 1992 in Juneau, Alaska.

Attest:


Scott A. Burgess, Executive Director


Willie Goodwin, Jr., President

H B

1 5 8

Table of Contents

- HB 158 "An Act relating to the licensing requirements
for architects, engineers, and land surveyors."
1. HB 158
 2. Fiscal Note - Zero - Occupational Licensing
 3. Letters in Support of HB 158
 4. Letters in Opposition to HB 158
 5. SPONSOR BACK-UP MATERIALS

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 158

Revision Date: _____ Department Affected: Commerce & Economic Dev.
 Title: Relating to the licensing requirements for architects, engineers and land surveyors BRU: Occupational Licensing
 Sponsor: Reps. Koponen, et al. Component: Administration
 Requestor: House HESS COMPONENT SERIAL NO.

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)
 New funds are not required to implement the provisions of HB 158.

Prepared By: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: _____
 Approved by Commissioner: Glenn A. Olds *[Signature]* ASST. Comm.
 Agency: Department of Commerce & Economic Development Date: 4-10-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

UNIVERSITY OF ALASKA FAIRBANKS



Mechanical Engineering

539 Duckering • Fairbanks, Alaska 99775-0660 • (907) 474-7209

RECEIVED
MAR 13 P.M.

March 8, 1991

Representative Georgianna Lincoln
Co-Chairman
Health, Education & Social Serv. Committee
P.O. Box V
Juneau, Alaska 99861

Dear Representative Lincoln:

The faculty of the Schools of Engineering at University of Alaska Fairbanks urge you to support HB 158 concerning licensing requirements for engineering faculty. As now written, AS08.48 provides no public good with respect to engineering education and only serves to tremendously complicate the difficult and costly process of hiring and retaining new engineering faculty.

Of the permanent full-time engineering faculty at UAF, 37 out of 44 support this bill. In the School of Engineering, none of the 25 permanent faculty supported HB 182 which created this problem for us. We are dismayed that no one bothered to contact us about this bill before its passage. At national meetings of department heads in Electrical and Mechanical Engineering, the sentiment has essentially been unanimous against requiring engineering faculty to be registered.

At the 1990 regional department heads meetings for Mechanical Engineering across the U.S., all 12 regions voted no to the idea of requiring faculty teaching engineering design courses to be registered. For 11 of the 12 regions, the vote was either unanimous or 20 to 1 against requiring registration. The department heads from regions IV - XI passed a resolution 16 to 0 with 4 abstentions that the National Society for Professional Engineering (NSPE) stop asking the M.E. Department Heads to take action on professional registration.

As we have to compete for qualified faculty in a national market, we do not want to further compound our difficult recruiting task with an additional impediment. We also have our own rigorous internal evaluation procedure plus an external periodic review by the National Accreditation Board for Engineering and Technology (ABET) evaluation team. This helps assure the competency of our faculty so that we graduate qualified engineers. As an example of our success, the pass rate of our students taking the Engineer in Training (EIT) exam is around 90%. The national average pass rate is 71%.

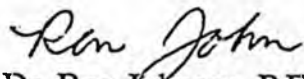
A professional working for an engineering firm is not required by State law to become registered as a condition of employment. In fact, some of our largest

Page Two
Representative Lincoln
March 8, 1991

employers have only a small minority of their engineers registered as professional engineers. Many engineering faculty perform research and develop new courses or portions of courses in specialized fields. There may not be an expert available to supervise such work. This is all part of being at the forefront of knowledge and advancing the state of the art. It is unreasonable to expect such faculty to work under the "direct" supervision of another faculty member, who has a P.E., in developing an advanced engineering course. This is the only way such faculty could legally be allowed to teach upper level engineering courses under the current law. Requiring this supervision to allow an unregistered internationally recognized authority to teach at our university would be an insult to such a person.

Three of us discussed these issues with the Board of Registration of Architects, Engineers and Land Surveyors at their November 29 meeting in Anchorage. At the close of that meeting, the Board voted unanimously not to oppose our amending this legislation in a way as to not require engineering faculty to be registered. Since then, they appear to have changed their minds. We now ask for your help in rectifying this unacceptable situation.

Yours truly,



Dr. Ron Johnson, P.E.
Department Head
Mechanical Engineering
School of Engineering

RJ/wr

POM'S IN SUPPORT OF HB 158 RECEIVED FROM:

Mr. Andy Afrouz
University of Alaska
Mining and Geological Engineering Department
910 Yukon Drive
Fairbanks, Alaska 99775

Mr. Robert Speck
3030 Forrest Drive
Fairbanks, Alaska 99709

Mr. John Usibelli
Post Office Box 82261
Fairbanks, Alaska 99708

Mr. Sukumar Bamdopahdyay
4018 Dunlap Avenue
Fairbanks, Alaska 99709

Mr. M. Sengupta
421 Cindy Drive
Fairbanks, Alaska 99701

UNIVERSITY OF ALASKA FAIRBANKS



Mechanical Engineering

539 Duckoring • Fairbanks, Alaska 99775-0660 • (907) 474-7209

March 8, 1991

Honorable Niilo Koponen
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Koponen:

We are dismayed to see the Feb. 22, 1991 letter to you from Rob Boswell, Chairman of the Alaska Board of Registration for Architects, Engineers, and Land Surveyors. This proposed fix doesn't help us at all. The central issue is not whether the time limit should be eighteen months or five years. In the current statutes, Sec. 08.48.331 (4), we already have the exemption for work being done under the direct supervision of someone registered under this chapter. Needing to use this rule to allow an internationally recognized authority, who is not registered, to teach at our university would be an insult to such a person. As we have conveyed to you earlier, most engineering faculty at the top schools in our country are not registered. Why must we keep creating roadblocks to our attempt to retain and attract good faculty.

Hence, we continue to support the proposed modification (HB158) you sent us at the beginning of February, 1991. I am enclosing a copy of an earlier letter to you providing additional details. Our faculty wants to prevent unnecessary intrusion by a State bureaucracy into our attempts to maintain a quality university.

Yours truly,

Dr. Ron Johnson, PE
Dept. Head, Mech Engr.
School of Engineering
Univ. of Alaska
Fairbanks, AK
99775-0660

RJ/wr

From:
Students and
Professors
at UAF

Representative Pat Carney
P.O. BOX V
Juneau, AK 99861

3.22.91

Dear Representative Carney:

We support the position of the State Board of Engineering on
license requirements of University Professors of Engineering.

As such we oppose H.B 158.

Clayton Pentek - 455-6763
Johanna Hines 455-0824
N. Sengupta P.E 452-4270

Martin Miranda UAF resident student
455-6111
Henry Wickham 1965 Weston Dr.
479-5570
CPA

Kathy Hodge 452-7818
Mark Pester 474-3713 UAF resident student

Quinn ~~Estad~~ 474-3713

Kristine Pomeroy 457-5405

Will Lyell 479-6091

Ronald White 350-1677

Dina Isham 479-2019

Jennifer Goldsmith 452-7752

Arlene Lewis 474-7121

Yours Sincerely

Nihar Sengupta 452-4270

Juny E. Kim 456-1463

Lynne Seiger 474-9417

Howard J. Lyden 474-5099

E. Thomas Robinson, CPA
474-6526

Erin E. Boss 488-0145

Jambi Miles 350-3604



UNIVERSITY OF ALASKA FAIRBANKS

School of Engineering
539 Duckering Bldg. • Fairbanks, Alaska 99775-0660

27 March, 1991

Representative Niilo Koponen
P.O. Box V
Juneau, Alaska 99811

Dear Representative Koponen:

I am writing to express my **STRONG** support for HB 158 that would repeal the requirement the university professors be licensed Professional Engineers (P.E.) to teach upper division courses. Such a requirement would have long lasting detrimental effects on the University, while serving no functional purpose.

A Professional Engineer's stamp (please see bottom of page two) is the State's assurance that a design, which will be constructed and subject the public to the design, has been checked by a qualified individual. However, one does not have to be licensed to be qualified. When an Engineer uses a Professional Engineer (P.E.) Stamp, he/she is certifying that the design and the drawings for the design have been reviewed. Using a P.E. stamp means that the engineer assumes personal and professional liability - **it does not indicate that the licensed Professional Engineer is any more qualified than an Engineer who is not registered - it only serves as an assumption of liability and the State's approval to assume that liability.**

At the University of Alaska, a candidate's credentials are reviewed extensively before an individual is hired. This review includes examination of the applicant's education, teaching and professional experience. Only well qualified, experienced engineers are hired to teach engineering courses. This system is used in every other state at every major University. As a result of our rigorous review and high standards for employment as a tenure-track faculty member, the University of Alaska Fairbanks has a highly qualified, professional faculty in the School of Engineering.

What then, is the impetus for mandating professional registration ? The national board responsible for accrediting engineering schools in this country (ABET) does not even require licensing for engineering professors. The concept of mandating registration is supported and promoted by only a few individuals within the faculty. They somehow feel that registration would advance the professional nature of the school. This is not the case. Experienced engineers and well qualified professors advance the quality and prestige of our school, not state registration. We have many highly experienced engineers, who have practiced in the consulting world, who are not licensed Professional Engineers. In business and industry, only one PE is required for a project that employs hundreds of engineers. That one PE accepts the responsibility for overall review and personal and professional liability for the **design when constructed.**

The activities of the engineering faculty at UAF does not include design of structures for construction. While we teach design principles that will ultimately be employed in construction, the design engineer who stamps the drawing for construction needs to be licensed by the state - not the professor who taught the course.. **Remember, registration says nothing about an individuals actual qualifications, it only indicates that the State has recognized this individual's right to accept liability and sanctions her/his review.**

It is also important to note that the requirement for registration will not affect me - I am already registered in both Alaska and California. I am registered because I practice engineering outside the University as a private consultant, and I did so in California before I moved to Alaska. My support for HB 158 is based in a deep respect for my college; and a recognition of the importance of Professional Registration for Engineers doing design in the field. However, my registration does nothing to enhance my ability to teach. It is my professional experience I draw upon when teaching advanced courses - not the State's approval for me to review designs as embodied in my Professional Engineer's licence.

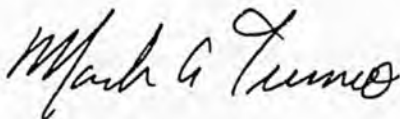
The only effect mandating registration for engineering Professors will have is to destroy the University's ability teach engineering. It is a meaningless requirement that has already resulted in the Department of Commerce and Economic Development threatening the University with a cease and desist order to stop us from teaching upper division engineering classes.

If House Bill 158 is not passed this session, the Legislature can expect that next year the University of Alaska Fairbanks will not be able to fulfill its duty to educate the next generation of engineers for this State - not because we are not qualified or able to do so - but because a vocal minority has succeeded in imposing a meaningless and unnecessary bureaucratic requirement on the faculty.

The long-term effects of failing to pass HB 158 are even more devastating: Why should highly qualified engineers who are not registered, as many are because registration is not required to practice engineering, only to officially review and stamp drawings, come to Alaska to teach if the state is going to impose a draconian and unnecessary registration requirement? The University of Alaska is at a cross-road. We have the opportunity to continue to move forward, advance the economic base of the state, and increase the national and international prestige of this institution through continued research, professional teaching, and a highly qualified faculty and staff. However, if HB 158 is not passed, we will be thrown back to a time when the School of Engineering could not attract and retain qualified engineering professors and could not offer the necessary slate of upper-division engineering courses. Alaska will loose some of its most talented and promising individuals to schools outside the state simply because a few individuals wanted Professors to be registered.

Please avoid this scenario and pass HB 158 with all due haste.

Sincerely,



Mark A. Tumeo, P.E., Ph.D.
Assistant Professor, Department of Civil Engineering

Civil Engineering



UNIVERSITY OF ALASKA FAIRBANKS

School of Engineering
539 Duckering Bldg. • Fairbanks, Alaska 99775-0660

March 26, 1991

Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Rep. Koponen

I am writing to you to express my support for HB 158. I am currently employed as an Assistant Professor of Civil Engineering at the University of Alaska Fairbanks (UAF). Prior to my employment at UAF I was a graduate student at Colorado State University (CSU) where I received both my Master's and Ph.D in Civil Engineering. Prior to my attendance at CSU I was employed for three years as a DESIGN STRUCTURAL ENGINEER at Stone and Webster Engineering Corporation - a large consultant to the Utility Industry.

During my tenure at Stone and Webster, I did not find it necessary to obtain my Professional Engineering License as I was not required to stamp design drawings. Only a single structural engineer per job was required to stamp design drawings. In many cases, this individual was in a strictly administrative role on the job and did not participate in actual design efforts. I think you will find that this situation is common among the larger consultants throughout the country and locally throughout the State of Alaska.

This does not mean that I do not support licensing of Professional Engineers - I strongly urge my students to become licensed and intend to obtain my P.E. License in the near future. It is only that I feel that it is inappropriate for legislation requiring my licensing to stand while I am not actively engaged in the preparation of stamped, design drawings. I fully believe that my teaching duties constitute the practice of engineering just as my design work at Stone and Webster was the practice of engineering. A license was not required then because I did not stamp design drawings. I do not accept the contention that a P.E. License is a requirement now to perform my duties at UAF since I am not involved in the preparation of stamped, design drawings.

There are a number of negative "trickle down" effects associated with the currently enacted legislation that will have a severely unfavorable impact on the University of Alaska system. These are too numerous to recount here and I am sure that you are already aware of many of them. I would merely like to ask "Why does Alaska need the legislation requiring registration of Faculty? Are the Faculty of MIT, PURDUE and GEORGIA TECH, who are not required to be licensed, somehow inferior to Faculty at Alaskan Institutions?"

Thank you for your support of HB 158 and your continuing efforts on behalf of the University of Alaska in other matters.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Curtis".

Kevin C. Curtis, Ph.D
Assistant Professor
Department of Civil Engineering
University of Alaska Fairbanks

UNIVERSITY OF ALASKA FAIRBANKS



Mechanical Engineering

539 Duckering • Fairbanks, Alaska 99775 • (907) 474-7209

October 22, 1990

Pat Kalen
Board of Registration for Architects,
Engineers and Land Surveyors
State of Alaska

Dear Pat:

I am sending you this letter to convey to the Board the sentiments of the engineering faculty at UAF regarding HB 182. As you know, I met with the board on Sept. 13, 1990 and then some engineering faculty and you met with Rep. Koponen and selected staff members on Sept. 20. At the close of that meeting, I agreed to query our faculty as to how they felt concerning redefining the practice of engineering as to not include teaching. The results were mixed with a small majority of those voting believing that teaching engineering courses was as much the practice of engineering as many other engineering activities.

As an example, when one runs a computer code to provide data leading to an engineering design, one could just as well run this code as part of teaching a class as well as to complete an engineering project. If one performed this function while working for an engineering firm, he or she would receive credit toward the time required to obtain registration providing he or she was working under the supervision of a P.E. The same should be true for a faculty member. However, we must recognize that many engineering faculty perform research and develop new courses or portions of courses in very specialized fields. There may not be an expert available to supervise such work. This is all part of being at the forefront of knowledge and advancing the state of the art. The professional working for the engineering firm is not required by State law to become a P.E. as a condition of employment. In fact, some of our largest employers have a majority of their engineers not registered as professional engineers.

Hence, our faculty overwhelmingly support amending the current law established under HB 182 as outlined on the attachment. This attachment was part of a letter I distributed to the Board at the Sept. 13, 1990 meeting.

UNIVERSITY OF ALASKA FAIRBANKS

Mechanical Engineering

Page Two
Pat Kalen
October 22, 1990

Of our permanent full-time faculty at UAF, 37 out of 44 support this amendment. In the School of Engineering, none of the 25 permanent faculty supported HB 182. At national meetings of department heads in Electrical and Mechanical Engineering, the sentiment has essentially been unanimous against requiring engineering faculty to be registered. We hope you can work with us to amend the law as outlined. We are ready to meet with our legislators and the Governor during the next session to accomplish this.

As we understand, you will discuss this item at your November meeting. Please let us know what transpires.

Yours truly,

Ron

Dr. Ron Johnson
Dept. Head
Mechanical Engineering
UAF
10/22/90

UNIVERSITY OF ALASKA FAIRBANKS



Mechanical Engineering

539 Duckering • Fairbanks, Alaska 99775-0660 • (907) 474-7209

November 30, 1990

Representative Niilo Koponen
119 North Cushman Street
Suite 207
Fairbanks, Alaska 99701

Dear Representative Koponen:

The faculty of the Schools of Engineering at University of Alaska Fairbanks ask for your help during this coming legislative session in revising AS08.48 concerning Architects, Engineers and Land Surveyors as prescribed on the attached page. As now written, it provides no public good with respect to engineering education and only serves to tremendously complicate the difficult and costly process of hiring and retaining new engineering faculty. For additional background, we are enclosing a copy of a letter we sent to you last April.

Of the permanent full-time engineering faculty at UAF, 37 out of 44 support this amendment. In the School of Engineering, none of the 25 permanent faculty supported HB 182 which created this problem for us. We are dismayed that no one bothered to contact us about this bill before its passage. At national meetings of department heads in Electrical and Mechanical Engineering, the sentiment has essentially been unanimous against requiring engineering faculty to be registered.

At the 1990 regional department heads meetings for Mechanical Engineering across the U.S., all 12 regions voted no to the idea of requiring faculty teaching engineering design courses to be registered. For 11 of the 12 regions, the vote was either unanimous or 20 to 1 against requiring the P.E. The department heads from regions IV - XI passed a resolution 16 to 0 with 4 abstentions that the National Society for Professional Engineering (NSPE) stop asking the M.E. Department Heads to take action on professional registration.

As we have to compete for qualified faculty in a national market, we do not want to further compound our difficult recruiting task with an additional impediment. We also have our own rigorous internal evaluation procedure plus an external periodic review by the National Accreditation Board for Engineering and Technology (ABET) evaluation team. This helps assure the competency of our faculty so that we graduate qualified engineers. As an example of our success, the pass rate of our students taking the Engineer in Training (EIT) exam is around 90%. The national average pass rate is 71%.

A professional working for an engineering firm is not required by State law to become registered as a condition of employment. In fact, some of our largest

Mechanical Engineering

Page Two
Representative Niilo Koponen
November 30, 1990

employers have only a small minority of their engineers registered as professional engineers. Many engineering faculty perform research and develop new courses or portions of courses in specialized fields. There may not be an expert available to supervise such work. This is all part of being at the forefront of knowledge and advancing the state of the art. It is unreasonable to expect such faculty to work under the "direct" supervision of another faculty member, who has a P.E., in developing an advanced engineering course. This is the only way such faculty could legally be allowed to teach upper level engineering courses under the current law.

Three of us discussed these issues with the Board of Registration of Architects, Engineers and Land Surveyors at their November 29 meeting in Anchorage. At the close of that meeting, the Board voted unanimously not to oppose our offering this attached amendment. We now ask for your help in rectifying this unacceptable situation.

Yours truly,



Dr. Ron Johnson, P.E.
Department Head
Mechanical Engineering
School of Engineering

RJ/wr
Attachment



UNIVERSITY OF ALASKA FAIRBANKS

Department of Mining and Geological Engineering

School of Mineral Engineering

Fairbanks, Alaska 99775-1190 • (907) 474-7388 • FAX (907) 474-6635

March 20, 1991

The Honorable Pat Carney
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Subject: House Bill 158, Professional Registration of Engineering Professors

Dear Representative Carney:

House Bill 158 should be rejected and the position of the State Board of Engineering should be retained for the following reasons:

1. In 1990, the Board of Engineering carefully considered all factors when they introduced the legislation. They consulted deans, professors, and the public.
2. Their regulation has been in existence for the last twenty years and all elderly professors are licensed. We have been working hard to make UAF a nationally reputed university. In this process we expect all engineering professors to be registered as Professional Engineers. The registration decision is accepted at the national level by the National Council of Engineering Examiners.
3. Dr. Ron Johnson polled the UAF professors on this issue. Twelve professors voted in favor of the license requirement and eighteen professors voted that they strongly recommended the license requirement. Why is Dr. Johnson changing his position?
4. Some Professors of Engineering (listed below) hold B.S. degrees from Third World countries.
 - Mr. S. Bandopadhyay, Mining Engineering, Bangladesh
 - Mr. D. Ogbe, Petroleum Engineering, Nigeria
 - Mr. V. Kamath, Petroleum Engineering, India
 - Mr. G.D. Sharma, Petroleum Engineering, India
 - Mr. Scott Huang, Geological Engineering, Taiwan
 - Dr. P. B. Rao, India
 - Mr. Steve Lin, TaiwanThese professors find it difficult to pass the licensing examination, but we cannot convert UAF into a Third World institution.
5. UAF students regularly pass the engineering licensing examination. If the students of these professors can pass the examination, the professors should be able to pass the same examination.