

**ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672**  
**7120 HOUSE LABOR & COMMERCE**

At the same time, almost two out of ten people (19%) report that an employer has denied a job to or fired either them or someone they know for one of these reasons.

High-level professionals and semi/unskilled laborers are more likely to feel it is appropriate for employers to deny someone a job or fire them for some of these behaviors. Executives, high-level professionals, salespeople, former smokers, people aged 35 to 49, Republicans, Hispanics, and African-Americans are all more likely to report that either they or someone they know has been denied a job or fired for exhibiting one of these behaviors.

These findings are explained in detail in Section II, beginning on page seventeen.

### Section III: Actions Taken by Employers

People also were asked whether they believe employers have the right to take certain actions concerning an individual's privacy. At least three out of four (77%) say employers do not have the right to monitor personal telephone conversations, forbid an employee from dating someone from a rival firm, refuse to hire someone who is overweight or a smoker, or require an employee to quit smoking or change diets. More than two out of

three people (67%) say employers do not have the right to require an employee to quit a second job or to do a credit check on a prospective employee. People aged 50 to 64 are far more likely than any other subgroup to say that employers *do* have the right to take such actions.

In spite of these opinions, more than one out of three respondents (37%) reports that an employer has taken at least one of these actions against either the respondent or someone the respondent knows. Former smokers, Republicans, residents of the Central district, people aged 50 to 64, high-level professionals, salespeople, and Hispanics are all more likely to report these things occurring.

These findings are explored in detail in Section III, beginning on page twenty-two.

#### Section IV: Worker Compensation Claim

Nearly three out of four respondents (73%) oppose allowing businesses in Alaska to refuse to hire a person who has a worker compensation claim, while 17% favor allowing them to do so.

This finding is examined in Section IV, on page twenty-seven.

### Section I: Questions Posed to Job Applicants

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**"Should prospective employers be allowed to ask  
questions about the private lives of job applicants?"**

	<u>Should (%)</u>	<u>Should not (%)</u>	<u>Don't Know (%)</u>
<u>ALL</u>	23	69	8
<u>AGE</u>			
18-24	22	73	6
25-34	18	73	9
35-49	23	70	7
50-64	28	58	14
65 +	39	55	5
<u>PARTY</u>			
Democrat	15	79	6
Independent	20	72	8
Republican	33	57	10
<u>INCOME</u>			
< \$20,000	19	69	12
\$20-\$30,999	16	79	5
\$31-\$40,999	22	69	9
\$41-\$50,999	25	66	9
\$51,000 +	27	65	8
<u>OCCUPATION</u>			
High-level prof.	31	65	4
Mid-level prof.	18	71	11
Executive	35	61	4
Sales	20	75	5
Other white collar	15	81	4
Skilled labor	22	71	6
Semi/unskilled	14	69	17
Retired	31	62	7
<u>RACE</u>			
White	24	68	8
African-American	33	67	0
Hispanic	11	75	14

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Respondents were asked whether prospective employers should be allowed to ask questions about the private lives of job applicants. More than two-thirds (69%) say they should not be allowed to probe the private lives of job applicants, while 23% say they should and 8% are undecided. At the same time, however, two-thirds of the people (67%) report that a potential employer has asked either them or someone they know one or more of these personal questions.

Those age 65 and over (39%), executives (35%), Republicans (33%), blacks (33%), retirees (31%), and high-level professionals (31%) are groups more likely to say employers should be allowed to ask about the private lives of job applicants.

Among those who are most likely to say employers should not be allowed to ask about job applicants' private lives are white collar workers other than professionals or salespeople (81%), Democrats (79%), those in the \$20,000-\$30,999 income bracket (79%), regular smokers (76%), Hispanics (75%), and salespeople (75%).

Those most likely to say that an employer has asked either them or someone they know at least one of these questions include occasional smokers (77%), blacks (74%), Hispanics (74%), those aged 25 to 34 (73%) and those earning between \$20,000 and \$31,000 (73%).

Respondents were read a series of questions prospective employers might ask a job applicant. For each, they were asked whether employers should or should not have the right to ask that question, and whether or not they or someone they know has ever been asked that question.

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**SHOULD PROSPECTIVE EMPLOYERS HAVE THE  
RIGHT TO ASK JOB APPLICANTS CERTAIN QUESTIONS  
ABOUT THEIR PRIVATE LIVES?**

All Respondents

Ranked by "Should Not"

All numbers expressed as percentages

	<u>Should</u>	<u>Should Not</u>	<u>Don't Know</u>
About applicants' religion	12	88	0
Live with member of opposite sex	13	87	0
If applicants have elderly parents	15	84	1
Whether they plan to have children	17	82	1
If they smoke after work hours	21	77	2
About hobbies and activities	38	59	3
About applicants' marital status	46	53	0

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"Has a potential employer ever asked you or someone you know...?"

	<u>Yes (%)</u>	<u>No (%)</u>
About your marital status	60	40
About your outside hobbies and activities	45	55
About your religion	21	79
Whether you plan to have children	15	85
If you smoke away from the workplace	15	85
Whether you have elderly parents	7	93
Whether you live with a non-family member of the opposite sex	6	94
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NONE OF THESE	33	67

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"Asking whether the job applicant lives with a non-family member of the opposite sex."

o Eighty-seven percent (87%) say employers should not have the right to ask this question and 13% say they should. Those over 65 (21%) are more likely to say that employers should have the right to ask this question, while blacks (94%), Hispanics (94%), people from the Northwestern district (94%), and those making between \$20,000 and \$31,000 (94%) are more likely to say that employers should not have the right to ask.

- o Six percent (6%) of respondents report that either they or someone they know has been asked this question. Hispanics (20%) and people in sales (15%) are more likely to say either they or someone they know has been asked this question.

**"Asking whether the job applicant has elderly parents."**

- o 84% say employers should not be allowed to ask this question; 15% say they should. Those age 65 and over (28%), retirees (26%), and blacks (26%) are more likely than other groups to believe employers have the right to ask this question, while Hispanics (100%) and people from the Northwestern district (93%) more often believe employers do not have the right.

- o Seven percent (7%) say either they or someone they know has been asked this question. Retirees (13%), those over 50 (11%), and salespeople (15%) are more likely to report this occurring.

**"Asking the job applicant about their religion."**

- o 88% say employers should not be allowed to ask job applicants this question. 12% say they should. Retirees (25%) and those age 65 and over (22%) are more likely to say they have the right to ask. African-Americans (25%) are more likely than whites (11%) to say employers have the right to ask about a job applicant's religion.

- o One out of five respondents (21%) say that either they or someone they know has been asked about their religion by a potential employer. This figure is generally consistent across all sub-groups.

**"Asking the job applicant about whether they plan to have children."**

- o More than four out of five people (82%) say employers should not be allowed to ask this question, while 17% say they should. Executives (32%), high-level professionals (26%), semi/unskilled workers (25%), and people 18-24 (24%) are more likely than others to think employers have the right to ask whether job applicants plan to have children, while retirees (91%) and those from the Northwestern district (89%) are more likely to feel they do not.

- o Almost one out of six respondents (15%) report that either they or someone they know has been asked whether they plan to have children. Executives (28%) and Hispanics (26%) are more likely to report this occurring.

**"Asking the job applicant if they smoke after work hours, at home, or otherwise away from the workplace."**

- o 77% say employers should not be allowed to ask job applicants this question, while 21% say they should. Executives (34%), high-level professionals (30%), and former smokers (28%) are more likely to say

employers have the right to ask if a job applicant smokes after work hours, while regular (91%) or occasional (87%) smokers, Hispanics (89%), and residents of the Northwestern district (89%) are more likely to believe that employers do not have this right.

o Almost one out of six respondents (15%) report that either they or someone they know has been asked if they smoke away from the workplace. Executives (22%), salespeople (22%), those earning between \$20,000 and \$31,000 (21%), and people aged 25-34 (20%) are more likely to say that either they or someone they know has been asked this question.

"Asking the job applicant about their off-the-job hobbies and activities."

o Almost three out of five (59%) say employers should not be allowed to ask this question; 38% say they should be allowed to ask it. Among the groups most likely to say employers should not be allowed to ask about hobbies and activities outside of the job are retirees (78%), residents of the Northwestern district, those over 65 (71%), mid-level professionals (69%), and Hispanics (66%). Conversely, those most likely to feel employers should be allowed to ask this question include executives (60%), Republicans (49%), high-level professionals (48%), those earning over \$51,000 (46%), and former smokers (45%). Men (44%) are more likely than women (32%) to believe that employers should be able to ask this question.

o Nearly half the respondents (45%) say that either they or someone they know has been asked about their off-the-job hobbies or activities by a potential employer. Executives (60%), high-level professionals (50%), and people aged 25-49 (51%) are most likely to report this occurring.

**"Asking the job applicants about their marital status."**

o While 53% say employers should not be allowed to ask about a job applicant's marital status, 46% say they should be allowed to ask about it. Residents of the Northwestern district (70%), semi/unskilled workers (65%), salespeople (63%), and other white collar workers (61%) are more likely to feel employers should not be allowed to ask about marital status. Executives (60%), people aged 50 to 64 (58%), and residents of the Southeastern district (55%) are groups which tend to feel employers should be allowed to ask this question. A majority of men (52%) think employers should be able to ask this, but a majority of women (59%) think they should not.

o The majority of people (60%) say that either they or someone they know has been asked their marital status. This figure is generally consistent across all sub-groups.

In summary, only one out of three respondents (33%) said that neither they nor anyone they know has ever been asked any of the

preceding questions by an employer, while two out of three (67%) said the opposite. This occurred despite the fact that the majority of people indicate that employers *should not* have the right to ask such questions.

**Section II: Employee Behavior Outside of Work**

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**WHETHER IT IS APPROPRIATE FOR AN EMPLOYER  
TO DENY SOMEONE A JOB OR FIRE AN EMPLOYEE  
FOR DOING CERTAIN THINGS**

All Respondents

Ranked by "Not Appropriate"

All numbers expressed as percentages

	<u>Appopr.</u>	<u>Not Appopr.</u>	<u>Don't Know</u>
Dates a person of a different race	1	98	0
Drives a motorcycle	2	98	0
Opposes abortion	2	97	1
Supports abortion	4	95	1
Smokes after work hours	5	94	1
Gambles at a racetrack	7	91	2
Participates in political demonstrations	7	91	3
Is overweight	12	84	4
Holds an unusual second job	16	74	10

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**"Have you, or has someone you know, ever been denied a job or fired because they ...?"**

	<u>Yes (%)</u>	<u>No (%)</u>
Were overweight	9	91
Held an unusual second job	7	93
Participated in political demonstrations	7	93
Dated a person of a different race	4	96
Smoked away from the workplace	3	97
Drove a motorcycle	2	98
Gambled at a racetrack	2	98
Supported abortion	1	99
Opposed abortion	1	99
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NONE OF THESE	81	19

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Respondents then were read a list of things employees might do. For each, they were asked whether or not they think it is appropriate to deny someone a job or fire a person because they behaved in this way, and whether or not they or someone they know has ever been denied a job or fired because of such behavior.

o Ninety-eight percent (98%) say it is inappropriate to deny a job to or fire someone because they are dating a person of a different race; only 1%

think it is appropriate. Four percent (4%) of people, however, report that either they or someone they know has been denied a job or fired for such a reason.

- o Ninety-eight percent (98%) say it is inappropriate to deny a job to or fire someone who drives a motorcycle; only 2% think it is appropriate. One respondent out of fifty (2%) says that either he or someone he knows has been denied a job or fired because of this behavior.

- o Ninety-one percent (91%) think it is inappropriate to deny a job to or fire someone for participating in political demonstrations, while 7% think it is appropriate. Executives (13%), semi/unskilled workers (13%), retirees (13%), and occasional smokers (13%) are more inclined to feel it is appropriate. One person out of fourteen (7%) reports that either they or someone they know has been denied a job or fired because they participated in a political demonstration. High-level professionals (13%) and people aged 35-49 (11%) are more likely to mention such an occurrence.

- o Ninety-one percent (91%) say it is inappropriate to deny a job to or fire someone for gambling at a racetrack, while 7% say it is appropriate. Two percent (2%) of people say that either they or someone they know has been denied a job or fired because of this practice.

- o While 74% say it is inappropriate to deny a job to or fire someone for holding an unusual second job, 16% think it is appropriate. Seven percent (7%) of respondents report that either they or someone they know has been denied a job or fired because they had an unusual second job. Executives (17%) and those earning between \$41,000 and \$51,000 (11%) are more likely to report such an occurrence.
  
- o Eighty-four percent (84%) think it is inappropriate to deny a job to or fire someone who is overweight, while 12% say it is appropriate. Republicans (22%) and high-level professionals (22%) are more likely to believe it is appropriate. One person in eleven (9%) says that either he or she or someone he or she knows has been denied a job or fired because the person was overweight.
  
- o Ninety-five percent (95%) think it is inappropriate to deny a job to or fire someone who supported abortion, while 4% say it is appropriate. Ninety-seven percent (97%) say it is inappropriate to deny a job to or fire someone who opposed abortion. Only 2% say it is appropriate. Only 1% of people say either they or someone they know has been denied a job or fired because of their views on abortion.
  
- o Ninety-four percent (94%) think it is inappropriate to deny a job to or fire someone who smoked after work hours, at home, or otherwise away from the workplace, while 5% say it is appropriate. Former smokers (12%),

high-level professionals (10%), and semi/unskilled workers (10%) more often think it is appropriate. Three percent (3%) of respondents say that either they or someone they know has been denied a job or fired because they smoked away from the workplace.

In summary, almost one-fifth of people (19%) report that either they or someone they know has been denied a job or fired because of the behaviors outlined above. Executives (29%), high-level professionals (23%), salespeople (23%), former smokers (28%), people aged 35 to 49 (23%), Republicans (23%), Hispanics (42%), and African-Americans (24%) are all more likely to report that either they or someone they know has been denied a job or fired for exhibiting one of these behaviors. This occurred despite the fact that the vast majority of people think it is inappropriate to deny someone a job or fire a person because they behaved in any of these ways.

Section III: Actions Taken by Employers

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WHETHER EMPLOYERS HAVE THE  
RIGHT TO DO CERTAIN THINGS

All Respondents

Ranked by "Don't Have Right" All numbers expressed as percentages

	<u>Have right</u>	<u>Don't Have Right</u>	<u>Don't Know</u>
Require employee to change diet	5	92	3
Forbid dating employee of rival firm	9	86	4
Require employee to quit smoking	12	85	3
Refuse to hire an overweight person	14	81	5
Refuse to hire a smoker	19	78	4
Monitor personal phone calls	20	77	3
Require employee to quit second job	24	68	8
Check credit on prospective employee	29	67	4

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**"Has an employer ever done any of the following to you  
or to someone you know...?"**

	<u>Yes (%)</u>	<u>No (%)</u>
Monitor personal telephone conversations	17	83
Do a credit check on a prospective employee	17	83
Require employee or applicant to quit second job	15	85
Refuse to hire an overweight person	13	87
Refuse to hire a smoker	10	90
Require employee or applicant to quit smoking	7	93
Forbid employee or applicant from dating an employee from a rival firm	6	94
Require employee or applicant to change diet	4	96
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NONE OF THESE	63	37

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Respondents were read a list of actions employers might take. For each one, they were asked whether or not employers have the right to take such an action, and whether or not such an action has ever been taken against either the respondent or someone the respondent knows.

o Seventy-seven percent (77%) believe employers do not have the right to monitor personal telephone conversations, but one out of five (20%) say they do have the right. Hispanics (35%), those earning between \$41,000

and \$51,000 (31%). semi/unskilled workers (30%), and people aged 50 to 64 (29%) are more inclined than other groups to feel employers have the right to monitor personal telephone calls. One in six respondents (17%) report that an employer has monitored either their or someone they know's personal telephone conversations. High-level professionals (26%) are the most likely to indicate this.

o Eighty-six percent (86%) say employers do not have the right to forbid an employee or job applicant from dating an employee from a rival firm, and 9% say they do have this right. People aged 50 to 64 (23%) are more likely than other groups to say employers have this right. Six percent (6%) of respondents report that an employer has forbidden either them or someone they know from dating an employee from rival firm.

o Eighty-one percent (81%) say employers do not have the right to refuse to hire an overweight person; 14% say they do have the right. One out of eight respondents (13%) says that an employer has refused to hire either the respondent or someone he or she knows because that person was overweight.

o Seventy-eight percent (78%) think employers do not have the right to refuse to hire a smoker, whereas 19% say they do have the right to refuse to hire a smoker. Among those more inclined to say employers have the right to refuse to hire a smoker are people aged 50 to 64 year (29%),

retirees (27%), and those earning over \$51,000 (27%). Ten percent (10%) of people say that an employer has refused to hire either them or someone they know because the person was a smoker. Former smokers (14%) are the most likely to report this occurring.

o Ninety-two percent (92%) say employers do not have the right to require an employee or job applicant to change his or her diet, while 5% think they do have the right. Four percent (4%) of people say that an employer has required either them or someone they know to change their diet.

o While 85% say employers do not have the right to require an employee or job applicant to quit smoking, 12% think they do have the right. Republicans (19%), 50-64 year olds (19%), high-level professionals, and former smokers (19%) are more likely than other groups to feel employers have the right to require an employee to quit smoking. One out of fourteen respondents (7%) reports that an employer has required either the respondent or someone the respondent knows to quit smoking. Former smokers (12%) are the most likely to report this happening.

o Although 68% think employers do not have the right to require an employee or job applicant to quit a second job almost one out of four Alaskans (24%) say they do have this right. High-level professionals (34%) and people aged 50 to 64 (32%) are most likely to feel employers have this right. Fifteen percent (15%) of people report that an employer has

required either them or someone they know to quit a second job.

Salespeople (27%), executives (24%), high-level professionals (22%), and people 35 to 49 (22%) are more likely to mention this occurring.

o Two out of three respondents (67%) say employers do not have the right to do a credit check on a prospective employee, but 29% say they do have the right. Executives (41%) and people over 50 (41%) are more likely to say employers have the right to do a credit check. One in six respondents (17%) reports that an employer has done a credit check on either the respondent or someone that the respondent knows.

In summary, more than one-third of all respondents (37%) indicate that at least one of the above situations has happened to either them or someone that they know. Former smokers (46%), Republicans (44%), residents of the Central district (43%), people aged 50 to 64 (41%), high-level professionals (41%), salespeople (41%), and Hispanics (63%) are all more likely to report these things occurring. This occurred despite the fact that *at least two-thirds* (67%) of the respondents say that employers do not have the right to take such actions.

**Section IV: Worker Compensation Claim**

Almost three out of four respondents (73%) oppose allowing businesses in Alaska to refuse to hire a person who has a worker compensation claim, while 17% favor allowing them to do so. Those earning under \$31,000 (86%) and regular smokers (84%) are most opposed to this proposal, while executives (35%) are most in favor.

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## Nose out

*For once, the tobacco lobby is right.*

American tobacco firms routinely bombard the public with transparently bogus or self-serving rhetoric.

Listening to the industry line, you'd think that there's still some doubt smoking causes cancer, that tobacco firms are disinterested guardians of the First Amendment and that smokers have made rational, fully informed decisions to take up their addictive and life-shortening habit.

But there is one instance where the tobacco industry has a legitimate point. The move by some firms to ban all smoking by all employees — not just at work, but off the job, too — is an illegitimate intrusion on workers' privacy.

Some 6,000 firms refuse to hire smokers, according to The New York Times. A case from Indiana drew national attention earlier this year when a woman was fired because a random drug test showed she'd been smoking cigarettes at home.

Smoking isn't the only unhealthy habit that gets workers in trouble with nosy employers. Best Lock Corporation of Indianapolis bars its workers from drinking alcohol — any time, anywhere. The city of Athens, Ga., even went so far as to reject job applicants with high cholesterol levels.

How do employers rationalize trying to run their workers' private lives? The best answer they can give is that bad habits like smoking or drinking can drive up their health insurance bills.

When that's the case, firms have good reason to charge those workers higher insurance premiums. But they don't have any grounds to tell employees how to live their lives outside of working hours.

In the workplace, only one question should matter: How well do workers do their jobs? As long as what employees do on their own time doesn't affect their job performance, it's none of their employers' business.

*newsclippings*

## SMOKERS HAVE RIGHTS—JUST ASK THE TOBACCO COMPANIES

Last spring, a Georgia State Senator introduced into committee a "smokers'-rights" bill outlawing discrimination against people who smoke off the job. In the ensuing week, the lieutenant governor's office got a flood of phone calls supporting the law. So many, in fact, that the phone system broke down.

A strong grass-roots response from the good folk of Georgia? Yes, to some extent. But these complaining constituents got a little help from Philip Morris Cos. When Georgia residents called a toll-free hotline, they heard a recorded message lambasting the lieutenant governor—who was against the bill—for interfering with smokers' rights.

PRAIRIE FIRE? The recording then encouraged callers to "stay on the line—we can connect you to his office right now, toll-free." Hence, the flood of calls. A Philip Morris spokesperson says: "We want to make it easier for consumers to voice their concerns."

The Georgia bill was ultimately withdrawn. But 20 other states have passed similar legislation. Antismoking and health groups warn, however, that these laws are not some "prairie wildfire among state legislators," as Walker P. Merryman, vice-president of the Tobacco Institute, describes them. Rather, they represent a campaign by the deep-pocketed tobacco companies

to counter the antismoking movement. Replies Tobacco Institute spokesman Thomas Lauria: "These bills are put through by the ACLU and the AFL-CIO. The tobacco companies simply help smokers'-rights groups that have already formed."

Early this year, a bill that would prohibit companies from refusing to hire smokers or firing people who smoke

law without his signature in July.

The tobacco companies also target big businesses opposed to smokers'-rights bills. Last year, the New York State Legislature passed a broadly worded law that would have prohibited companies from forbidding any legal activity off the job. IBM, Eastman Kodak Co., and other businesses wrote strong letters against the bill, arguing that it would let employees ignore corporate conflict-of-interest policies. Governor Mario M. Cuomo vetoed it.

Now, another version is about to be presented to Cuomo. This time, however, there is no outcry from IBM and Kodak. The reason: Tobacco companies are big buyers of IBM computers and materials for cigarette filters made by Kodak. Rather than risk their accounts, the companies have withdrawn from the debate, say state government officials and sources close to the companies. Neither Kodak nor IBM will comment on their change of heart, saying only they take no position on the bill.

Surveys show that employees are concerned about employers' legislating their lifestyles. Aware of this, says Joseph Marx of the American Cancer Society: "The tobacco companies are trying to elevate smoking to a civil right"—and taking care of business at the same time.

By Walacia Konrad in Atlanta

**STATES THAT HAVE PASSED EMPLOYEE PRIVACY PROTECTION LAWS**

PROHIBITS EMPLOYER DISCRIMINATION FOR:  
 OFF-THE-JOB SMOKING     ANY LEGAL OFF-THE-JOB ACTIVITY

LEGISLATION REQUIRES CONGRESSIONAL APPROVAL

was introduced in the state legislature of New Jersey. The tobacco industry hired lobbyists to get lawmakers to vote for the bill. Philip Morris also blanketed the state with support-the-bill letters. R. J. Reynolds Tobacco Co. joined in, using videotapes, sample petitions, and slide shows to help smokers start activist groups. Ultimately, the measure passed the legislature, and the governor allowed it to become

RAY WILKINSON

# [tell us what you think]

## Does a company have the right to control your life-style?



**BONNIE COOK** WAS A hospital attendant in Rhode Island with an excellent job record. When she tried to get a job at a hospital where she had previously worked, however, she found the door closed. Because Cook weighed 315 pounds, her former employers believed that their worker's compensation costs might rise if they rehired her. "If you lose weight, you'll be considered," she was told. After trying and failing to drop below 300 pounds, Cook filed suit, now pending in federal court.

Cook's supporters see her as the target of a dangerous trend—the desire of companies to control employees' behavior both on and off the job, through hiring and employment practices. "This is an example of Big Brother at work," says Steven Brown, the executive director of the Rhode Island American Civil Liberties Union (ACLU), which is handling Cook's suit. "They are essentially telling Bonnie Cook that they can control her life simply because twenty or thirty years from now she might cost the state a little money."

With the aim of lowering skyrocketing

health costs or promoting a "healthier workplace," a number of companies have instituted policies to penalize certain workers. Turner Broadcasting System, for instance, simply won't hire smokers. The Best Lock Corporation in Indianapolis prohibits employees from drinking alcoholic beverages even during their off-hours. At U-Haul International, Inc., workers who smoke or are underweight or overweight pay about \$120 for annual health insurance. Some companies, according to the ACLU, even bar employees from high-risk activities such as riding motorcycles.

Such policies are increasingly under challenge: Twenty states have passed laws limiting the rights of companies to impose life-style requirements on workers. But Fred E. ... president of the Society of Professional Benefit Administrators, maintains that companies' policies are instituted for legitimate reasons. "An employee benefit plan should be viewed as a contract between employer and employee," he says. "If the employee is paying her own medical costs, then she can behave any way she wants. If not, then she is taking something of value, and should be expected to behave respon-

sibly and help minimize costs."

At U-Haul, corporate executives feared they wouldn't be able to provide health care for any employees unless they took action to control health costs. The company's decision to make selected employees pay was a logical extension of standard policy in homeowners or auto insurance, says Public Information Manager Melora Foley. "If you have a smoke detector or fire extinguisher, you get a rebate. In our company, if you don't smoke or you're not overweight or underweight, you don't have to pay."

Opponents of such policies feel they set a dangerous precedent. "The premise of insurance is a pooled risk. Once you start pulling out groups, it undermines the purpose," says Sally E. Smith, executive director, National Association to Advance Fair Acceptance. "If today it's fat people and smokers, who will it be tomorrow?"

Adds John Rosenthal, an ACLU spokesperson: "Almost any personal choice can have health insurance implications. If employers balance their books by invading our lives, virtually every aspect of our personal lives will be subjected to their control."

Tell us what you think.

1. Do employers have the right to make life-style demands (such as forbidding smoking) when workers are on the job?

Yes  No  I don't know

2. Do employers have the right to make life-style demands of workers during their off-hours?

Yes  No  I don't know

3. If you answered yes to number two, which demands do you think employers have the right to make?

- Staying within weight guidelines
- No smoking at any time
- No drinking at any time
- No hazardous sports

4. Do employers have the right to use economic incentives to encourage healthy practices, such as charging overweight workers more for health insurance?

Yes  No  I don't know

5. Which of the following would you be willing to do in order to keep your current job? (Check as many as you want, even if you're not, say, a smoker.)

- Quit smoking
- Lose or gain weight
- Refrain from drinking any alcohol
- Not participate in risky sports
- None of the above

6. If your company wanted you to make one of those changes and you weren't willing, what would you do?

- Quit
- Ignore the ruling and hope I wouldn't get caught
- Lodge a formal protest
- I don't know

Please feel free to comment on any of these questions in the space provided. Make yourself heard. To ensure that your answers reach us in time, please mail them within the next two weeks to: "Tell Us What You Think," Glamour, 350 Madison Ave., New York, NY 10017. OR FAX IT! (212) 880-6922.

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Jan. 1992

from Glamour

# [this is what you thought]

**OVER 90 PER-** cent of the respondents to our November survey think that company should not be allowed to prohibit its employees from engaging in certain types of behavior, such as drinking, smoking and playing risky sports, during their off-hours. Almost half the respondents said that they would not change their behavior to keep their jobs, and 72 percent feel that employers can't have the right to charge "unhealthy" workers more for health insurance. For more details of the survey, read on



## Do companies have the right to dictate off-hours behavior?

93 percent say no

### 1. DO EMPLOYERS HAVE THE RIGHT TO MAKE LIFE-STYLE DEMANDS (SUCH AS FORBIDDING SMOKING) WHEN WORKERS ARE ON THE JOB?

85% say yes

"I'm a sales rep for a computer company, and part of what we sell is an image. It's my company's right to make sure I project that image when I go out in the field."

33% say no

"Not allowing smoking in the office is one thing, but there should be designated areas for those of us who still wish to exercise our right to free choice!"

2% say they don't know

### 2. DO EMPLOYERS HAVE THE RIGHT TO MAKE LIFE-STYLE DEMANDS OF WORKERS DURING THEIR OFF-HOURS?

93% say no

"Unless my life-style negatively affects my ability to perform on the job, it's none of my company's business what I do."

"I work to support my life. I don't live to support work."

4% say yes

"A company has the right to demand legal and noncontroversial behavior from its employees."

3% say they don't know

### 3. IF YOU ANSWERED YES TO NUMBER TWO, WHICH DEMANDS DO YOU THINK EMPLOYERS

#### HAVE THE RIGHT TO MAKE?

50% say staying within weight guidelines

"I've struggled with my weight and know I have more energy when I'm eating properly and exercising regularly. A healthier person makes a better worker."

34% say no drinking at any time

"What people do during off-hours can affect the quality of their work. My co-worker's drinking problem has an impact on everyone in the office."

16% say no smoking at any time

"If you smoke, you're going to get sick. With odds like that, all employers should demand their employees quit."

3% say no hazardous sports

### 4. DO EMPLOYERS HAVE THE RIGHT TO USE ECONOMIC INCENTIVES TO ENCOURAGE HEALTHY PRACTICES, SUCH AS CHARGING OVERWEIGHT WORKERS MORE FOR HEALTH INSURANCE?

72% say no

"I suffer from an inactive thyroid gland and can't help that I'm a few pounds overweight. I watch my cholesterol and fat intake. Why should I have to pay extra for health insurance?"

16% say yes

"I'd rather my employer offer incentives to encourage healthy practices than not offer insurance benefits at all."

10% say they don't know

### 5. WHICH OF THE FOLLOWING WOULD YOU BE WILLING TO DO IN ORDER TO KEEP YOUR CURRENT JOB?

48% say none of the choices listed below

"I don't need my company telling me what's wrong with my personal habits."

"At my former company, the smoking and weight policy applied to employees and spouses. Who are they to tell us what we can and can't do in our own home?"

18% say refrain from drinking any alcohol

"I don't drink because of company policy. I haven't felt this good in years!"

15% say quit smoking

"I've been trying to stop smoking for months. If my employer gave me an ultimatum, it would be just the thing I need."

11% say not participate in risky sports

"I don't see why people feel the need to Bungee jump off bridges. Especially if it means higher insurance rates."

10% say lose or gain weight

"If my company wanted me to maintain a certain weight for better health, I'd do it. But if it was because of my looks, that would be discrimination."

### 6. IF YOUR COMPANY WANTED YOU TO MAKE ONE OF THOSE CHANGES AND YOU WEREN'T WILLING, WHAT WOULD YOU DO?

55% say lodge a formal protest

"It's a short hop from 'Don't smoke at home' to 'Who are you sleeping with?' to 'Don't have more than three kids.'"

16% say ignore the ruling and hope they don't get caught

"I'd like to think that I'd protest, but I really fear losing my job."

12% say quit

"I'd quit and move to Europe where, as far as I know, they're not as stuck on moralizing and controlling."

17% say they don't know

Please turn the page for this month's survey—How much do you want to know about politicians' private lives?

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

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JUNEAU, ALASKA 99811  
907.465.3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

3-10-92 *Senate Judiciary* 1:35 p.m.

S B

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FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO : SB 347

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing the Governor's  
Committee ... to charge certain fees..."  
Sponsor: Rules Committee  
Requestor: Senate Finance

Department Affected: Labor  
BRU: Employment Security  
Component: Governor's Committee  
on Employment of People with Disabilities  
COMPONENT SERIAL NO. 333

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	16.0	16.8	17.6	18.5	19.4	20.4
SUPPLIES	5.0	5.3	5.6	5.9	6.2	6.5
EQUIPMENT						
LAND&STRUCTURES						
GRANTS.CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	21.0	22.1	23.2	24.4	25.6	26.9

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
GF Program Receipts	21.0	22.1	23.2	24.4	25.6	26.9
TOTAL	21.0	22.1	23.2	24.4	25.6	26.9

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

This bill would provide the Governor's Committee on Employment of People with Disabilities with authorization to charge fees for attendance at various workshops, conferences and other events to help underwrite the cost of those meetings. An effective date of July 1, 1992 is assumed along with an inflation rate of 5% per year beyond FY 93.

Prepared by: Judy Knight, Director Phone: 465-2712

Division: Employment Security Division Date: 3/10/92

Approved by Commissioner: C. W. Mahlen

Agency: Department of Labor Date: 3/10/92

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

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF LABOR**

**OFFICE OF THE COMMISSIONER**

P.O. BOX 21149  
JUNEAU, ALASKA 99802-1149  
PHONE: (907) 465-2700

FAX: (907) 465-2784

April 15, 1992

The Honorable David Finkelstein  
Chair, Labor & Commerce Committee  
State House of Representatives  
P.O. Box V  
Juneau, AK 99801-1182

Dear Representative Finkelstein:

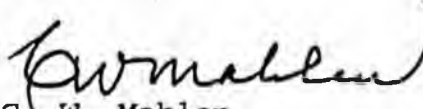
Senate Bill No. 347, "An Act authorizing the Governor's Committee on Employment of People with Disabilities to charge certain fees; and providing for an effective date" passed the Senate April 14th, was transmitted to the House and has been referred to the House Labor & Commerce Committee. I am requesting that you schedule it for a hearing as soon as possible.

The members of the Governor's Committee on Employment of People with Disabilities are active in providing information to the public concerning people with disabilities. Individually, committee members routinely volunteer to speak at meetings and present training sessions. The committee currently charges workshop registration fees, through an arrangement with nonprofit groups, which are then used to help underwrite the cost of the workshops.

Senate Bill No. 347 would provide the Committee with the authority to charge a fee directly for attendance at various workshops the Committee conducts under AS 23.15.220 -- 23.15.320, and will bring the Committee into conformity with the Executive Budget Act. The fiscal note submitted properly brings program receipts into the legislative appropriation process.

Thank you for your consideration of my request for a hearing on Senate Bill No. 347. A copy of the bill and the department's fiscal note are enclosed for your information. Please do not hesitate to contact my Special Assistant, Arbe Williams, if you would like additional information.

Sincerely,

  
C. W. Mahlen  
Commissioner

CWM:kh  
Enclosures

BOARD: EMPLOYMENT OF PEOPLE WITH DISABILITIES  
GOVERNOR'S COMMITTEE ON

BOARD IDENTIFICATION NUMBER: 34

TITLE: Governor's Committee on Employment of People With Disabilities

DEPT: Department of Labor

AUTHORITY: AS 23.15.220

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 3 years

DESCRIPTION: 12 members (not more than) appointed by Governor: state leaders of industry, business, agriculture, labor, veterans, women, religious, educational, civic, fraternal, welfare, scientific, military, medical and other professions or as many of these and like categories as may be feasibly represented; Governor appoints chair for 1-year term; Div. of Vocational Rehabilitation, State Employment Service, the Dept. of Health and Social Services, as well as any other state agencies which committee selects may each designate a staff member in advisory capacity; federal Veterans Employment Service and the Veterans' Administration shall each be invited to designate advisor.

SPECIAL FACTS: Annual report to Governor.

FUNCTION: Promotes employment of people of the state with disabilities by creating statewide interest in rehabilitation/employment of people with disabilities.

COMPENSATION: Standard travel/per diem.

MEETINGS: 4 times per year; 14 days maximum.

\*FOR FURTHER INFORMATION CONTACT: Committee Advisor, Division of Employment Security, Dept. of Labor, P.O. Box 3-7000, Juneau, AK 99802 PHONE: 465-4531 (Revised 12/2/91)

EMPLOYMENT OF PEOPLE WITH DISABILITIES

MEMBER	APPT	REAPT	REAPT	TERM
Lon Brandon Chair Term Dates Only/ Governor Designation	90/09/28	91/11/01	0/00/00	92/09/28
Don Brandon 2920 Valleywood Anchorage 99517 Public/Restricted Chair	88/03/21	90/09/28	0/00/00	93/09/27
Gordon O Godfred 2200 West 36 Avenue Anchorage 99517 Public/Restricted	88/03/21	90/09/28	0/00/00	93/09/27
Shirley J Holloway 509 West 74th Anchorage 99518 Public/Restricted	89/03/31	89/11/09	0/00/00	92/09/27
William J Lasher 4000 West 50th Street (ARCO) Anchorage 99502 Public/Restricted	88/11/14	91/11/04	0/00/00	94/09/27
Denny L Macom 433 Third Street Fairbanks 99701 Public/Restricted	90/04/24	0/00/00	0/00/00	91/09/27
Jean W Mahoney 2124 Sorbus Way Anchorage 99508 Public/Restricted	87/12/22	90/09/28	0/00/00	93/09/27
Dan Nightingale 660 Sarah's Way Wasilla 99687 Public/Restricted	91/11/01	0/00/00	0/00/00	94/09/27
Bruce Romine P.O. Box 558 Ward Cove 99928 Public/Restricted	91/12/06	0/00/00	0/00/00	93/09/27

REVISION DATE: 12/20/91

EMPLOYMENT OF PEOPLE WITH DISABILITIES

<u>MEMBER</u>	<u>APPT</u>	<u>REAPT</u>	<u>REAPT</u>	<u>TERM</u>
James A Sanwick 3000 Vintage Blvd., Suite 200 Juneau 99801 Public/Restricted FAX 789-7112	89/10/20	0/00/00	0/00/00	92/09/27
Frances E Smith 222 West 7th Avenue, No. 22 Anchorage 99513 Public/Restricted	80/10/21	86/10/31	89/10/20	92/09/27
VACANT	0/00/00	0/00/00	0/00/00	94/09/27
Public/Restricted				
VACANT	0/00/00	0/00/00	0/00/00	92/09/27
Public/Restricted				

S B

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HOUSE COMMITTEE REPORT

(7)

Date Referred: February 10, 1992

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2-13-92

The LABOR AND COMMERCE Committee considered:

SB 349 am

SENATE BILL NO. 349 am

UNEMPLOYMENT COMPENSATION

"An Act relating to the implementation of special federal programs for unemployment compensation; 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) \_\_\_\_\_

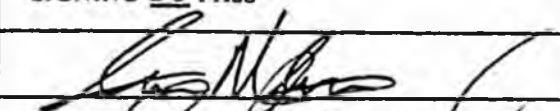
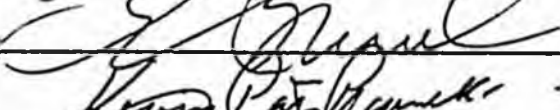
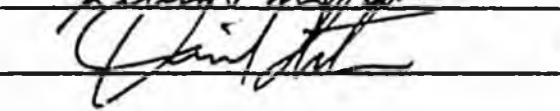
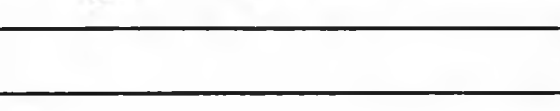
APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) Dept of Labor

SIGNING <u>DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	DNP	NR	AM
	<input checked="" type="checkbox"/>				
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CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

**STATE OF ALASKA**  
**1992 LEGISLATIVE SESSION**

**BILL NO :** SB 349 am

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the implementation of special ... unemployment compensation"  
 Sponsor: Senate Rules Committee  
 Requestor: Senate Labor & Commerce

Department Affected: Labor  
 BRU: Employment Security  
 Component: Unemployment Insurance

**COMPONENT SERIAL NO.** 329

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

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by Judy Knight, Director

Division: Employment Security Division

Phone: 465-2712

Date: 2/12/92

Approved by Commissioner: John A. Abshire, Acting Commissioner

Agency: Department of Labor

Date: 2/12/92

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

UNEMPLOYMENT INSURANCE  
AT-A-GLANCE

STATE ELIGIBILITY REQUIREMENTS

\$1000 in the base period with at least \$100 outside the highest quarter of wages.

Must have worked in at least two quarters.

Able and available for work each week claimed.

FEDERAL REQUIREMENTS FOR EXTENDED AND EMERGENCY UNEMPLOYMENT COMPENSATION

Must have earned 40 times the regular weekly benefit amount.

Must have not been disqualified for separating from an employer.

Have a more proscribed work search each week.

If living out of state, only two weeks are payable if that state is not paying extended benefits.

BENEFITS FOR ALL PROGRAMS

A claimant will qualify for a minimum of \$44 per week to the maximum of \$212 per week.

Dependent's allowance for children under 18 of \$24 per dependent up to 3 dependents.

REGULAR BENEFITS

The claimant may be eligible for a minimum of 16 weeks to a maximum of 26 weeks during the benefit year.

FUNDING SOURCE

UI Trust Fund  
or  
Direct billed to  
reimbursible employers  
(Gov't and non-profits)

EXTENDED BENEFITS

A claimant will be eligible for additional weeks equal to one-half the regular entitlement, or an additional 8-13 weeks.

1/2 UI Trust Fund and  
1/2 Federal Funding  
or  
100% Direct billed to  
reimbursible employers  
(Gov't and non-profits)

EMERGENCY UNEMPLOYMENT COMPENSATION (EUC)

A claimant qualifies for 16, 18, or 20 weeks, dependent on the regular entitlement, less any EB paid.

100% Federal Funding

Initially a claimant must have exhausted regular or extended benefits, or had the benefit year end after 3/1/91 to be eligible.

year after the two calendar years of the election, only if not later than March 15 of the year (1) the employing unit has filed with the department a written notice to that effect, or (2) the department on its own motion has given notice of termination of coverage. (§ 604 ch 5 ESLA 1955; am § 5 ch 122 SLA 1977)

Revisor's notes. — See revisor's note at AS 23.20.278.

*Sec. 23.20.326. Elective coverage by political subdivisions. [Repealed, § 25 ch 122 SLA 1977.]*

Article 6. Benefits.

- Section
- 330. Claims
- 335. Notice to employees
- 340. Determination of claims
- 345. Payment of benefits
- 350. Amount of benefits
- 353. Supplemental state benefits
- 354. State interim benefits
- 360. Earnings deducted from weekly benefit amount
- 362. Disqualifying or deductible income
- 365. Limited liability of state
- 370. Benefits of decedent or incompetent
- 375. Filing requirements
- 376. Base period extension and limitation
- 378. Able to work and available for suitable work
- 379. Voluntary quit, discharge for misconduct, and refusal of work

- Section
- 381. Other disqualifications
- 382. Benefits while attending approved vocational training course
- 383. Labor disputes disqualification
- 385. Suitable work
- 387. Disqualification for misrepresentation
- 390. Recovery of improper payments; penalty
- 392. Deductions from back pay awards
- 395. Waiver of rights void
- 400. Limitation of fees
- 401. Child support interception
- 405. Assignment void; exemption of benefits

- 406 Extended Unemployment Benefits
- 407 Weekly extended benefit amount, total payable
- 408 Extended benefit periods
- 409 Definitions

Cross references. — For effect of receipt of unemployment benefits on permanent and temporary total disability compensation payments, see AS 23.30.187.

Collateral references. — 75 Am. Jur. 2d, Unemployment Compensation, §§ 32-80.

81 C.J.S., Social Security and Public Welfare, §§ 291-297.

Vested right of applicant for unemployment compensation in mode and manner of computing benefits in effect at time of his discharge or loss of employment. 20 ALR2d 983.

Termination of employment as a result of union action or pursuant to a union contract as "voluntary" for purposes of unemployment compensation. 90 ALR2d 835.

Right to unemployment compensation as affected by claimant's receipt of holiday pay. 3 ALR4th 557.

Unemployment compensation as affected by vacation or payment in lieu thereof. 14 ALR4th 1178.

Discharge from employment on ground of political views or conduct as affecting right to unemployment compensation. 29 ALR4th 287.

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NOTICE OF ADOPTION OF EMERGENCY REGULATIONS  
OF THE ALASKA DEPARTMENT OF LABOR

As required by AS 44.62.250, notice is given that, under the authority of AS 23.20.005, 23.20.045, and 23.20.080, the Department of Labor adopted on December 9, 1991, as an emergency regulation, 8 AAC 85.045, relating to Emergency Unemployment Compensation Trigger. The new regulation permits the state to trigger off an extended unemployment compensation period as defined in AS 23.20.408 so that payments of Emergency Unemployment Compensation may be provided to individuals who have exhausted their rights to regular unemployment benefits.

This regulation takes effect December 10, 1991.

This action is not expected to require an increased appropriation.


Notice is also given that any person interested may present written statements and arguments relevant to the proposed action by writing to the Director, Employment Security Division, P.O. Box 25509, Juneau, Alaska 99802, to be received no later than January 16, 1992.

Copies of the emergency regulation may be obtained by telephoning or writing to:

Employment Security Division  
Department of Labor  
P.O. Box 25509  
Juneau, AK 99802  
ATTN: Jane Waid  
Telephone: (907) 465-4531

12/10/91

DATE

  
\_\_\_\_\_  
John Abshire, Acting Commissioner  
Department of Labor

## FINDING OF EMERGENCY

The Department of Labor, Division of Employment Security finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency are as follows:

The Department of Labor has determined that the State of Alaska, under AS 23.20.408, has triggered into an Extended Benefit "on" period, having the first week payable the week beginning December 8, 1991. However, this extended benefit period coincides with an emergency unemployment compensation period under the Emergency Compensation Act of 1991. Section 101 (e) of the Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) authorizes the Governor of a State to trigger off an extended unemployment compensation period in order to provide payment of Emergency Unemployment Compensation to individuals who have exhausted their rights to regular compensation under the law.

Emergency Unemployment Compensation is funded entirely from federal funds whereas the Extended Benefits program is 50% funded by Alaska employers through the State UI Trust Fund and 50% from federal funds. Additionally, claimants eligible for Emergency Unemployment Compensation will qualify for more benefits than under the Extended Benefits program. It is necessary for the general welfare of the public to provide payment of Emergency Unemployment Compensation in lieu of Extended Benefits. AS 23.20.005 requires that AS 23.20 be liberally construed to accomplish its purposes. The accumulation of reserves in the State UI Trust Fund for the payment of benefits is specifically listed as a specific purpose of the chapter.

Additionally, AS 23.20.080 requires the Department's cooperation with the Secretary of Labor through the adoption of regulations and other methods and standards that are necessary to obtain all advantages available for the state and its citizens under 26 U.S.C. 3303 and 3304 (Internal Revenue Code). Paying benefits under the Extended Benefits program will burden Alaskan employers and deplete Alaska's UI Trust Fund. The benefits paid under the Emergency Unemployment Compensation program will be fully provided by the Federal government. Preserving UI Trust Funds will result in lower tax rates for employers under Alaska Law. This emergency regulation is adopted under the requirements of AS 23.20.080 in order to obtain an advantage for the citizens of Alaska through the employer tax rating which is controlled by 26 U.S.C. 3303.

The provisions of AS 23.20.353 (State Supplemental Benefits) will remain in effect since those claimants found ineligible for Extended Benefits would also be found ineligible for Emergency Unemployment Compensation. This Alaska provision is not affected by the federal legislation.

## ADOPTION ORDER

Under authority of AS 23.20.045, the regulation is therefore adopted as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.52.180(3).

# **CORRECTION**

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

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS  
OF THE ALASKA DEPARTMENT OF LABOR

As required by AS 44.62.250, notice is given that, under the authority of AS 23.20.005, 23.20.045, and 23.20.080, the Department of Labor adopted on December 9, 1991, as an emergency regulation, 8 AAC 85.045, relating to Emergency Unemployment Compensation Trigger. The new regulation permits the state to trigger off an extended unemployment compensation period as defined in AS 23.20.408 so that payments of Emergency Unemployment Compensation may be provided to individuals who have exhausted their rights to regular unemployment benefits.

This regulation takes effect December 10, 1991.

This action is not expected to require an increased appropriation.


Notice is also given that any person interested may present written statements and arguments relevant to the proposed action by writing to the Director, Employment Security Division, P.O. Box 25509, Juneau, Alaska 99802, to be received no later than January 16, 1992.

Copies of the emergency regulation may be obtained by telephoning or writing to:

Employment Security Division  
Department of Labor  
P.O. Box 25509  
Juneau, AK 99802  
ATTN: Jane Waid  
Telephone: (907) 465-4531

12/10/91

DATE

  
\_\_\_\_\_  
John Abshire, Acting Commissioner  
Department of Labor

Chapter

85. Employment Security  
(8 AAC 85.010 - 8 AAC 85.500)

CHAPTER 85.  
EMPLOYMENT SECURITY

8 AAC 85.045. EMERGENCY UNEMPLOYMENT COMPENSATION TRIGGER. (a) The department may at the direction of the Governor, in compliance with Section 101 (e) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164), and in order to enable the citizens of the State to obtain advantages available under 26 U.S.C. 3303 (Internal Revenue Code), trigger off an extended unemployment compensation period as defined in AS 23.20.408 so that payments of Emergency Unemployment Compensation may be provided to individuals who have exhausted their rights to regular unemployment benefits.

(b) The provisions of (a) do not affect the payment of Supplemental State Benefits as defined in AS 23.20.353, as long as the conditions of an "on" indicator, as described in AS 23.20.408(f) are present in the state.

(c) When Emergency Unemployment Compensation is no longer available, the department, at the direction of the Governor, may trigger "on" an Extended Benefits period, if the criteria of AS 23.20.408 are otherwise met.

Authority: 23.23.005  
23.20.045  
23.20.030

## FINDING OF EMERGENCY

The Department of Labor, Division of Employment Security finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency are as follows:

The Department of Labor has determined that the State of Alaska, under AS 23.20.408, has triggered into an Extended Benefit "on" period, having the first week payable the week beginning December 8, 1991. However, this extended benefit period coincides with an emergency unemployment compensation period under the Emergency Compensation Act of 1991. Section 101 (e) of the Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) authorizes the Governor of a State to trigger off an extended unemployment compensation period in order to provide payment of Emergency Unemployment Compensation to individuals who have exhausted their rights to regular compensation under the law.

Emergency Unemployment Compensation is funded entirely from federal funds whereas the Extended Benefits program is 50% funded by Alaska employers through the State UI Trust Fund and 50% from federal funds. Additionally, claimants eligible for Emergency Unemployment Compensation will qualify for more benefits than under the Extended Benefits program. It is necessary for the general welfare of the public to provide payment of Emergency Unemployment Compensation in lieu of Extended Benefits. AS 23.20.005 requires that AS 23.20 be liberally construed to accomplish its purposes. The accumulation of reserves in the State UI Trust Fund for the payment of benefits is specifically listed as a specific purpose of the chapter.

Additionally, AS 23.20.080 requires the Department's cooperation with the Secretary of Labor through the adoption of regulations and other methods and standards that are necessary to obtain all advantages available for the state and its citizens under 26 U.S.C. 3303 and 3304 (Internal Revenue Code). Paying benefits under the Extended Benefits program will burden Alaskan employers and deplete Alaska's UI Trust Fund. The benefits paid under the Emergency Unemployment Compensation program will be fully provided by the Federal government. Preserving UI Trust Funds will result in lower tax rates for employers under Alaska Law. This emergency regulation is adopted under the requirements of AS 23.20.080 in order to obtain an advantage for the citizens of Alaska through the employer tax rating which is controlled by 26 U.S.C. 3303.

The provisions of AS 23.20.353 (State Supplemental Benefits) will remain in effect since those claimants found ineligible for Extended Benefits would also be found ineligible for Emergency Unemployment Compensation. This Alaska provision is not affected by the federal legislation.

## ADOPTION ORDER

Under authority of AS 23.20.045, the regulation is therefore adopted as an emergency regulation to take effect immediately upon filing by the lieutenant governor as provided in AS 44.52.180(3).

This action is not expected to require an increased appropriation.

DATE: 12/9/91  
Juneau, Alaska

John A. Abshire  
Name

FILING CERTIFICATION

I, John B. Coghill, Lieutenant Governor for the State of Alaska, certify that on December 10<sup>th</sup>, 1991, at 2:40 ~~pm.~~ am., I filed the attached regulations according to the provisions of AS 44.62.

[Signature]  
Lieutenant Governor

for John B. Coghill

Effective \_\_\_\_\_  
Register \_\_\_\_\_

S B

3 5 5

# Alaska State Legislature



3111 C STREET, SUITE 550  
ANCHORAGE, ALASKA 99503  
(907) 561-7615

While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818


SENATOR  
ARLISS STURGULEWSKI

Senate

MEMORANDUM

March 5, 1992

TO: Representative David Finkelstein  
Chairman, House Labor and Commerce Committee

FROM: Senator Arliss Sturgulewski   
Senate District F

I would greatly appreciate your scheduling of Senate Bill 355 which extends the sunset date of the Alaska Regional Economic Assistance Program.

This program encourages the formation of regional development organizations which address the economic problems of specific regions of the state and coordinate private and public resources to support economic development on a regional basis. In addition, the program provides ongoing assistance for local economic diversification and development efforts, encouraging regions of the state to become economically self-sufficient.

Attached is information about Alaska Regional Development Organizations, resolutions of support, and a Division of Business Development fiscal note for FY 1994 - FY 1997. The program is already included in the Governor's FY 1993 budget. This is a successful program and worthy of extension. The Senate passed SB 355 on March 3, 1992 by a vote of 17-1.

Please call Richard Rainery of my staff if you have any questions. Thank you.

SB 355: "An Act to extend the Alaska Regional Economic Assistance Program."

The Alaska Regional Economic Assistance Program was created in statute in June 1988. The program was designed to facilitate economic development at the regional and local levels by establishing a network of designated public/private economic development organizations. These organizations, which came to be called Alaska Regional Development Organizations (ARDORs), are charged with developing and implementing strategies to encourage economic development within their regions. The program's underlying goal is the creation of private sector employment through local economic development and capacity building. The statute allows up to fifteen ARDORs to be designated statewide and provides matching grants of up to \$50.0 per year to each organization. Administrative support for the program, as well as professional and technical assistance to the ARDORs, are provided by staff of the Division of Economic Development. On the assumption that the ARDORs could become operationally and financially self-sufficient after five years of state support (FYs 89-93), the program was scheduled for repeal in July 1993.

Although some ARDORs have been operational since FY 89, many have come into existence within the last year and two significant regions of the state are still in the process of structuring appropriate organizations. ARDORs now encompass 67 percent of the state's land area and 93 percent of its population. Nearly 200 community and business leaders throughout the state serve on ARDOR boards of directors. While the goal of creating self-sufficient regional entities remains, it is the position of this department that it is in the best interest of the state to continue this modest level of support to a highly successful and popular program that is making a significant contribution to encouraging local responsibility for economic development planning and program implementation.

The department recommends extending the Alaska Regional Economic Assistance Program to July 1997.

*Glenn A. Olds*  
Glenn A. Olds, Commissioner  
Date: 2-6-92

FISCAL NOTE

STATE OF ALASKA  
1692 LEGISLATIVE SESSION

BILL NO. SB 355

Revision Date: 2/24/92  
Title: An Act to extend the Alaska Regional  
Economic Assistance Program  
Sponsor: Senator Sturgulewski  
Requestor: Senator Sturgulewski

Department Affected: Commerce & Econ. Dev.  
BRU: Economic Development  
Component: \_\_\_\_\_

COMPONENT SERIAL NO. 

8	0	1
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES		195.2	195.2	195.2	195.2	
TRAVEL		30.7	30.7	30.7	30.7	
CONTRACTUAL		35.0	35.0	35.0	35.0	
SUPPLIES		3.0	3.0	3.0	3.0	
EQUIPMENT		5.0	5.0	5.0	5.0	
LAND & STRUCTURES						
GRANTS, CLAIMS	0	750.0	750.0	750.0	750.0	0
MISCELLANEOUS						
TOTAL OPERATING	0	1,018.9	1,018.9	1,018.9	1,018.9	0

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

REVENUE FUND RESOURCE:						
------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,018.9	1,018.9	1,018.9	1,018.9	0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	1,018.9	1,018.9	1,018.9	1,018.9	0

POSITIONS:

FULL-TIME	3	3	3	3	3	
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS (Attach a separate page if necessary.)  
  
SEE ATTACHED

Post-It™ brand fax transmittal/memo 7671 # of pages > 2

To: <u>Sen. Sturgulewski</u>	From: <u>D. Hallouk</u>
Co. _____	Co. _____
Dept. _____	Phone # <u>X 2500</u>
Fax # <u>465-3310</u>	Fax # _____

Prepared By: Tom Lawson, Section Chief Phone: 465-2011  
Division: Economic Development Date: \_\_\_\_\_  
Approved by Commissioner: Glenn A. Olds  
Agency: Department of Commerce & Economic Development Date: 2-24-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).  
Page 1 of 2

## FISCAL NOTE - SB 355

### ANALYSIS:

This program is fully funded in the Governor's FY 93 Budget Request. Therefore, the fiscal impact of this bill does not arise until FY 94 and ends with FY 97.

Full funding of \$50.0 for 15 ARDORs per year is provided. In addition, funding is provided for support staff consisting of two development specialist positions and partial funding for an additional position as well as limited travel and contractual services expenses. These positions are critical to the success of the ARDOR program as they, in effect, serve as extensions of the ARDORs' own limited staffs, enhancing their abilities to develop and implement programs, access available resources and analyze the potential costs/benefits of proposed economic development projects. These services are particularly important to the rural Alaska ARDORs (10 of the 13 now designated) whose limited resources can be more productively channeled if they do not have to maintain this level of expertise "on site."

ARDORs are the critical linkage between local communities and state government for the examination and determination of economic development policy and promotion of economic self-sufficiency. Retention of the three positions is vital as they actively assist each ARDOR and coordinate the functions of the ARDOR program with other division and department programs.

The support budget also allows the Division of Economic Development to facilitate interregional coordination and training through monthly teleconferences and quarterly meetings with ARDOR executives, and an annual statewide workshop for all ARDOR boards and staff.

If funding is not authorized, these positions and supporting coordination programs will be eliminated and the division will be forced to limit its role solely to the administration of the pass through grants referenced above.

TL/dg11394D  
022492a



# Southwest Alaska Municipal Conference

*Putting Resources to Work For People*

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

## RESOLUTION 92-4

**A RESOLUTION IN SUPPORT OF SENATE BILL NO. 355 AND URGING ADOPTION OF AN AMENDMENT TO INCREASE FUNDING AVAILABLE TO INDIVIDUAL ARDOR PROGRAMS**

**WHEREAS, authorization of the Alaska Regional Development Organization Program expires in 1993; and**

**WHEREAS, the purpose of the ARDOR program is to facilitate economic development at regional and local levels by establishing a network of regional development organizations designed to advance local control of economic development efforts and increase the flow and retention of dollars in local economies; and**

**WHEREAS, the ARDOR program currently provides matching grants of up to \$50,000 per year for financial assistance to each designated regional development organization; and**

**WHEREAS, the authorizing legislation allows for a maximum of fifteen regional development organizations to be funded in any year; and**

**WHEREAS, there are fourteen designated and funded regional development organizations now in operating throughout Alaska; and**

**WHEREAS, the \$50,000 level of funding per ARDOR is inadequate for operation as an effective economic development organization; and**

**WHEREAS, the Alaska Municipal League is in support of increasing the per-ARDOR funding level to \$100,000; and**

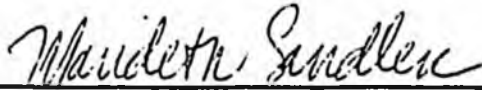
**WHEREAS, Senator Sturgulewski has introduced Senate Bill No. 355 to extend the Alaska Regional Economic Assistance Program to July 1, 1997.**

**NOW, THEREFORE, BE IT RESOLVED, that the Southwest Alaska Municipal Conference urges passages of Senate Bill No. 355 and urges adoption of an amendment to increase the funding level for each ARDOR organization to \$100,000.**

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE  
THIS 19th DAY OF JANUARY, 1992.



Richard G. Wilson, President



Marideth Sandler, Executive Director



**ANCHORAGE  
ECONOMIC  
DEVELOPMENT  
CORPORATION**

February 20, 1992

Honorable Arliss Sturgulewski  
Alaska Senate  
State Capitol  
Juneau, AK 99801-1182

Dear Arliss:

The Anchorage Economic Development Corporation supports Senate Bill 355, an act to extend the Alaska Regional Economic Assistance Program until July 1, 1997.

The ARDOR program is important because it encourages local initiative to foster economic development. The local development entities are best equipped to understand the economic strengths and weaknesses of an area, and to determine the most efficient funding allocation to build on these strengths. In many areas of Alaska, the economic development entities would not exist without the ARDOR program.

For AEDC, the ARDOR program provides a significant component of our annual funding, and without it we would be forced to drop programs that are vital to our efforts to create jobs and diversify the Anchorage and Southcentral economy. AEDC's tourism destination, light manufacturing and seafood development programs are all funded in part by the ARDOR. The successful Ship Creek and Alyeska Ski Resort projects are just two of the projects that were funded in part by ARDOR, and together will combine for almost 650 jobs for the Southcentral region.

The ARDOR program has not only been helpful to AEDC in creating jobs in the Southcentral region, but has also been helpful in establishing essential economic development programs throughout Alaska. This economic development will help to sustain the Alaska economy as the State suffers decreasing revenues and is forced to decrease funding.

Thank you for your consideration of Senate Bill 355.

Sincerely,

Scott E. Hawkins  
President

**Resolution of the Alaska Municipal League**

**Resolution No. 92-11**

**A RESOLUTION SUPPORTING ADEQUATE FUNDING  
FOR THE ALASKA REGIONAL  
DEVELOPMENT ORGANIZATION PROGRAM**

WHEREAS, the Alaska Municipal League endorses programs and policies that promote the creation and implementation of community based economic development programs, and

WHEREAS, in 1988 the Alaska Regional Development Organization (ARDOR) program was established within the Alaska Department of Commerce and Economic Development, and

WHEREAS, the purpose of the ARDOR program is to facilitate economic development at regional and local levels by establishing a network of regional development organizations designed to advance local control of economic development efforts and increase the flow and retention of dollars in local economies, and

WHEREAS, the ARDORs are designed to play a critical role in the formulation of state economic development policy and in the delivery of economic and business development services within the regions, and

WHEREAS, the ARDOR program currently provides matching grants of up to \$50,000 per year for financial assistance to each designated regional development organization, and

WHEREAS, the authorizing legislation allows for a maximum of fifteen regional development organizations to be funded in any year, and

WHEREAS, there are fourteen designated and funded regional development organizations now in operation throughout Alaska, and

WHEREAS, the Division of Economic Development within the Department of Commerce and Economic Development, which administers the ARDOR program, estimates that at least fourteen regional development organizations will be operational within the next year.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5481

February 18, 1992

## Position Paper

### SB 355 - Extend the Alaska Regional Assistance Program

The Alaska Municipal League supports SB 355, an Act to extend the Alaska Regional Economic Assistance Program until July 1, 1997. In addition, the Alaska Municipal League supports an amendment to the legislation to allow grants of up to 100,000 and requests \$1.4 million in funding for the Alaska Regional Development Organization or ARDOR program (see AML Resolution No. 92-11 attached).

The Alaska Regional Development Organization or ARDOR program under AS 44.33 has been successful in advancing local control of economic development efforts and in increasing the flow and retention of dollars in local economies. Although there are now 14 ARDOR's across the state, many are still in their formative stages. Two areas of the state do not have active ARDOR's but organizational efforts are underway. Additional time and money are needed to ensure the successful development and operation of ARDOR's across Alaska.

The current program will "sunset" July 1, 1993. Under AS 44.33, the Department of Commerce and Economic Development may provide up to \$50,000 in matching development grants to up to fifteen regional development organizations per year. In FY 92, there is \$617,000 authorized. There are 13 designated and operational ARDOR's receiving state matching funds. With the continuation of the program and continued and increased funding, the state can continue a real, successfully demonstrated, and critical role in the formulation of state economic development policy and in the delivery of economic and business development services within the state.

AML supports SB 355. The League also requests that the legislation be amended to provide for grants of up to \$100,000 under the Alaska Regional Economic Assistance Program and for the program be funded at \$1.4 million in FY 93.

Attachment

c:ardorsb.355

# **Alaska Regional Development Organizations Program**

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Division of Economic Development  
Department of Commerce and Economic Development



## **ARDOR**

**SHAPING ALASKA'S FUTURE**

9th Floor, State Office Building  
Juneau, Alaska 99811  
(907) 465-2017

3601 C Street, Suite 724  
Anchorage, Alaska 99503  
(907) 563-2165

# Alaska Regional Development Organizations Program

Division of Economic Development  
Department of Commerce & Economic Development

Revised November 1991

- ◆ Kenai Peninsula Borough Economic Development District
  - ◆ Southwest Alaska Municipal Conference
  - ◆ Anchorage Economic Development Corporation
  - ◆ Southeast Conference
  - ◆ Northwest Arctic Borough Economic Development Commission
  - ◆ Bering Straits Economic Council
  - ◆ Interior Alaska Economic Development Council
  - ◆ Arctic Development Council
  - ◆ Kuskokwim Economic Development Council
  - ◆ Copper Valley Economic Development Council
  - ◆ Lower Kuskokwim Economic Development Council
  - ◆ Prince William Sound Economic Development Council
  - ◆ Lower Yukon Economic Development Council
- Proposed yet unapproved



## **ALASKA REGIONAL DEVELOPMENT ORGANIZATIONS PROGRAM**

The Alaska Regional Development Organizations (ARDOR) Program was established in statute in June 1988. Designed to facilitate economic development at the regional and local levels through a network of designated public/private economic development organizations, the program's underlying goal is the creation of private sector employment through local economic diversification and capacity building. The program reflects the "bottom up" approach to economic development which holds that sound economic development policy arises from local determination of economic development needs and priorities. **The statute allows up to 15 ARDORs statewide and only one organization may be designated within a region.** ARDORs must demonstrate their broad-based public and private sector support and they must prepare a detailed program of work to address regional economic development issues. **Matching grants of up to \$50,000 per year are available to designated ARDORs.** Technical and professional support services are provided to ARDORs by staff of the Division of Economic Development.

### **ARDOR FACTS**

- o **13 ARDORs have been designated since 1989**
- o **93% of Alaska's population is represented within ARDORs**
- o **67% of Alaska's land area is included within ARDORs**
- o **Nearly 200 community leaders serve on ARDOR boards of directors**
- o **ARDOR program costs the state less than \$1.40 per capita**
- o **ARDORs encourage and support local responsibility for economic development planning and economic self-sufficiency**
- o **ARDORs are creating new jobs in every region**
- o **ARDORs are supporting new and expanded businesses in every region**
- o **ARDORs are supporting business education in Alaska's school systems**
- o **ARDORs are a critical linkage between local communities and state government for the examination and determination of economic development policy**

### **DESIGNATED ARDORs**

- o **Kenai Peninsula Borough Economic Development District**
- o **Southwest Alaska Municipal Conference**
- o **Anchorage Economic Development Corporation**
- o **Southeast Conference**
- o **Northwest Arctic Borough Economic Development Commission**
- o **Bering Straits Economic Council**
- o **Interior Alaska Economic Development Council**
- o **Copper Valley Economic Development Council**
- o **Kuskokwim Economic Development Council**
- o **Arctic Development Council**
- o **Lower Kuskokwim Economic Development Council**
- o **Prince William Sound Economic Development Council**
- o **Lower Yukon Economic Development Council**

**DESIGNATED ARDORS  
POPULATION AND LAND AREA**

<u>Designated ARDOR</u>	<u>Population (est.)</u>	<u>Area (sq. mi.)</u>
Anchorage EDC	237,900	2,000
Arctic Slope DC	8,300	95,000
Bering Strait EC	10,000	26,000
Copper Valley EDC	2,500	17,000
Interior Alaska EDC	75,000	13,100
Kenai Borough EDD	40,800	25,600
Kuskokwim EDC	2,000	16,000
Lower Kuskokwim EDC	12,100	24,000
Lower Yukon EDC	5,500	23,000
NW Arctic Borough EDC	6,100	39,000
Pr. William Sound EDC	7,400	12,750
Southeast Conference	70,000	35,500
SW Alaska Munic. Conference	33,500	62,500
<b>Totals:</b>	<b>511,100</b>	<b>391,450</b>
<b>Base:</b>	<b>550,000</b>	<b>586,000</b>
<b>Total as Percent of Base:</b>	<b>93%</b>	<b>67%</b>

**Alaska Regional Development Organizations  
Representative  
Economic Development/Capital Projects  
January 1992**

**Anchorage Economic Development Corporation**

Designated: April 11, 1989

- \* Ship Creek Basin Redevelopment Project
- \* Petroleum Visitors Center
- \* Girdwood Water System Expansion/Alyeska Prince Hotel
- \* Semiconductor Manufacture/Software Development Industry Promotion
- \* Development of Anchorage as a Fish Processing, Transport and Industry Service Center

**Arctic Development Council**

Designated: March 1, 1991

- \* Anaktuvuk Pass Lodge and Visitor Center
- \* Business Development Technical Assistance Resulting in the Expansion or Startup of Local Transportation, Retail Grocery, Bed & Breakfast, and Marine Salvage Businesses in Barrow and Pt. Hope

**Bering Straits Economic Council**

Designated: January 11, 1990

- \* Shishmaref Tannery Development & Marketing
- \* Geophysical/Geological Mapping of Seward Peninsula
- \* Port of Nome Development
- \* Norton Sound Aquaculture Association
- \* Elim Fish Hatchery
- \* Regional Capital Projects Inventory
- \* DOD Hazardous Materials Removal Project/Workforce Certification

**Copper Valley Economic Development Council**

Designated: November 1, 1990

- \* Glennallen/Delta Electric Power Transmission Line
- \* Copper Valley Summer Theater/Young Entrepreneur Program

**Interior Alaska Economic Development Council**

Designated: January 31, 1990

- \* Alaska Railroad Spur and Loading Dock, Fairbanks
- \* Ester Historical Restoration Project

- \* Native Heritage Park and Tourism Facility, Nenana
- \* Fairbanks Hospital Expansion Project
- \* Technical Assistance to Over 472 Businesses and Nonprofits Establishing or Expanding Businesses in Alaska

**Kenai Peninsula Borough Economic Development District**

Designated: February 22, 1989

- \* Development of Kachemak Bay Shellfish Industry
- \* Beluga Coal Fields Development
- \* Harvest and Marketing of Beetle Killed Timber
- \* Paint River Fish Ladder Development Project
- \* Kenai Bicentennial Visitor and Cultural Center Development
- \* Homer and Seward Port Development Projects

**Kuskokwim Economic Development Council**

Designated: February 15, 1991

- \* Kalskags Gravel Quarry Development and Work Force Training Project
- \* Russian Mission Truck Farm Development and Produce Marketing Project
- \* Sleetmute Restaurant and Lodging Facility Development

**Lower Kuskokwim Economic Development Council**

Designated: September 17, 1991

This new ARDOR held its first board of directors meeting in December, 1991. In addition to producing community economic profiles and a regional economic development strategy the ARDOR is presently involved in the following regional development activities.

- \* Kuskokwim Fisheries Market Development
- \* False Pass Fishery Intercept Issue

**Lower Yukon Economic Development Council**

Designated: November 1, 1991

This new ARDOR will hold its first board of directors meeting and select an executive director in early February, 1992. The board will chart the course of work for the LYEDC for the following year, including the production of community economic profiles and a regional economic development strategy.

**Northwest Arctic Borough Economic Development Commission**

Designated: June 28, 1989

- \* Upper Kobuk Birch Bark Basket & Dog Sled Cooperative

- \* Northwest Arctic Borough Aquaculture Association
- \* Expansion of Sikisulaq Springs Hatchery
- \* Regional Ecotourism Development Plan (NPS)

**Prince William Sound Economic Development Council**

Designated: November 1, 1991

This new ARDOR held its first organizational meeting in November, 1991, at which a board of directors was elected and an executive director hired. In addition to commencing work on community economic profiles and production of a regional development strategy, the PWSEDC is involved in the following activities.

- \* Valdez Fisheries Association, Value Added Processing Project
- \* Technical Assistance to Individual Businesses Throughout Region

**Southeast Conference**

Designated: April 14, 1989

- \* AMHS 20 Year System Plan, Full Funding and Implementation
- \* Value Added Salmon Processing Utilizing New Microwavable Can Technology
- \* Tongass Land Management Plan, Evaluation, Alternatives, Lobbying
- \* Alaska/Canada Access Projects, Taku River and Bradfield Canal

**Southwest Alaska Municipal Conference**

Designated: April 6, 1989

- \* Establishment of Southwest Alaska Tourism Council to Implement Regional Tourism Marketing Program
- \* Recycling/Waste Management Studies to Identify Associated Business Opportunities and Implement Reduction Recommendations
- \* Research, Education and Lobbying Activities to Insure Shoreside Allocation of Regional Fish Resources

## Encouraging ARDOR

Concerned about economic development in your region, but leery of getting involved with yet another government program? Wondering if there's support in your area for a new business and, if so, how to go about financing it? If you're nodding your head yes, you might want to check to see if a regional development agency has been organized in your area. Chances are good that one has and that its staff can help answer your questions.

The Alaska Regional Development Organizations Program was established by state legislators in 1988 in the hope it would foster economic development at a local and regional level – in other words, from the bottom up. The statute allowed for up to 15 ARDORs, each with its own board of directors, office and agenda, to be established statewide.

Since the first programs were designated in 1989, 13 ARDORs have been formed. Together these regional economic development organizations represent 91 percent of the state's population and 67 percent of its area. The Matanuska-Susitna Valley and a large portion of the Interior – excluding Fairbanks – remain unorganized. Those involved with the program hope that will soon change.

The newest ARDORs to join the program are the Prince William Sound and Lower Yukon economic development councils. Both joined the program Nov. 1.

Jayne Sontag, executive director of the Prince William Sound Economic Development Council, sees the organization as a way for communities in the sound to work together on issues affecting them all. In the past, says Sontag, towns and villages in the area have tended to look out for themselves and work independently.

Now there's a means for them to pull together and look at economic issues vital to the entire region. Top priorities for the newly formed ARDOR will be to strengthen the pink salmon industry and to encourage the development of small businesses. It also will work with existing groups to promote tourism.

"I was just very impressed," says Sontag of the cooperative attitude displayed at a recent council meeting. "My board of directors said, 'We've been wanting to do this for 10 years.'"

Those involved with the statewide ARDOR program, including state coordinator Terry Miller, are convinced that building economic development plans from the basement up is the most efficient approach. "We very often have the state come up with a plan and then it trickles down to the local level," says Miller, who's been with the program about two years. "This is a bottom-up approach. People locally know what they need, what they can do and what their resources are."

The program is monitored by the state Department of Commerce and Economic Development. The department approves applications from potential

ARDORs, offers them technical assistance and may allocate up to \$50,000 annually in matching grants to an ARDOR.

Despite the department's involvement, Miller stresses that the program is not another state-run project. Each ARDOR is an independent, incorporated, non-profit organization governed by a volunteer board of directors composed of both public- and private-sector representatives. And coming up with the matching funds necessary to secure a grant forces an ARDOR to muster the regional support necessary to make the program work, says Dan Golden, a development specialist with the department.

"We've really created economic states within the state," says Golden, in explaining the latitude given to each ARDOR. And individual communities within a region are realizing they can accomplish more together than apart.

Although each ARDOR must develop a strategic plan addressing the needs of its area, certain themes are common to most, say Miller and Golden. Everyone, says Miller, is interested in waste management and how to best participate in recycling programs. These subjects are of particular interest to those ARDORs in the Bush. Developing mineral resources, including fishing and timber, also is important to several groups. Tourism is another hot topic.

Donna Tollman, executive director of the Copper Valley Economic Development Council, says tourism development is a major theme in her area. "We've determined we're a pass-through location and not a destination, so we're working on that." Visitors must have a reason to come to the Copper Valley and something to do once they've arrived, says Tollman. Ideas being considered include developing a year-round, eco-tourism industry that attracts ecologically friendly participants such as wildlife observers and photographers, putting on a summer theater production and identifying hiking trails within walking distance of area hotels.

The council, which represents an area that includes Glennallen and Kennicott, wants to improve the region's quality of life by supporting existing businesses, creating employment and encouraging people to start new businesses, says Tollman, owner of a Sears catalog store and a Glennallen clothing store. Residents want to maintain the area's quiet and peaceful atmosphere while strengthening the economy. Gradually, says Tollman, she and the ARDOR board are seeing changes.

"People here are really excited," says Tollman, who emphasizes that the Copper Valley council represents the concerns of the entire region and not just Glennallen. "Slowly but surely we're turning the (initial) skepticism into positive energy. We're really seeing some changes."

- Robin Mackey Hill

# State readies Bush for life after oil goes

## Grant program plants seeds for future development, jobs

By HAL BERNTON  
Daily News Business reporter

Along the middle reaches of the Kuskokwim River, villagers looking for more cash to supplement subsistence lifestyles have joined an arts and crafts cooperative.

In the Glennallen area, a day-care center provides a helping hand to rural mothers looking to join the work force.

Floating off the Kenai Peninsula, shellfish farms of oysters and mussels may provide a new source of jobs and income for coastal residents.

These are some of the tiny engines of rural development the state Commerce Department hopes to nurture through a modest \$750,000-a-year program begun in 1989.

The program provides seed grants of \$50,000 that must be matched by another \$50,000 from local sources.

The money is allocated through regional development groups overseen by boards drawn from Native corporations, boroughs, non-profit associations and other local groups.

"It's something that has been happening very quietly, not with a lot of red banners," said Paul Fuhs, state director of economic development.

Much of rural Alaska is heavily dependent on public assistance programs. And state officials say they hope that these regional councils — with strong participation from local leaders — can trigger grass-roots development that may help carry communities into a 21st century when state oil revenue is expected to dwindle and the state pipeline of funds to rural communities might be drying up.

On Friday morning, Fuhs

Please see Page D-6. **SEEDS**

# SEEDS: Getting ready for life after oil

Continued from Page D-1

gathered with executive directors of the development groups to review current projects and plans for the future.

In some areas, the development organizations predate the 1989 program and are already well-established.

But most of the organizations have been created within the last two years and are just beginning to work with rural residents on new projects.

The following describes projects some councils are pursuing.

**Copper River Economic Development Council.** Donna Tollman, executive director, said ideas have been "exploding all around us" since the group was formed late last year.

The council set up a day-care center to help mothers who wanted to enter the work force and has targeted power rates — which are some of the highest among Alaska communities connected to highways — as a major stumbling block to new development.

The council also is working on a theater project for summer tourists and a possible Native cultural center in the Glennallen area.

**Kuskokwim Economic Development Council.** The Aniak-based council faces the stark task of finding development opportunities among the isolated villages of western Alaska.

Jeannie Wooderson, executive director, said the council has formed an arts and crafts cooperative and is looking to develop a mail-order catalog to market products nationwide. The ca-

talog may target Japanese corporations and business that frequently give gifts.

The council also is looking at commercial berry operations along the Kuskokwim. The region already has abundant wild blueberry patches, and the council is asking state agricultural officials to enhance the productivity of those patches and to develop commercial strawberry, raspberry and currant production.

**Northwest Economic Development Commission.** A major goal in the Kuskokwim area, subsistence hunting and fishing, remains a major pursuit of many residents in northwest Alaska. And a major goal of the Kotzebue-based council is to find ways to reduce the high cash cost of fuel and other essentials that are brought in from outside.

But opportunities for new economic development also exist.

A new Northwest Alaska hatchery is enhancing river systems with chums, and a regional aquaculture association may be formed to help expand commercial salmon harvests.

And with the increasing popularity of snowmobiles comes a need for village repair shops, according to Bill Spencer, executive director.

**Southwest Alaska Municipal Conference.** Marideth Sandler, executive director, said the group is working on fishery development projects that would add value to seafood caught locally. The group also is working on recycling projects and "ecotourism" that would spotlight the region's fish and wildlife.

# **ALASKA**

**DEPARTMENT OF COMMERCE  
AND ECONOMIC DEVELOPMENT**

**DIVISION OF BUSINESS DEVELOPMENT**

## **ALASKA REGIONAL ECONOMIC ASSISTANCE PROGRAM**

### **GUIDELINES**

The purpose of the Alaska Economic Assistance Program is to encourage the formation of Alaska Regional Development Organizations (ARDORs) that address the economic problems of specific regions of the state; coordinate private and public resources to support economic development on a regional basis; provide the state with information on regional economic issues and opportunities; and provide assistance to local economic diversification and development efforts to encourage economic self sufficiency among regions of the state.

Matching grants of up to \$50,000 per year for financial and technical assistance will be provided to each regional organization that qualifies.

The program is administered by the Department of Commerce and Economic Development, Division of Business Development. The Department stands ready to assist the Regional Organization in both the organization and operation of the ARDOR by providing information, data and technical assistance. This includes but is not limited to:

1. information, procedures, forms and other materials as required, on how to apply and qualify for Alaska regional development;
2. counselling and technical assistance to the regional economic organization in establishing and operating an Alaska regional development organization program; and
3. available data and information on the region's economy in support of the regional organizational efforts.

### **APPLICATION PROCEDURES**

Applications for ARDOR designation and funding must be submitted on forms provided by the Department of Commerce and Economic Development.

#### **Who May Apply:**

The Department will accept applications from any organizations wishing to be designated as an ARDOR for a specific region and receive funding, as long as the applicant meets one of the following criteria:

1. A nonprofit corporation, including a regional Native non-profit corporation;
2. An association which can be composed of municipal governments, chambers of commerce, and/or local or regional development councils; or
3. A body formed by an organized municipality.

An Economic Development District formally recognized by the Economic Development Administration is automatically designated the ARDOR for the region it serves, but the district must still file an application for such designation.

(Revised 3/13/89)

The potentially thorny issues of delineating regions and recommending representative organizations is NOT the role of the state or the department. It makes much more sense that the establishment of regional boundaries and the development of ARDORS occur through local initiative. Each region should consist of communities with similar or related economic problems and opportunities and with the ability to work together to achieve common goals.

#### **Where to Apply:**

Division of Business Development  
Department of Commerce and  
Economic Development  
P.O. Box D  
Juneau, Alaska 99811  
Phone: (907) 465-2017

Division of Business Development  
Department of Commerce and  
Economic Development  
3601 C Street, Suite 722  
Anchorage, Alaska 99503  
Phone: (907) 563-2165

#### **What to Submit:**

Applications for designation as an ARDOR or for funding must be on forms provided by the Department of Commerce and Economic Development, Division of Business Development (see attached).

**Application for ARDOR Designation.** This application is used by applicants for the designation of an applicant as an ARDOR. In addition to the application form itself, the applicant will be required to submit the following:

1. A map delineating regional boundaries;
2. Regional population information;
3. A list of the membership of the Board of Directors for the ARDOR;
4. Bylaws of the regional organization;
5. Formal resolutions supporting the application;
6. A detailed project proposal and work program; and
7. Copy of the nonprofit incorporation papers.

**Application for ARDOR Funding.** This application will be used by applicants for funding the ARDOR program. A detailed budget for 12-month project period including identification of the source(s) of non-state matching funds must be included. For first year funding, a funding application should be submitted with the application for ARDOR designation.

#### **When to Apply:**

Applications for ARDOR designation and funding will be accepted by the department on a year-round basis. Funding applications will be processed on a "first come, first served" basis, until the appropriated funds are depleted.

#### **Review Criteria:**

**Application for ARDOR Designation.** When an APPLICATION FOR ARDOR DESIGNATION is received by the department, it will be evaluated to see if it complies with the program statutes and regulations, summarized below.

1. **Regional Size**—3 AAC 57.040 and AS 44.33.026(a)(2). The regional map and population information submitted must address the following information.

In general the region must form an economically viable unit with shared interests, resources, traditions, and goals. The region must contain the entire area of each municipality within the region and include at least one community with a population of 2,500 or more which serves as a regional supply, transportation, and financial hub. The region must be at least 12,000 square miles in area or have a total area population of 80,000 or more.

If the regional economic center does not include a population of at least 2,500 people, then supplementary information must be provided to justify that there is sufficient population and resources within the region to fulfill the intent of the program.

2. **Board Representation**—3 AAC 57.050 and AS 44.33.026(e). The board membership description should provide evidence that the region's economic, political and social interests are represented. The proposed board of directors should have both public and private sector representation on the board, including elected officials, business, service industries, transportation, labor, professions and educational institutions.
3. **Bylaws and Non-Profit Incorporation Papers**—3 AAC 57.060(a). The bylaws of the organization must be submitted and at a minimum, should describe: purpose of organization, board of directors, election of officers, duties of officers, meetings, and adoption and amendment of bylaws. If the organization has incorporated under the laws of the State of Alaska, a copy of the articles of incorporation should be provided. (Incorporation is not necessary.)
4. **Formal Resolutions supporting the Application**—3 AAC 57.060(a). Copies must be provided of formal resolutions supporting the applicant organization from three-fourths of the municipalities and villages and economic development organizations (such as chambers of commerce, OEDP committees, etc.) within the region. (Only those organizations which can be identified as being directly involved in business development or regional and/or community economic development activities need to pass resolutions.)
5. **Proposed ARDOR First Year Work Program and Budget**—3 AAC 57.090. The department anticipates that there will be more than one approach taken in the accomplishment of the various ARDOR programs. At a minimum the following must be included in the work program and budget: 1) the development of a Regional Development Strategy; 2) the completion of a set of economic profiles for every organized municipality in the region; 3) a detailed description of the work to be accomplished in the first year; 4) identification of the source of the required local match for receipt of the local share; and 5) a line item budget detailing expenditures for the total project.

**NOTE: An APPLICATION FOR ARDOR FUNDING should accompany the APPLICATION FOR ARDOR DESIGNATION.**

**Application for ARDOR Funding.** Once an ARDOR has been designated and funded, in subsequent years the ARDOR must annually file an APPLICATION FOR ARDOR FUNDING for continuation of funding. The Department will review the application to determine how well the ARDOR performed in the previous year's work program and will be looking at the details of the proposed work program for the new year. This will include the review of: 1) the proposed work program for compliance with 3 AAC 57.090 (Functions and Responsibilities) and the ARDOR's Regional Development Strategy; 2) the proposed budget for the next year's program; and 3) identification of the source of the local matching share.

If an ARDOR submits an APPLICATION FOR ARDOR FUNDING for second year funding, the department will be especially interested in the progress being made on the Regional Development Strategy.

## ARDOR DESIGNATION DECISION PROCESS

In order to process ARDOR designation applications in as orderly and efficient a manner as possible, the department has established the process described below. It is anticipated that if an APPLICATION FOR ARDOR DESIGNATION is filed with all the necessary information, exhibits and attachments; the application can be approved in approximately 45 days.

1. Application is received by the department.

—Day One—

2. Application is reviewed to see if the information required by regulation has been submitted (see Review Criteria above).

—Department has 10 days to review application—

3. If the department determines the application meets all requirements, Public Notice of Intent to designate an ARDOR is published.

—30 day public review and comment period—

4. If the department finds the application is deficient, competing applications are filed, or substantive objections are received during the public comment period, the application is returned to the applicant with an explanation as to what needs to be done to make the application satisfactory; but the process stops until the concerns are corrected.

Please Note: "It is not the responsibility of the department to mediate conflicts," 3 AAC.57.060(g). Any substantive objections or competing applications must be resolved by the applicant organization and a majority of the parties on record expressing the objections.

5. If there are no substantive objections or challenges registered during the 30 day public review period, the department will designate the applicant as an ALASKA REGIONAL DEVELOPMENT ORGANIZATION and execute a grant agreement.

—Department will sign the designation papers in 5 working days—

## ARDOR FUNDING PROCESS

After the ARDOR has received its designation and first year funding, the following procedure will be used for processing an APPLICATION FOR ARDOR FUNDING in subsequent years:

1. at least 60 days prior to the end of its project year, the ARDOR should file an APPLICATION FOR ARDOR FUNDING with the department;
2. the department will review the application to assure compliance with program regulations (see review criteria above); and
3. if the review reveals no areas of concern, a new grant agreement will be executed with the ARDOR prior to the end of the existing project year. This new grant will go into effect upon the termination of the old.

In order for an ARDOR to receive funding, a grant agreement must be signed and executed by the ARDOR and the department.

## **ARDOR FUNDING POLICIES**

Only one organization from a particular region can receive ARDOR grant funds. No more than 15 grants may be awarded by the department in a fiscal year. Grants of up to \$50,000 may be awarded to a designated ARDOR in a fiscal year. Applications for ARDOR funding are processed on a "first come, first served" basis. An organization that receives funding will have a first priority for funding in subsequent years. Nonfunded applications will have the next lower priority for funding in the next state fiscal year. The department, in its discretion, will adjust priorities and lower funding levels requested by previously funded ARDORs, to accommodate nonfunded applications. In FY 89, the department received \$300,000 to fund the program.

Grants are to be matched in cash, on a one-to-one basis with nonstate funds. Twenty percent of the match share, or \$10,000, whichever is less, must be from the municipalities and the private sector with the region. Under special circumstances, the department will review written requests from designated ARDORs to substitute up to twenty percent of the match requirement with in-kind services contributions for the first two years of funding. Such a request should be submitted with the APPLICATION FOR ARDOR FUNDING. The in-kind service contributions may not substitute for the municipalities/private sector contribution requirement listed above.

See 3 AAC 57.070 (Funding Procedures) for additional information.

## **ARDOR OPERATIONS**

ARDORs must maintain an office with regular office hours and retain the equivalent of one full-time professional staff. ARDOR offices are expected to have computers with communication capabilities to access computer bulletin board systems and data bases such as AKBizNET, the Alaska Small Business Development Center electronic bulletin board system.

# Designated Alaska Regional Development Organizations

## Alaska Regional Development Organizations Program

Department of Commerce and Economic Development  
Division of Economic Development

### Kenai Peninsula Borough Economic Development District

Designation Date: February 22, 1989  
James Elson, Chairman  
Stan Steadman, Executive Director  
110 Willow Street, Suite 106  
Kenai, AK 99611  
Phone: 283-3335  
Fax: 283-3913

### Southwest Alaska Municipal Conference

Designation Date: April 6, 1989  
Rich Wilson, President  
Marideth Sandler, Executive Director  
3300 Arctic Boulevard, Suite 203  
Anchorage, AK 99503  
Phone: 562-7380  
Fax: 562-0438

### Anchorage Economic Development Corporation

Designation Date: April 11, 1989  
Ron Duncan, Chairman  
Scott Hawkins, President  
550 West 7th Avenue, Suite 1130  
Anchorage, AK 99501  
Phone: 258-3700  
Fax: 258-6646

### Southeast Conference

Designation Date: April 14, 1989  
Frank Wallace, President  
Jim Kohler, Executive Director  
124 West Fifth Street  
Juneau, AK 99801  
Phone: 463-3445  
Fax: 463-5670

### Northwest Arctic Borough Economic Development Commission

Designation Date: June 28, 1989  
Ross Schaeffer, Chairman  
William Spencer, Executive Director  
P.O. Box 1110  
Kotzebue, AK 99752  
Phone: 442-2500  
Fax: 442-2930

### Bering Straits Economic Council

Designation Date: January 11, 1990  
Lonnie O'Connor, President  
Yvonne Dazeé, Executive Director  
P.O. Box 1849  
Nome, AK 99762  
Phone: 443-5394  
Fax: 443-2409

### Interior Alaska Economic Development Council

Designation Date: January 31, 1990  
Walter "Wally" Carlo, President  
Wendy Warnick, Executive Director  
520 Fifth Avenue, Suite 410  
Fairbanks, AK 99701  
Phone: 459-1310  
Fax: 456-1942

### Copper Valley Economic Development Council

Designation Date: November 1, 1990  
Robert Wilkinson, President  
Donna Tollman, Executive Director  
P.O. Box 9  
Glennallen, AK 99588  
Phone: 822-5001  
Fax: 822-5009

### Kuskokwim Economic Development Council

Designation Date: February 15, 1991  
Dennis Thomas, President  
Jeannie Wooderson, Executive Director  
P.O. Box 207  
Ariak, AK 99557  
Phone: 675-4418  
Fax: 675-4419

### Arctic Development Council

Designation Date: March 1, 1991  
Conrad Bagne, President  
Larry Meadows, Executive Director  
P.O. Box 1353  
Barrow, AK 99723  
Phone: 852-4146  
Fax: 852-4147

### Lower Kuskokwim Economic Development Council

Designation Date: September 17, 1991  
Ted Moses, Chairman  
Carl Berger, Executive Director  
P.O. Box 219  
Bethel, AK 99559  
Phone: 543-3521  
Fax: 543-3596

### Prince William Sound Economic Development Council

Designation Date: November 1, 1991  
James Winchester, President  
Jayne Sontag, Executive Director  
P.O. Box 2353  
Valdez, AK 99686  
Phone: 835-3775  
Fax: 835-2847

### Lower Yukon Economic Development Council

Designation Date: November 1, 1991  
Andrew Paukan, President  
Edwin Glorfety, Executive Director  
P.O. Box 9  
Ermonak, AK 99581  
Phone: 949-1249  
Fax: 949-1926

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**Senator Rick Uehling**

Downtown, Elmendorf, Northeast Anchorage



Senate Finance Committee  
International Trade & Tourism Committee  
State Affairs Committee

## BILL SUMMARY

### SB 363

An Act requiring certain employers to post information on inquiries and complaints concerning sexual harassment.

SB 363 will require workplaces of 15 or more people to post a notice, in a prominent location, stating what the federal definition of sexual harassment is, what state and federal agencies to report sexual harassment complaints to, and how long an employee has to report a complaint.

There is a significant amount of confusion by the public on what constitutes sexual harassment in the workplace, and this bill will inform people as to what it is and how to report it. Sexual harassment in the workplace is believed to be substantially underreported and this bill will heighten the awareness of the problem for both employers and employees.

This is the information that would be posted under SB 363.

**Federal Equal Employment Opportunity Commission  
(EEOC) Definition of Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A person has 300 days from the date of the incident to report a sexual harassment complaint.

All sexual harassment complaints need to be reported to the Alaska State Commission on Human Rights, 800 'A' Street, Suite 204, Anchorage, AK 99501.

*Current legislative policy*

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

P O BOX Y, STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 485-1800

MEMORANDUM

TO: All Legislators, and to Legislative and Agency Staff

FROM: *[Signature]* Sally Smith  
Personnel and EEO Officer

SUBJECT: Sexual Harassment

DATE: October 21, 1991

With the subject of sexual harassment so prominently in the spotlight, you may have questions about how the legislative branch would handle such an issue.

Sexual harassment is defined by the U.S. Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

While the federal Equal Employment Opportunity Commission (EEOC) enforces federal laws which prohibit discrimination, elected officials of a state or political subdivision and their personal staff members are excluded from provisions of the enabling Civil Rights Act. They are, however, subject to broader nondiscrimination provisions of Alaska State law.

Alaska statutes<sup>\*</sup> define harassment as:

unwanted conduct or communication by a supervisor, co-worker, or nonemployee in the work place which is based on the sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood of an individual and which adversely affects the employment relationship or working environment. This includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing and other verbal or physical conduct.

Rather than the State's EEO office, it is the State Commission for Human Rights which has the authority to investigate any complaints concerning discrimination that emanate from Alaska's legislative branch.

As your EEO officer, I am available to answer questions related to your rights as an employee or supervisor and to provide you with any assistance in working through your concerns. You are encouraged to contact me at the earliest possible time so that we may understand and resolve issues before they escalate into problems. I would hope that no one of us would ever face the situation--on either side--that was witnessed by the nation last week.

*\*The memo is incorrect. The definition is in Admin. Order 81 - see sample notice on the last page.*

**Administrative  
Order No. 81**

**1984**

DEPARTMENT OF ALASKA

serve a legitimate management purpose.

3. DEFINITIONS

3.1 Harassment: Unwanted communication and/or conduct by a supervisor, co-worker or non-employee in the workplace which adversely affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood of that individual. Harassment may include slurs, abusive language, threats, derogatory comments, unwelcome jokes, teasing and other such verbal or physical conduct.

3.2 Sexual harassment: Addressed and defined by the U.S. Equal Employment Opportunity Commission in the Federal Guidelines on Discrimination Because of Sex published on November 10, 1980, and codified as 29 CFR Section 1604.11, sexual harassment is defined as follows:

"(a) Harassment on the basis of sex is violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment."

4. GUIDELINES FOR THE IMPLEMENTATION OF POLICY

4.1 Responsibility for Implementation:

- (a) Overall responsibility for the administration of this order is delegated to the Director of the Division of Equal Employment Opportunity.
- (b) All agency heads, managers and supervisors within the Executive Branch of State Government are responsible for taking immediate and appropriate corrective action where they have any knowledge of such prohibited practices. Such corrective actions should be taken only after consultation with the State Division of Equal Employment Opportunity.

4.2. Complaints:

- (a) Employees believing they have been subjected to harassment

(7-1-91 Edition)

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## §1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of section 703 of title VII.<sup>1</sup> Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job junctions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory

employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

(Title VII, Pub. L. 88-352, 78 Stat. 253 (42 U.S.C. 2000e et seq.))

[45 FR 74677, Nov. 10, 1980]

APPENDIX TO PART 1604—QUESTIONS AND ANSWERS ON THE PREGNANCY DISCRIMINATION ACT, PUB. L. 95-555, 92 STAT. 2076 (1978)

## INTRODUCTION

On October 31, 1978, President Carter signed into law the *Pregnancy Discrimination Act* (Pub. L. 95-955). The Act is an amendment to title VII of the Civil Rights Act of 1964 which prohibits, among other things, discrimination in employment on the basis of sex. The *Pregnancy Discrimination Act* makes it clear that "because of sex"

<sup>1</sup>The principles involved here continue to apply to race, color, religion or national origin.